

Strategic Planning Board

Agenda

Date:	Wednesday, 10th December, 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 Meeting (Pages 1 - 6)

To approve the minutes as a correct record.

4. Public Speaking

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

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

A period of 3 minutes is allocated for each of the planning applications for the following individuals/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. **14/2230M-Outline application for a close care retirement village together with associated access road, public open space, landscaping, car parking and ancillary development with landscaping reserved for subsequent approval, Land South Of, Coppice Way, Handforth, Wilmslow for P.E. Jones (Contractors) Limited (Pages 7 - 28)**

To consider the above application.

6. **14/4212C-Detailed approval is now sought for access, appearance, landscaping, layout and scale in respect of the residential element of the scheme. The outline application 09/2083C was subject to an EIA therefore an Environmental Statement was submitted to the local authority as part of the outline submission, Former Albion Chemicals, Booth Lane, Moston for Taylor Wimpey Manchester (Pages 29 - 44)**

To consider the above application.

7. **14/4218C-Variation of conditions 6, 7, 25 and removal of condition 14 on application 09/2083C, Former Albion Chemical Works, Booth Lane, Moston for Taylor Wimpey Manchester (Pages 45 - 56)**

To consider the above application.

8. **14/3039N-Reserved matters (appearance, landscaping, layout & scale) for residential development comprising 200 dwellings (30% affordable) and creation of public open space, in relation to outline approval 12/3114N, Land South Of, Newcastle Road, Shavington & Wybunbury for Mr Niall Mellan, Persimmon Homes (Pages 57 - 68)**

To consider the above application.

9. **14/4380N-Installation of a solar park with an output of approximately 13.28MW on land associated with Hurst Hall, Hurst Hall, Wrenbury Road, Marbury for Markus Wierenga, Green Switch Developments Ltd (Pages 69 - 88)**

To consider the above application.

10. **14/4500N-Erection of a solar park substation and Distribution Network Operator (DNO) substation in connection with the proposed solar park at land associated to Hurst Hall Farm, Marbury, SY13 4LU. (to accompany application 14/4380N), Land adjacent to Bank Farm, Cholmondeley Road, Wrenbury, Nantwich for Markus Wierenga, Green Switch Developments Ltd** (Pages 89 - 98)

To consider the above application.

11. **14/3976N-Outline application for erection of up to 26 dwellings, access and open space, 22, Heathfield Road, Audlem for Frank Hockenhull, Hockenhull Properties Ltd** (Pages 99 - 118)

To consider the above application.

12. **Holmes Chapel Road, Congleton** (Pages 119 - 132)

To consider the above report.

13. **Update following the resolution to approve application 13/3449C subject to a S106 Agreement, Glebe Farm, Booth Lane, Middlewich** (Pages 133 - 136)

To consider the above report.

14. **Performance of the Planning Enforcement Service during for Quarters 1 and 2 of 2014/15** (Pages 137 - 150)

To consider the above report.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 12th November, 2014 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor H Davenport (Chairman)
Councillor G M Walton (Vice-Chairman)

Councillors Rachel Bailey, B Burkhill (Substitute), K Edwards (Substitute),
P Edwards, P Groves (Substitute), B Murphy, D Newton, M J Weatherill
(Substitute), S Wilkinson and J Wray

OFFICERS IN ATTENDANCE

Ms S Dillon (Planning Lawyer), Mr D Evans (Principal Planning Officer), Mr A
Fisher (Head of Strategic and Economic Planning), Mr D Malcolm (Principal
Planning Manager) and Mr N Jones (Principal Development Manager)

72 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors D Brickhill, D
Brown, J Hammond, Mrs J Jackson and Mrs L Smetham.

Councillor Mrs R Bailey gave her apologies for the morning session of the
meeting.

73 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of the White Moss Quarry item,
Councillor D Hough declared that whilst he had spoken on the White Moss
Quarry application he had not spoken in respect of this item.

In the interest of openness in respect of application 14/0114M, Councillor
G Walton declared that he was a member of the Manchester Airport
Consultative Group and on a Sub Group of the Technical Advisory Group,
however had not had discussions with Manchester Airport regarding the
application.

It was noted that the majority of Members had received correspondence in
respect of some of the applications on the agenda.

74 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 15 October 2014 be approved as correct record.

75 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

Prior to consideration of the following item, Mr A Fisher, the Head of Strategic and Economic Planning read out a written statement in respect of the Planning Inspector's Interim views on the Local Plan.

- 76 14/0114M HARMAN TECHNOLOGY SITE AND ADJ LAND, ILFORD WAY, TOWN LANE, MOBBERLEY, KNUTSFORD, CHESHIRE: HYBRID PLANNING APPLICATION FOR MIXED-USE REDEVELOPMENT SEEKING: A. FULL PLANNING PERMISSION FOR ALTERATIONS TO EXISTING EMPLOYMENT BUILDINGS, CONSTRUCTION OF NEW EMPLOYMENT BUILDINGS AND INSTALLATION OF NEW OVER GROUND SERVICES, PIPING AND DUCTING. B. FULL PLANNING PERMISSION FOR DEMOLITION OF REMAINING REDUNDANT EMPLOYMENT BUILDINGS AND REMOVAL OF REDUNDANT OVER GROUND SERVICES, PIPING AND DUCTING. C. OUTLINE PLANNING PERMISSION FOR CONSTRUCTION OF DWELLINGS, ASSOCIATED INFRASTRUCTURE, LANDSCAPING AND OTHER ASSOCIATED WORKS (MEANS OF ACCESS) FOR ARGONAUGHT HOLDINGS LTD C/O LPC LIVING**

Consideration was given to the above application.

(Councillor J Macrae, Ward Councillor, Parish Councillor Maurice Bowden, representing Mobberley Parish Council, Gareth Wilson representing RAMS, (Residents Against Mobberley Sprawl), Ian Norbury, an objector, Jim Shepherd, an objector, Mr Elton, a Supporter and Mr Hinds, the agent for the applicant attended the meeting and spoke in respect of the application.

RESOLVED

That the application be refused for the following reasons:-

- (1) Impact of noise from aircraft on the amenity of the residents
- (2) Character and scale of the development
- (3) Lack of affordable housing

Should an appeal be submitted, authority be delegated to the Principal Planning Manager in consultation with the Chairman (or in his absence Vice Chairman) and the Ward Councillor to agree the appropriate terms of a Planning Obligation pursuant to S106 of the Town and Country Planning Act 1990.

(This decision was contrary to the Officer's recommendation of approval. The meeting adjourned for lunch from 1.30pm until 2.15pm. Prior to consideration of the following item, Councillors P Edwards and B Murphy left the meeting and did not return).

- 77 **13/4049N LAND TO THE WEST OF WRENBURY HEATH BRIDGE, NANTWICH ROAD, WRENBURY: DEVELOPMENT OF MARINA WITH ASSOCIATED DREDGING TO ACCOMMODATE THIS DEVELOPMENT; ASSOCIATED MARINA AMENITIES INCLUDING FACILITIES BUILDING, BOAT WORKSHOP, CAR PARKING AND HARDSTANDING, AND LANDSCAPING; AND A NEW ACCESS ROAD AND FARMER'S ENTRANCE TO THE EXISTING FIELD, FOOTBRIDGE AND ASSOCIATED FOOTPATHS FOR MR PAUL BESWICK, ENZYGO LIMITED**

Consideration was given to the above application.

(Councillor S Davies, the Ward Councillor and Parish Councillor Jack McEvoy, representing Wrenbury Parish Council attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reasons:-

1. Unsustainable form of development
2. Proposals would have an adverse impact upon landscape character and insufficient information
3. Insufficient information in respect of protected species and BAP habitat

(Prior to consideration of the following item, Councillor Mrs R Bailey arrived to the meeting).

- 78 **14/1669N LAND TO REAR OF 71, MAIN ROAD, SHAVINGTON, CREWE, CHESHIRE: OUTLINE APPLICATION FOR THE DEMOLITION OF 71 MAIN ROAD AND A RESIDENTIAL DEVELOPMENT OF UP TO 44 HOUSES OF MIXED TYPE AND TENURE FOR MR ANDREW GIBBS**

This application was withdrawn by Officers prior to the meeting.

- 79 **14/2247N LAND TO THE NORTH EAST OF COMBERMERE ABBEY, COMBERMERE PARK DRIVE, DODCOTT CUM WILKESLEY, WHITCHURCH, CHESHIRE SY13 4AJ: INSTALLATION OF GROUND MOUNTED PHOTOVOLTAIC SOLAR ARRAYS TO PROVIDE CIRCA 14 MW GENERATION CAPACITY TOGETHER WITH INVERTER STATIONS; SUB STATION; LANDSCAPING; STOCK FENCING; SECURITY MEASURES; ACCESS GATE; AND ANCILLARY INFRASTRUCTURE FOR INRG (SOLAR PARKS) 13 LTD**

Consideration was given to the above.

(Sara Compton representing Kernon Countryside Consultants and Alex Anderson, agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That authority be delegated to the Principal Planning Manager to approve the application subject to:-

(A)

- (i) The Principal Planning Manager being satisfied that restoration of the land to agricultural condition when the use hereby permitted ceases, is secured by financial bond or equivalent mechanism.

(ii) Subject to the following conditions:-

1. Standard 3 years
2. Approved Plans
3. Implementation of the submitted Ecological Management Plan
4. Submission of detailed proposals for off site habitat creation/management to compensate the loss of breeding and wintering birds habitat
5. Submission of a scheme for roosting/breeding Barn Owls
6. Submission of Construction Environment Management Plan
7. Further Badger survey prior to commencement of development
8. 200m gap to be provided beneath the security fencing
9. Works to be completed between 1 November and 28 February to avoid Great Crested Newts
10. Development carried out in accordance with the Tree Retention/Removal Plan
11. Construction specification/Method Statement (Trees)
12. Landscape Scheme to be submitted
13. Implementation of landscaping
14. Landscape Management Plan for operational period of the development
15. Prior to commencement a decommissioning report for the removal of panels and infrastructure after 25 years to be agreed and return to agricultural use
16. Colour, finish of Solar arrays, fencing, CCTV, poles, stands to be agreed
17. Materials for substations, inverters Transformer housing to be submitted for approval
18. Scheme for provision and management of an undeveloped buffer zone along New hall Cut

(B) Authority is delegated to the Principal Planning Manager to enter into an Agreement under the Section 106 Town and Country Planning Act

1990 to require a restoration bond or other financial security if necessary and appropriate.

(This decision was contrary to the Officer's recommendation of refusal).

80 14/2913C LAND TO THE SOUTH OF HIND HEATH RD, SANDBACH, CHESHIRE: APPLICATION FOR RESERVED MATTERS THE APPEARANCE, LANDSCAPING, LAYOUT & SCALE FOR PHASE 2 TO INCLUDE 179 DWELLINGS ON PLANNING APPLICATION NO: 10/2608C FOR STEWART BALL, BOVIS HOMES LTD

Consideration was given to the above application.

RESOLVED

That for the reasons set out in the report and in the update to Board the application be approved subject to the following conditions:-

1. Approved Plans
2. Materials in accordance with the submitted for approval
3. Landscaping details to be submitted to the LPA for approval in writing (including land levels for the proposed POS)
4. Implementation of the approved landscape scheme
5. Boundary treatment details to be in accordance with the approved details
6. Development to proceed in accordance with the AIA and Tree Protection Plans
7. Details of the LEAP to be submitted to the LPA for approval in writing
8. Details of proposed land levels in accordance with the submitted plans
9. Full detailed design and construction details of the storage lagoon to be submitted to the LPA for approval in writing.
10. Details of the LEAP shall be submitted to the LPA for approval in writing
11. Badger mitigation method statement to be submitted
12. Bin storage details to be submitted and approved
13. Cycle storage details to be submitted and approved
14. Submission of revised proposals for habitat creation/retention to be provided to the South of the site

Informative to be included in respect of the Brine Board.

(Prior to consideration of the following item, Councillor K Edwards left the meeting and did not return).

81 WHITE MOSS QUARRY, BARTHOMLEY: CERTIFICATE OF EXISTING LAWFUL USE FOR THE PARKING AND STORAGE OF VEHICLES MACHINERY AND EQUIPMENT

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

Consideration was given to the above report.

(Cath Mainwaring, a Supporter attended the meeting and spoke in respect of the application).

RESOLVED

That the decision to issue a negative Certificate of Existing Lawful Use for the parking and storage of vehicles, machinery and equipment for White Moss Quarry, Bathomley be confirmed.

The reasons for this decision was that the Applicant has failed to demonstrate, on the balance of probabilities that the use of land known as Triangle Field, Butterson Lane, Barthomley, Crewe, as outlined in red on the attached plan, for the parking and storage / parking of vehicles, machinery and equipment is immune from enforcement action on the basis of it having been used for in excess of ten years prior to the date of the application. In reaching this conclusion the local planning authority has taken into consideration evidence submitted by the Applicant, evidence from local residents and other interested parties and evidence which is contained within the authority's own records.

The meeting commenced at 10.30 am and concluded at 4.30 pm

Councillor H Davenport (Chairman)

Application No: 14/2230M

Location: Land South Of, COPPICE WAY, HANDFORTH, WILMSLOW, CHESHIRE

Proposal: Outline application for a close care retirement village together with associated access road, public open space, landscaping, car parking and ancillary development with landscaping reserved for subsequent approval

Applicant: P.E. Jones (Contractors) Limited

Expiry Date: 26-Sep-2014

SUMMARY

The application is an amendment to the scheme previously allowed at appeal, which now removes the care home and the “affordable” elements. The proposal is very similar in terms of built form to the appeal scheme and is a sustainable form of development. The primary visual function of the open space will be retained in accordance with policy RT6 of the Local Plan. Policy GC7, relating to safeguarded land, was found by the Inspector not to be consistent with the Framework and is therefore out of date. Consequently, in accordance with the presumption in favour of sustainable development, the use of this safeguarded land is acceptable, subject to there being no significant adverse impacts arising from the proposal.

The particular use class of the site will not be C3 (dwellinghouses) due to the level of care that will be provided to all the units. Consequently there is no affordable housing requirement. There is an identified need for the development which is a material consideration of significant weight. The proposal provides suitable accommodation to enable an ageing population within Cheshire East to live full independent lives for as long as possible. It is considered that the proposal would make a valuable contribution towards meeting a specialist housing need for elderly people within the Borough, as well as continuity in their care.

The impact on European Protected Species and other ecological interests has been assessed by the nature conservation officer and is considered to be acceptable. The proposal accords with the relevant local plan policies and national guidance in the Framework. There is also not considered to be any reason, having regard to the Conservation of Habitats and Species Regulations 2010, to withhold planning permission in this case. The proposal also raises no significant visual, highway safety, amenity or flooding issues, and complies with relevant local and national planning policies. Accordingly, a recommendation of approval is made subject to conditions and a s106 planning obligation.

RECOMMENDATION

Approve subject to conditions and a s106 planning obligation

PROPOSAL

This application seeks outline planning permission to erect a close care retirement village. The village will comprise 108 units of accommodation made up of 46 close care cottages and 34 apartments located to the west of the access road and 28 apartments to the east. In addition there will be 6 care bedrooms within the building to the east of the access road. A community centre would also be provided, which will provide a focus for activities on the site, including a restaurant, swimming pool and meeting rooms. The accommodation is aimed at the over 55s.

Approval of access, appearance, layout and scale is sought at this stage, with only landscaping reserved for subsequent approval.

The application is revised scheme to 12/1578M, which was allowed on appeal in May 2013. The main differences to the appeal scheme are the removal of the care home, the deletion of the affordable housing provision and an increase in close care apartments. The built form and layout remains very similar to the previous approval.

The development would also involve the diversion of Public Footpath 91 that links Hall Road and Coppice Way. The proposal includes a new footpath and cycle path that would skirt the western edge of the close care cottages.

SITE DESCRIPTION

The site is a greenfield site lying on the eastern fringe of the Handforth urban area. The site is surrounded on its north and east boundaries by comprehensive landscaping adjacent to the Handforth Dean retail development and the A34 by-pass respectively. A mature hedgerow and public footpath form the southern boundary to the site, with open fields extending to the south. The Western boundary abuts the boundary of the grounds of Handforth Hall, a Grade II* listed building. Hall Road and residential properties to the south exist along the southwest boundary of the site.

The site covers approximately 2.4 hectares and forms a strip of land between Coppice Way and Hall Road on the eastern edge of Handforth. The site is Greenfield. The majority of the site is identified as safeguarded land under policy GC7 of the Local Plan. The western section of the site is identified as Open Space under policy RT6 of the Local plan.

RELEVANT HISTORY

09/0695M – Development of a care village (sui-generis use) comprising 58-bedroom care home, 47 close care cottages, 15 shared ownership affordable dwellings, and associated access roads, public open space, landscaping, car parking and ancillary development – Refused 19.08.2009 – Appeal dismissed 28.10.2010 (The Inspector concluded that the assessment of need was not robust enough to justify a departure from policy GC7).

09/0708M – Formation of new vehicular access from Coppice Way and engineering works – Refused 19.08.2009 – Appeal dismissed 28.10.2010 (The Inspector concluded that as there was no proven need for the care village, there was no justification for an access, which would be contrary to policy RT6).

09/3023M – Outline application with means of access, layout, scale and appearance for consideration and landscaping reserved for subsequent approval for the development of a care village comprising 55-bedroom care home, 36 close care cottages, 6 shared ownership affordable dwellings – all for the over 55s, and associated access roads, public open space, landscaping, car parking and ancillary development – Refused 20.01.2010 – Appeal dismissed 28.10.2010 (The Inspector concluded that the assessment of need was not robust enough to justify a departure from policy GC7).

09/3050M - Formation of new vehicular access from Coppice Way and engineering works – Refused 20.01.2010 – Appeal dismissed 28.10.2010 (The Inspector concluded that as there was no proven need for the care village, there was no justification for an access, which would be contrary to policy RT6).

12/1627M – New vehicular access with means of access, layout and associated engineering works for consideration, with landscaping reserved for subsequent approval – Refused 16.11.2012, Appeal allowed 30.05.2013

12/1578M - Outline Application for a Continuing Care Retirement Community (Care Village) Comprising 58 Bedroom Care Home, 47 Close Care Cottages and 15 Shared Ownership Affordable Dwellings, Together with Access Roads, Public Open Space, Landscaping, Car Parking and Ancillary Development – Refused 16.11.2012, Appeal allowed 30.05.2013

14/3361M - Reserved Matters - Landscaping. New vehicular access with means of access, Layout and associated engineering outline planning 12/1627M – Approved 07.10.2014

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

69-78. Promoting healthy communities

Development Plan

The Development Plan for this area is the 2004 Macclesfield Borough Local Plan, which allocates the majority of the site, under policy GC7, as safeguarded land, and the remainder as open space under policy RT6.

The relevant Saved Policies are:

NE11 and NE17 relating to nature conservation; BE1 Design Guidance; BE2 Historic Fabric; BE16 protecting the setting of listed buildings; BE24 Archaeology; GC7 Safeguarded Land; RT1, RT2 and RT6 Open Space; H2 Environmental Quality in Housing Developments; H9 Affordable Housing; H13 Protecting Residential Areas; DC1 and DC5 Design; DC3 Residential Amenity; DC6 Circulation and Access; DC8 Landscaping; DC9 Tree Protection; DC17 and DC18 Water Resources; DC35, DC36, DC37, DC38 relating to the layout of

residential development; DC57 Residential Institutions; T3 Pedestrians; T4 Access for people with restricted mobility; and T5 Provision for Cyclists.

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

MP1 Presumption in favour of sustainable development

PG1 Overall Development Strategy

PG2 Settlement hierarchy

PG6 Spatial Distribution of Development

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

IN1 Infrastructure

IN2 Developer contributions

SC4 Residential Mix

SC5 Affordable Homes

SE1 Design

SE2 Efficient use of land

SE3 Biodiversity and geodiversity

SE4 The Landscape

SE5 Trees, Hedgerows and Woodland

SE6 Green Infrastructure

SE9 Energy Efficient Development

SE12 Pollution, Land contamination and land instability

SE13 Flood risk and water management

CO1 Sustainable Travel and Transport

CO4 Travel plans and transport assessments

Site CS 30: North Cheshire Growth Village

Supplementary Planning Documents:

Interim Planning Statement: Affordable Housing (Feb 2011)

North West Sustainability Checklist

CONSULTATIONS

Highways - No objections subject to travel plan.

Environmental Health - No objections subject to conditions relating to pile foundations, noise mitigation, dust control, floor floating, hours of construction, travel planning and contaminated land.

Housing - No objections.

Public Rights of Way - No objections - affects Public Footpath Wilmslow No. 91. Diversion Order has been confirmed.

Environment Agency (EA) - No objections

Natural England - No objections

Flood Risk Manager - Comments not received at time of report preparation

United Utilities - No objections subject to condition relating to foul and surface waters

Stockport Metropolitan Borough Council – No comments received

Handforth Parish Council - raise the following concerns;

- Application was poorly completed.
- Appeal scheme offered supportive care in a 58 bed care home.
- Proposed application is more akin to a residential housing estate, therefore initial justification for approval has been lost.
- Increase in number of units
- Insufficient parking
- Pressure on existing infrastructure, particularly healthcare
- Increase in noise and light, and associated impact upon wildlife
- No affordable homes

REPRESENTATIONS

Neighbour notification letters were sent to all adjoining occupants, a site notice erected and a press advert was placed in the Wilmslow Express.

17 letters of representation have been received objecting to the proposal on the following grounds:

- Footpath and cycle path should be separated by a barrier
- Footpath should be fitted with devices to stop shopping trolleys and motorcycles, litter bins and zebra crossing across Coppice Way
- Footpath should be lit
- Flood risk has been underestimated
- Impact on local services
- Increased traffic
- Need for this development not demonstrated
- Impact upon wildlife
- Trees should be protected
- Density too high
- Impact upon living conditions of neighbours
- Footpath diversion will reduce public safety and impact on disabled access
- Takes land from Green Belt
- Impact on listed building
- Other retirement developments in close proximity
- Loss of open space
- Hours of construction should be limited
- There should not be a barrier along the footpath
- Increased air pollution

- Should be more bungalows
- Inaccurate supporting documents
- Competition from other similar developments
- Hazardous walking conditions to Handforth
- Hall Road should not be used as vehicular access
- Application does not reflect scheme allowed on appeal – no care home and no affordable housing provision, (only 6 close care beds)
- Lack of parking provision

APPRAISAL

The key issues are:

- Loss of safeguarded land (policy GC7)
- Impact upon open space (policy RT6)
- Impact upon nature conservation interests
- Design and impact upon character of the area
- Setting of listed building
- Amenity of neighbouring property
- Highway safety

Principle of Development

The application site is currently split into two areas, which in terms of planning policy are quite distinct from one another. The land to the east of footpath 91 is designated as 'Safeguarded Land' under Local Plan policy GC7, whilst the area to the west of the footpath is allocated for recreation purposes and amenity open space under Local Plan policy RT6(10).

Safeguarded land is land that may be required to serve development needs well beyond the Local Plan period (2011). Policy GC7 of the Local Plan explains that the land is not allocated for development at the present time and policies relating to development in the countryside will apply. Policy GC5 deals with development in the open countryside, which *"will not be permitted unless it is essential for agriculture, forestry, outdoor recreation or for other uses appropriate to a rural area"*. The development does not fall into one of those categories.

Policy GC7 also states that development that would prejudice the later comprehensive development of the land will not be permitted. The proposal includes an access road to serve the proposed new development, which also includes a spur, which could be utilised to access the remaining majority of the safeguarded land.

The only reference to safeguarded land in the Framework is at paragraph 85 which states that, *"When defining boundaries, local planning authorities should...make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a local plan review which proposes the development."* Reference to "defining boundaries" implies that this is a plan making policy as opposed to a decision making one.

In the previous appeal on this site the Inspector examined the safeguarded land issue in some detail. In summary he identified that the local plan period ran for 7 years between January 2004 and 2011, that it was (at the time of the appeal) 2 years past the end of this

period (now almost 4 years), and it was therefore well beyond the plan period. He also noted the development pressure on the Green Belt land to the east of the A34, as identified in the emerging local plan documents. The Inspector stated:

"It therefore now appears that planning to protect the integrity of the boundary of the Green Belt in this area is not working. The safeguarded land, rather than providing sequential land release for future development needs, is throttling development. This is leading to the consideration of options where Green Belt land would be removed from the designation and immediately allocated for early development."

As a result, the Inspector concluded that the safeguarding of site, between the settlement and the Green Belt, under policy GC7 has:

"already fulfilled its purpose since its first designation in 1988 and has been overtaken by events...It also appears, in conflict with the National planning Policy Framework, the Green Belt boundaries will need to be altered at the end of the LP period. LP Saved Policy GC7, as it relates to the appeal site, therefore shows little consistency with the Framework and is thus out of date."

Consequently, paragraph 14 of the Framework applies where it states that where relevant policies are out of date planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The land to the west of the footpath and land bounding the site to the north is allocated under policy RT6(10) for amenity open space. Policy RT1 asserts that "areas of recreational land and open space as shown on the proposals map will be protected from development" and policy RT2 states that "incidental open spaces / amenity areas in residential areas will normally be protected from development and enhanced as appropriate". This approach is reflected within paragraph 74 of the Framework.

SOCIAL SUSTAINABILITY

Use class

The application seeks permission for a close care retirement community (care village). There is some ambiguity over which use class such a facility falls within, in terms of whether it comes under C2 *Residential Institution* or C3 *Dwellingshouses*, a mixed use of the two or one of its own (*sui generis*) use. The appeal scheme was identified to be a *sui generis* use. The proposed scheme differs from the appeal scheme in that it no longer includes the care home element. This has been replaced by close care apartments and a care suite comprising 6 care bedrooms.

The use class is relevant in that for a C3 residential scheme there are requirements for affordable housing provision, as well as other financial contributions, such as open space, education, etc. The same requirements do not apply to C2 uses, although some provision for planning obligations may be required to mitigate for the impact of the development.

Appeal decisions suggest that such uses fall within either a C2 use class, or a *sui-generis* use. The applicant considers the proposal to be a C2 use, and it is accepted that Close Care units are generally C2 uses. The provision of care is a fundamental aspect of the proposal and is what distinguishes the development from a standard C3 use. A minimum level of care provision will be a requirement for all the cottages and apartments within the proposed development. It is this obligatory care provision that takes the proposal out of the C3 (dwellinghouses) use class in this case.

A draft operational plan has been submitted and further detail will be addressed within the final operational plan. This would attempt to secure a mixed community across the site, varying from people over 55 with an independent life, to those with a higher degree of care dependency. Whilst it is inevitable that the care needs of occupants would grow over time, it will be necessary to eliminate the possibility of the village being occupied predominantly by residents with no care needs at all on initial occupancy. A care assessment would be undertaken of all prospective purchasers and as part of the basic service charge all occupants would receive 1 hour of domestic or personal care per week. Occupants would then purchase a care package above that level dependent on need. The draft operational plan states that, on first occupation, no more than 60% of the residents of the close care cottages and shared ownership / affordable housing will be persons who require only low level care.

Need for the development

The first appeals on the site in 2010 were dismissed due to what the Inspector identified as a lack of proven need in a strategic planning context. The need was required to justify a departure from policy GC7 of the local plan. Given that this policy has now been identified as being out of date, the requirement for need to be demonstrated no longer exists. However, in the allowed appeal, the Inspector noted that the current and future need for the proposal is a *"material consideration of significant weight in support of the proposal"*. Whilst the care home has now been removed, there is still an identified need for the accommodation now proposed. Indeed, the Council's Adult Services witness at the public inquiry in 2012, raised no objection to the provision of the close care cottages, and the Inspector noted that the witness *"welcomed them on the basis of need"*.

This positive approach to close care units is also reflected in a number of Cheshire East documents:

Cheshire East Housing Strategy "Moving Forward" (2011-2016)

Chapter 4 of this document addresses the needs of an ageing population, with the headline:

"Older people in Cheshire East will have the opportunity to live in good quality, accessible and adaptable housing with access to support services and advice, enabling them to live independently in later life".

Chapter 6 includes actions for the older population; one of these is to:

"Ensure that we have an adequate supply of suitable extra care housing and hospice facilities for older people".

Draft Cheshire East Supported Housing Strategy (2013)

The emphasis of this strategy seeks accommodation which promotes older people's

independence for as long as possible, including increasing choice of accommodation.

The strategy concludes that there is an over provision of care homes, in the region of 1,000 places above the current identified need. It recommends that Cheshire East should address the oversupply of registered care home places and undersupply of extra care housing and other independent living alternatives: *"The oversupply of registered care and the resulting inward migration of clients from outside Cheshire East poses a considerable challenge..."* (Page 39, paragraph 6.4.1)

Vulnerable and Older Persons Housing Strategy Cheshire East (2014)

This recently published strategy identifies that the proportion of older people in Cheshire East is already above national average, along with this there will be a shortfall of what is defined as Extra Care of 1,063 places by 2030. The strategy does not identify any forthcoming sites for this type of accommodation.

The oversupply of residential and nursing care places is noted within this strategy. Page 5 states:

"For those with escalating needs, the Council will encourage wherever appropriate the transition of older people into specialist supported accommodation, and especially housing that enables them to live independently for as long as possible." Outcome 2 of the strategy states:

"People can receive the support they need in a wide range of specialist, supported accommodation within the Borough".

Cheshire East Extra Care SHMA - Peter Fletcher and ARC4 (2010)

ARC4 who prepared this report on behalf of the Council gave evidence on behalf of the appellant at the public inquiry for the allowed appeal. Their evidence on need was not the subject of cross examination and was accepted as read. This document states that:

"the key question to be asked in defining extra care is 'can the proposed development provide care equivalent to that found in a residential care home if needed?' If the proposed development is able to achieve that 'Home for life' threshold then it could be argued it is extra care in terms of Cheshire strategic objectives".

Cheshire East SHMA 2010

The SHMA identified the statistics for an ageing population of Cheshire East and concluded the following:

"Between 2010 and 2030, the number of households:

- Pensionable age to 74 is forecast to increase by 13,300;*
- 75-84 is forecast to increase by 14,000; and*
- 85 and over is forecast to increase by 11,200."*

Paragraph 4.42 indicates that there is:

"a degree of interest in new forms of older persons' accommodation, for instance older persons' apartments and properties in a retirement/care village. Providing a wider range of older persons' accommodation has the potential to free-up larger family accommodation (although price could still remain a barrier to entry)."

Cheshire East SHMA Update 2013

The SHMA was updated in 2013 and paragraph 6.27 acknowledges that:

“the range of housing options available to older people needs to be diversified, for instance through the development of open market housing marketed at older people, the development of Extra Care accommodation and co-housing.”

It restates the issue of an oversupply of care home beds. It notes that the population is ageing and over the period 2011 to 2030, the number of pensionable age people and above is forecast to increase from 85,500 in 2011 (23.1% of the population) to 124,000 in 2030 (30.2% of the population).

As with the appeal scheme, there is considered to be an identified need for the proposed development, and this is a material consideration of significant weight in support of the proposal.

Affordable Housing

The proposal no longer includes any affordable housing provision. However given the particular use class of the proposal there is not considered to be any policy requirement for it. Whilst there were “15 shared ownership affordable dwellings” included within the previous scheme, there was no policy requirement for them. Furthermore, they did not meet the Council's affordable housing criteria, as they were discounted sale leasehold dwellings and were not to be provided in conjunction with any Registered Social Landlord. They would simply be that bit more affordable than the remainder of the close care units.

This view was also taken by the Inspector during the previous appeal, where he noted that the affordable units *“would not be necessary to make the development acceptable in planning terms. Moreover there is no evidence of policy support for their provision.”* Consequently the Inspector did not take the affordable provision into account in his decision.

Whilst no affordable units of accommodation are provided the scheme will clearly meet the needs of older people within the community. In this regard, paragraph 50 of the NPPF sets out how local planning authorities should *“deliver a wide choice of quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities”*. This includes meeting the needs of different groups in the community (including older people), based on size, type, tenure and range of housing that is required in particular locations. Given the location of the development adjacent to existing residential development, the proposal provides accommodation for this specialist group within an existing community.

Recreation / open space

The proposed development would take approximately 0.34ha of the allocated amenity space. On this matter, the Inspector for the 2010 appeals noted:

“that the land is privately owned and the representations do not indicate that public access is proposed in the future. Its value as open space is visual, derived from its open nature. Whilst part of this open land would be lost as a result of the proposed development a section of it would be retained providing a green gap between the relocated footpath and Handforth Hall, thus retaining continuous open land from Coppice way to Hall Lane. The proposal would therefore reduce, slightly the extent of open land but would not compromise its purpose.” She concludes that *“the conflict with policies RT6(10) and NE18 and the loss of informal open space is not on its own sufficient to justify refusal of the proposal on these grounds.”*

The impact upon the allocated open space within the site has therefore previously been accepted.

Again, due to the use class issues highlighted above, where the proposal sits in terms of its requirements for public open space (POS) is not straightforward. As a development that is essentially residential in nature, it will inevitably have infrastructure requirements similar to a typical housing scheme. The aim of providing POS facilities is to support active lifestyles and sustainable communities for all ages. As the minimum age resident in this development is only 55, there is as much need to consider their needs in terms of access to decent and varied open space opportunities as for any other age bracket. In fact it could be considered more important to provide facilities close to home as mobility and confidence decreases. The benefits of exercise and social integration cannot be underestimated.

During the previous appeal, a commuted sum was agreed and accepted by the Inspector. This would be used to implement the Handforth Woodland enhancement project which includes upgrades to the footpath through the woodland, which is very close to the application site. This was costed at £76,000 in 2008. £86,000 is the figure that is given within the submitted draft unilateral undertaking, which is considered to be acceptable to mitigate for the impact of the development.

ENVIRONMENTAL SUSTAINABILITY

Impact on setting of Listed Building

The Western boundary of the site adjoins the grounds of Handforth Hall, a Grade II* listed building. Policy BE16 of the Local Plan states that development that adversely affects the setting of a listed building will not normally be approved.

The proposal has the substantial apartment building positioned on the eastern site of the site, and the less dominant 2-storey units on the western side closest to Handforth Hall. The buildings nearest to the boundary with the Hall would be between 17 and 30 metres away from the boundary. This distance would allow space for a sufficient amount of the existing tree and hedge screening to be retained and supplemented. This is the same as the previous proposal and no objections have previously been raised in this regard. Similarly, no archaeological issues are raised.

Impact on residential amenity

The interaction of the proposed development with adjoining residential uses is restricted to the Western end of the site. The rear of some of the cottages face towards Handforth Hall, but good boundary screening and sufficient distance will prevent any significant harm to the living conditions of that property. Other properties close to the development include those on Wadsworth Close and Old Hall Crescent. The properties closest to those dwellings would have good boundary screening and would prevent any harmful loss of privacy. The nearest 2 storey cottages to those existing dwellings comply with the guidelines for space, light and privacy set out in policy DC38 of the Local Plan. It is not considered that there would be any harmful impact on living conditions as a result of the proposed development and therefore the proposal would accord with policies DC3 and H13 of the local plan.

Noise

Due to the proximity of the development to the A34 bypass, the impact of noise upon the development (the apartment building in particular) is a key issue in the consideration of this application. There are no regulatory instruments available to control the noise impact of road traffic noise on the proposed development. Therefore, it is essential that amenity issues are appropriately considered at the planning stage. Statutory noise nuisance does not apply to transportation noise.

The east elevation of the proposed apartment building would be located approximately 60 metres from the bypass, at a point where traffic is slowing down in advance of the Handforth Dean roundabout. Given the presence of the existing embankment adjacent to the bypass and the distance of approximately 60 metres to the proposed apartment building, change in ground levels and extensive vegetation, Environmental Health are satisfied that noise levels would be within accepted standards subject to a conditions. This could involve the installation of high specification glazing and ventilation system, and/or alterations to the internal layout of several rooms within the care home. This can be dealt with by condition for a scheme of sound insulation to be approved.

Air Quality

Environmental Health advises that there is a concern that the cumulative impact of developments in the area may lead to a steady decline in air quality and as such they recommend conditions aimed at encouraging a modal shift to low carbon transport options. This will be addressed by a requirement for a travel plan.

Public Rights of Way

The development would involve the diversion and upgrading of Public Footpath 91 that cuts through the site between Hall Road and Coppice Way. The length of the footpath will be elongated as it has to curve around the north side of the development. There are no proposals for the footpath to be lit. However, it is noted that there would be increased natural surveillance from the close care cottages within the development. Therefore, personal safety should not be compromised. The concept of upgrading the route to a cycle route is supported, and will require a surface being provided to a width of 3m, dropped kerbs, possible barriers and appropriate signage. There is not considered to be a requirement for dustbins, trolley barriers, or a zebra crossing to the footpath arising from the impact of the development.

The Countryside Access officer has noted that this public footpath will be a key link for residents and staff of the proposed development to access the nearby facilities. Likewise, a new path within Handforth Community Woodland which lies to the west of the proposed development site would facilitate residents, staff and local residents in accessing the area of woodland and the areas either side which include employment zones.

Accessibility

Whilst the site is not adjacent to the public transport network, it is a reasonably sustainable location, being approximately 500m from the bus stop on Station Road, approximately half a mile from the centre of Handforth and adjacent to the Handforth Dean Shopping complex.

The topography of Hall Road/Station Road means that there is an incline when travelling west. No doubt this would dissuade some people from walking to the village centre. However, the Inspector noted in 2010 that *"the path was used by local people including the elderly. As a consequence, it seems unlikely that the more mobile residents or those with*

mobility scooters would be deterred from walking/riding to the local facilities along Hall Road/Station Road.” Walking to the nearest facilities is therefore an option for residents.

Accessibility is therefore considered to be in accordance with the objectives of policies DC6 and DC57 of the local plan.

Highways

The access to the cottages and the apartments / care beds is to be taken off a spine road that will continue on to serve an approved housing development to the south of the site. This spine road links to an existing roundabout on Coppice Way. Importantly, there is no vehicular link from Hall Lane to the rear of the site.

The changes to the proposals for the care village mean that there will be a slight increase in the predicted levels of traffic movements. However, these will not have a material impact on the local highway network and can be comfortably accommodated at both The Coppice Way and A34 junctions

With regard to the parking provision for the apartment building, it provides 35 car parking spaces for the apartments and the close care beds. The area to the west of the access road provides 91 car parking spaces, plus 4 garage / car port spaces, for the cottages / apartments. The standards in the emerging local plan recommend 0.5 spaces per unit, which would equate to 57 spaces in total, with the remainder being left for staff and visitors. Comparing the parking provision with other similar care uses, the amount of car parking being provided is broadly similar and is not considered to be at such a low level that would cause parking problems. Therefore, having regard to the level of parking accepted under the extant permission, no highway objections are raised, subject to a final travel plan for the site being submitted.

The Strategic Highways Manager raises no objections to the proposal.

Design and visual impact

As the site is greenfield, the development clearly has a landscape impact. An area that is currently agricultural / open space land will be occupied by an urban form. The layout is very similar to the approved layout, which has been influenced by the natural and physical constraints of the site, particularly the ponds within the site and the location of Handforth Hall to the west. The more dominant apartment building would be located to the north-east corner of the site, away from Handforth Hall, and would be viewed in the landscape against the backdrop of the planted mound along the A34 bypass. Existing mature vegetation would provide good natural screening from the west, north and east vantage points. The most prominent local vantage points from outside the site would be from the south, where the care village will be viewed above the existing mature hedge that forms the southern boundary of the site. The proposed dwellings would respect the scale of existing dwellings in the immediate area. The diverted public footpath would also provide new vantage points looking east across the proposed development, which need to be considered. Whilst the proposal clearly involves a change in landscape, the overall massing and layout of the development is considered to respect the constraints of the site and is sympathetic to adjoining buildings and its surroundings.

The density of the development has been raised as a concern in a number of the letters of representation. However, it should be noted that the built form of the units remains almost identical to that previously approved. Whilst the number of apartments increases the total number of close care units, the density is not considered to be so great to have a significantly adverse impact upon the character of the area.

The apartment building would have a U-shaped footprint, creating a courtyard area at the rear, which would provide a modest, but adequate, private outdoor space for residents. Whilst this is a substantial building, in the context of the adjacent retail park, the scale of the building would not be out of character. It would be a predominantly brick building with some render, which are appropriate materials for the area.

The proposed close care cottages and apartments are also of a traditional design providing some variety of materials and design details but maintaining a commonality that adds cohesion to the development.

The proposed community centre provides a focal point for the development. The building has a first floor within the roof space, and its heavier roof form and clock tower are considered to give it an appropriate identity as a communal building.

The development also establishes ponds within the site and along with the proposed open gardens throughout this helps to provide some aesthetically pleasing aspects to the overall layout. The proposal is therefore considered to comply with policies BE1 and DC1 of the Macclesfield Borough Local Plan.

Landscaping and tree protection

Policies DC8 and DC9 of the local plan require schemes to have appropriate landscaping and ensure the retention of trees of amenity value. The site has no special designation of landscape interest.

None of the trees on the site are formally protected by tree preservation order, but collectively they do provide some landscape and wildlife value. During previous applications there were concerns about the impact of the proposal on the existing Hawthorn hedgerow along the southern boundary of the site adjacent to footpath 127. A boundary treatment plan does indicate that this hedgerow will be retained, however, the plan is not clear in terms of the extent of the proposed railings. A boundary treatment condition is therefore recommended. Similarly, tree losses can be adequately mitigated by replacement planting.

Landscape is a reserved matter so there are no landscape details included with the application. If the application is approved a landscape scheme and full hard and soft details must be submitted for approval as a reserved matters application.

Further information will also be required about the future ownership and management arrangements for all open space areas including:

- The amenity open space to the west of the footpath/cycleway,
- The land to the rear of Handforth Hall (newt mitigation area)
- The land either side of the proposed new access road to Coppice Way.
- The bottom of the northern, wooded bunds
- All communal areas within the development

The management regimes for all areas should be set out in a Landscape and Habitat Management Plan (L&HMP), which was conditioned as part of the allowed appeal. The L&HMP must establish who will be responsible for management (e.g. a management company). The document should include the long-term design objectives, management techniques, maintenance schedules and frequency of operations, timescales for the replacement of hard and soft landscape elements and public access issues.

Landscape proposals within the care village should include good quality and varied hard materials and extensive tree and shrub planting to enhance the communal spaces.

Ecology

The nature conservation officer has commented on the application and notes that the application is supported by an acceptable ecological assessment undertaken by a suitably qualified and experienced ecological consultant.

Habitats

The proposed development site supports neutral grassland and scrub woodland habitats which are of limited local nature conservation value. The loss of these habitats is likely to have only a minor impact on the Borough's ecological assets and will be at least partially compensated for through the creation of additional area of terrestrial habitat for newts.

Great Crested Newts

A small population of great crested newts has been recorded breeding at a pond some distance to the south of the proposed development. A second small population is also known to breed at two ornamental ponds within the grounds of Handforth Hall.

In the absence of mitigation the proposed development has been identified as having a moderate adverse impact on the identified great crested newt populations through the loss of terrestrial habitat and the risk of killing/injuring animals during the construction process.

To mitigate the risk of killing/injuring of newts, the applicant is proposing to trap and exclude newts from the footprint of the proposed development in accordance with standard best practice methodologies. The loss of terrestrial habitat will be compensated for through the creation of four new ponds and 0.4ha of terrestrial habitat. In addition, one of the existing ponds will be enhanced to improve its value as a breeding pond for amphibians.

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.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those 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 consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory

alternative, (ii) that the development is of overriding public interest, and (iii) the favorable conservation status of the species will be maintained. Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

Current case law instructs that if it is considered clear, or very likely, that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable “other imperative reasons of overriding public interest” then planning permission should be refused. Conversely if it seems 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 would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Alternatives

It is clear that there is no alternative way a care village could be provided on this site without having an impact on the GCN habitat. Taking this into account it would be reasonable to conclude that there are no satisfactory alternatives.

Overriding public Interest

As the proposal is contributing to a specialist housing / care need for the Borough’s ageing population it would also be reasonable to conclude that the proposal is helping to address an important social need.

Mitigation

A comprehensive mitigation scheme has been proposed, which essentially utilises open space land to the west of the application site to improve GCN habitat in this area. The Council’s nature conservation officer is satisfied that mitigation/compensation is broadly adequate to maintain and potentially enhance the favourable conservation status of the species.

On the basis of the above it is considered reasonably likely that the requirements of the Habitats Directive would be met.

Toads

Toads, a biodiversity action plan species and a material consideration have been recorded on site. The proposed great crested newt mitigation and compensation is also likely to be effective in maintaining the local toad population

Bats

Roosting bats are unlikely to be present or affected by the proposed development.

Breeding Birds

The site offers suitable habitat for breeding birds, including species listed as Biodiversity Action Plan priorities which are a material consideration. If planning consent is granted, conditions are recommended to safeguard breeding birds and to ensure some additional provision is made for both breeding birds and roosting bats.

Badgers

An updated badger survey will need to be undertaken prior to the commencement of development, which can be conditioned, as it was with the appeal. If any adverse impacts on badgers are anticipated, mitigation and compensation proposals designed to address these impacts will also be required.

Ponds

Ponds are a UK Biodiversity Action Plan priority habitat and hence a material consideration. The proposed development will result in the loss of an existing pond. This loss would be adequately compensated for through the provision of the new ponds proposed as part of the submitted great crested newt mitigation scheme.

Hedgerows

It appears feasible for the existing hedgerows to be retained on site as part of the proposed development. However, it should be ensured that any losses are compensated for as part of the subsequent landscaping scheme produced for the site.

Woodland

Woodland is a priority habitat and hence a material consideration. The proposed development will result in the loss of a small area of woodland located to the east of the proposed footpath. This loss can be at least partially compensated for through the creation of woodland habitats around the boundaries of the proposed great crested newt mitigation area. The remaining small areas of woodland located to the west of the proposed footpath are retained as part of the landscaping scheme for the development.

Flood Risk

As with the previous applications on this site, several objections have been raised regarding potential localised flooding due to a large reduction in soakaway capacity over the site due to the proportion of building footprint and hardstanding across the site. There has also been anecdotal evidence of flooding of the existing footpath and the gardens of Handforth Hall. These comments are acknowledged. However, the site is identified as being in flood zone 1 with a 0.1% risk of annual flooding. The applicant has also submitted a flood risk assessment which states that the drainage system will be designed using Sustainable Urban Drainage System (SUDS) techniques. The Environment Agency raises no objections to the proposal, and comments from the Flood Risk Manager are awaited.

It is anticipated that no flood risk objections will be raised subject to a surface water drainage scheme being submitted. This was the approach with the previous applications, and given that the proposed scheme is not substantially different it would be unreasonable to object on these grounds. The proposal is therefore not considered to pose an unacceptable flood risk, and is in accordance with policies DC17 and DC18 of the Local Plan.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Handforth district centre including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. There will also be local employment opportunities arising from the care provision on the site, and in the operation and maintenance of the communal facilities.

RESPONSE TO OBJECTIONS

With regard to the comments received in representation not addressed above, a particular issue that has been raised, as it was on all previous proposals is the impact of the development upon local resources. A letter of representation from Handforth Health Centre has been received which states:

“The area in question is currently outside our practice boundary as it is not residential land. In addition we would raise the issue of ease of accessibility to our practice from Coppice Way.”

Whilst these comments are acknowledged, at the time of the previous appeals in 2010 and 2013 the issue of strain on local resources was dismissed by both Inspectors as there was no evidence to quantify these concerns or what the result of any increased pressure would be. This is still considered to be the case with the current proposal.

S106 HEADS OF TERMS

The applicant has submitted a draft unilateral undertaking which reflects the obligations that were secured with the allowed appeal scheme. A s106 planning obligation will be required to secure the following Heads of Terms:

- Individual travel plans for close care cottages and apartments and care beds
- Travel plan monitoring fee
- Operational plan to be submitted
- Financial contribution of £86,000 towards Handforth Woodland Enhancement Project

CIL Regulations

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations 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 proposal would make a contribution towards meeting a housing need within the area for a specific group of people, which would help to sustain the existing community and provide a wider choice for the elderly. The particular use of the site and the associated continuity of care needs clarification through an agreed operational plan.

The implementation and monitoring of the travel plan is necessary in the interests of sustainable development.

The commuted sum to be paid to the Council to implement the Handforth Woodland enhancement project which includes upgrades to the footpath through the woodland will provide opportunities for all parts of the community including the new residents.

On this basis the requirements of the s106 agreement are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

PLANNING BALANCE

Policy GC7 is not consistent with the Framework and is therefore out of date. Consequently, the presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that where relevant policies are out of date planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The application is an amendment to the scheme previously allowed at appeal, which now removes the care home and the “affordable” elements. The built form remains very similar to the appeal scheme.

As the proposal is not classified as use class C3 (dwellinghouses) there is no affordable housing requirement. However, the development will provide suitable accommodation to enable an ageing population within Cheshire East to live full independent lives for as long as possible. It is considered that the proposal would make a valuable contribution towards meeting an identified housing need for elderly people within the Borough, as well as continuity in their care, which is a material consideration of significant weight.

The primary visual function of the open space will be retained in accordance with policy RT6 of the Local Plan, and a further benefit of the proposal is the financial contributions towards the local woodland enhancement project.

The impact on European Protected Species and other ecological interests has been assessed by the nature conservation officer and is acceptable. The proposal accords with the relevant ecology policies in the local plan and national guidance in the Framework. There is not considered to be any reason, having regard to the Conservation of Habitats and Species Regulations 2010, to withhold planning permission in this case. Similarly the impact upon the setting of the listed building is acceptable, as it was under the previous appeals. The proposal also raises no significant visual, highway safety, amenity, design, heritage or flooding issues, and complies with relevant local and national planning policies.

A number of economic benefits will also arise from the development including additional trade for local business and the creation of employment. Accordingly, a recommendation of approval is made subject to conditions and a s106 planning obligation.

The use of a greenfield site is not the first priority for development, and the creation of built form in this area will have an urbanising effect upon the site. However, this is not considered to be sufficient to outweigh the social, economic and environmental benefits identified above in the overall planning balance.

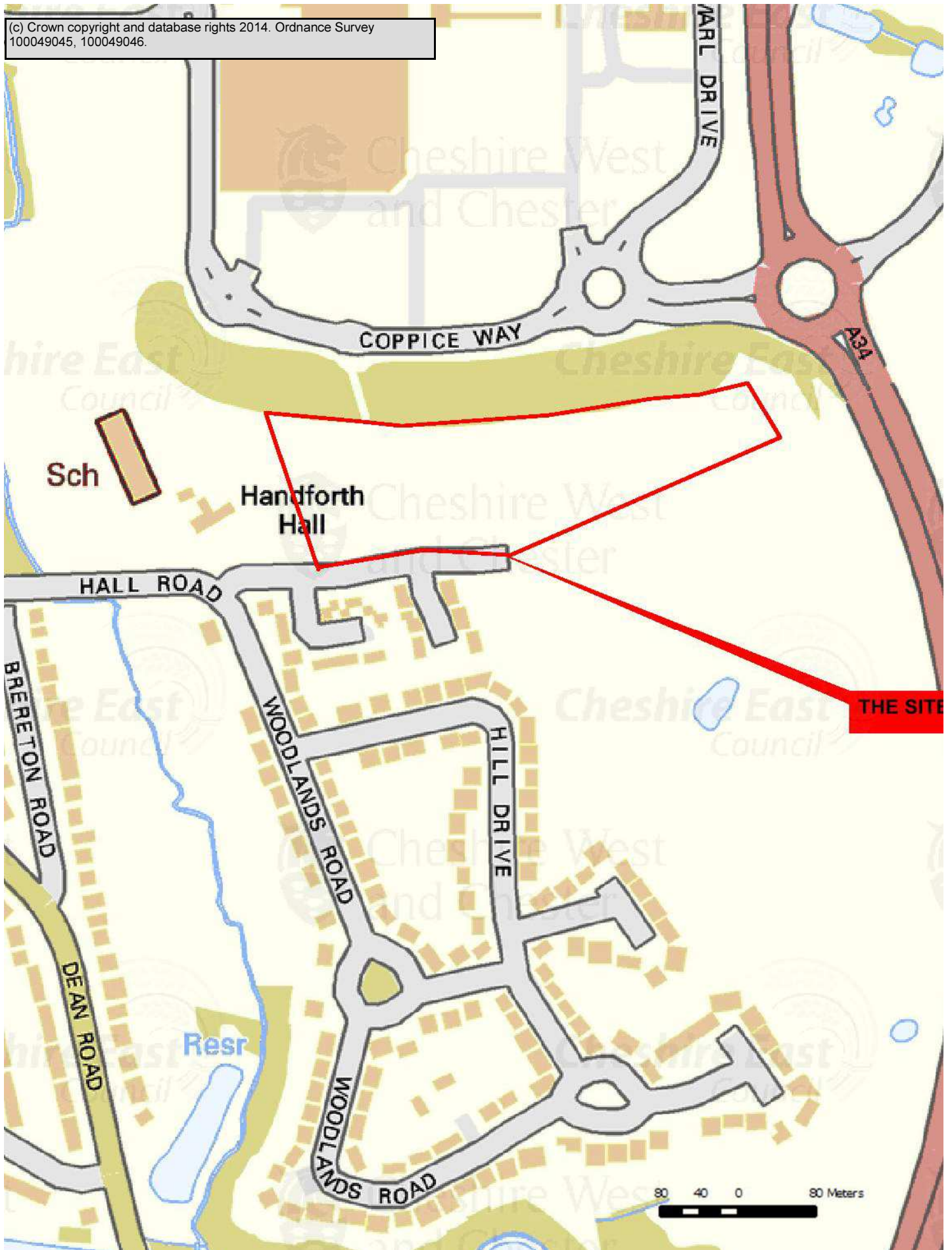
RECOMMENDATION

The application is recommended for approval subject to a s106 planning obligation which secures the heads of terms listed above, and the following conditions.

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

1. A01AP Development in accord with approved plans
2. A32HA Submission of construction method statement
3. A22GR Protection from noise during construction (hours of construction)
4. A23GR Pile Driving
5. Details of landscaping (reserved matters) to be submitted
6. Time limit for reserved matters
7. Time limit (implementation)
8. Samples of materials to be submitted
9. Foul and surface water drainage details to be submitted
10. Boundary treatment details to be submitted
11. Arboricultural method statement to be submitted
12. Retention of hedges
13. Details of external lighting to be submitted
14. Details of refuse facilities to be submitted
15. Assessment report of traffic noise and scheme of sound insulation measures to be submitted
16. Cycle parking facilities to be provided
17. Footpath and cycleway details to be submitted
18. Scheme to secure energy from decentralised and renewable energy sources to be submitted
19. Incorporation of features for roosting bats and breeding birds
20. Great Crested Newt mitigation works to be carried out
21. Additional contaminated land site investigation to be carried out and submitted
22. Updated badger survey to be submitted
23. Breeding birds survey to be submitted
24. Landscape and Habitat Management Plan to be submitted

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Application No: 14/4212C

Location: Former ALBION CHEMICALS, BOOTH LANE, MOSTON, CHESHIRE, CW11 3PZ

Proposal: Detailed approval is now sought for access, appearance, landscaping, layout and scale in respect of the residential element of the scheme. The outline application 09/2083C was subject to an EIA therefore an Environmental Statement was submitted to the local authority as part of the outline submission.

Applicant: c/o Agent, Taylor Wimpey Manchester

Expiry Date: 08-Dec-2014

SUMMARY:

The principle of development has already been accepted as part of the outline approvals on this site.

Social Sustainability

The development will not have a detrimental impact upon residential amenity, it would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.

The impact upon infrastructure would be neutral as the only impact would be upon education and this would be mitigated through the provision of a contribution secured as part of the outline application. The provision of public open space and the proposed play area is acceptable.

Environmental Sustainability

The design, layout and landscaping of the scheme are considered to be of sufficient quality. Detailed aspects of the landscaping can be secured through the use of a planning condition.

The ecological impact is considered to be neutral as mitigation would be secured. An update will be provided in relation to the issue of the SSSI/wintering bird survey. Drainage/flood risk issues are expected to be acceptable (subject to final comment).

Although there are some tree conflicts on this site, the trees in question are not subject to TPO protection. It is considered that subject to the imposition of planning conditions that the development is acceptable in terms of its impact upon trees on this site.

Economic Sustainability

The proposed access point is acceptable and the traffic impact as part of this development has already been accepted together with contributions for off-site highway works. The internal design of the highway layout/parking provision will be subject to an update report.

The site is largely brownfield and in this case the redevelopment of the site would provide a number of economic benefits in the re-use of the site.

It is considered that the planning balance weighs in favour of this development.

RECOMMENDATION:
APPROVE subject to conditions

PROPOSAL:

This is a reserved matters application for 371 dwellings (35.3 dwellings per hectare). The issues which are to be determined at this stage relate to the access, appearance, landscaping, layout and scale of the development.

The access would be via a single priority junction off Booth Lane with the provision of a right-turn lane on Booth Lane.

The development would consist of 1 to 4 bedroom units including some apartments. The height of the dwellings would vary from 2 – 2.5 stories in height with the apartments being 3 stories in height. The development would consist of the following mix:

- 12 x one bed units (in 2 apartment blocks)
- 17 x two bed units
- 250 x three bed units
- 92 x four bed units

SITE DESCRIPTION:

This Reserved Matters application relates to approximately 10.5ha of land and is situated 3.6km north west of Sandbach Town Centre, and is 4.5km south east of Middlewich.

The site covered by the outline application comprises two distinct areas, an intensively developed chemical manufacturing facility extending to approximately 11.2ha, and a former sports ground affiliated to the chemicals factory extending to approximately 7.8ha. The factory site has now been cleared. This Reserved Matters application covers the southern part of the site the majority of which was covered by the sports ground with the remainder being part of the chemicals factory.

The former sports ground was predominantly undeveloped but does include the Grade II listed, Yew Tree Farm House, which dates from the 16th century, with 19th century additions. The predominantly two storey farmhouse was recently used as a club for Directors of the chemical works but has stood vacant for approximately 15 years. Constructed from an oak frame with plaster panels, the farmhouse was extended and partially rebuilt in brick. The listing description for the building notes that there is currently a clay roof in situ but concludes that this was probably formerly thatched.

The listed building and its curtilage structures which were formerly used a staff social club are currently unoccupied and have been party to various degrees of damage due to relatively recent fire damage, criminal acts of both vandalism and theft. The buildings are secured in order to prevent further incidents. However, the complex does not benefit from any natural surveillance due to its isolation from the chemical plant and therefore there is a high probability of further criminal damage occurring in the future whilst the buildings remain undeveloped and unoccupied.

The application site has a plethora of identified constraints including a pedestrian footpath, which provides links through the site to the wider countryside to the north, an electricity substation and a series of mature trees. The character of the surrounding area is determined by its location within the Cheshire Plain and predominantly open countryside. However, there are additional industrial uses situated off Booth Lane, notably an electricity substation directly to the north –west and the British Salt Works complex located off Booth Lane, which affect the site's setting. An area of semi-national ancient woodland, Hollins Wood, comprises native tree species is located to the south east of the site beyond the railway line. In addition Sandbach Flashes Site of Special Scientific Interest (SSSI) is located to the west of the site beyond the Trent and Mersey Canal.

On the west, the site has a long frontage to the A533, and it is bounded by the Sandbach to Middlewich railway line to the south. The site also lies adjacent to the Trent and Mersey Canal which is a designated Conservation Area.

RELEVANT HISTORY:

14/4218C - Variation of conditions 6, 7, 25 and removal of condition 14 on application 09/2083C – Yet to be determined

09/2083C - The comprehensive redevelopment of the site for a mix of uses comprising of up to 375 residential units (Class C3); 12000sqm of office floorspace (Class B1); 3810sqm of general industrial (Class B2) and warehousing (Class B8) floorspace; 2600sqm of commercial uses incorporating pub (A4), hotel (C1), restaurant (A3), Health club (D2), retail (A1), car dealership (Sui-generis), fast food restaurant (A5) and offices (B1); retention and change of use of Yew Tree Farm complex for up to 920sqm of residential (Class C3) and non-residential (D1) uses; public open space together with access and associated infrastructure, with all matters reserved as set out in the application and described in drawings DMP6059/001 revision C and DMP6059/004 revision C – Approved 14th May 2014

POLICIES

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Development Plan:

The Development Plan for this area is the Congleton Borough Council First Review 2005, which allocates part of the site within the settlement boundary and part of the site within the open countryside.

The relevant Saved Policies are: -

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
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
NR5 Habitats
H6 Residential Development in the Open Countryside
H13 Affordable Housing and low cost housing
E10 Re-use and redevelopment of existing employment sites

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

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

North West Sustainability Checklist

CONSULTATIONS:

English Heritage: Do not consider that it is necessary to notify English Heritage of this application.

Environment Agency: No further comments to add to the previous letter dated 3rd September 2009 regarding your consultation reference 09/2083C.

Cheshire East PROW: Public Footpath Moston No. 7 will be obstructed by the proposed development. The PROW unit wish to lodge a holding objection until a suitable diversion has been agreed with the developer.

One of the primary duties of the Cheshire East Borough Council's Public Rights of Way Unit is to keep public rights of way open and available for members of the public. The obstruction of a public right of way is a criminal offence.

Natural England: This application is in close proximity to Sandbach Flashes Site of Special Scientific Interest (SSSI). The application, as submitted, does not contain sufficient information to conclude that the development is not likely to damage or destroy the interest features for which Sandbach Flashes SSSI has been notified.

The development site has the potential to provide suitable habitat for snipe, curlew, and lapwing. These are notified features of the SSSI. Therefore Natural England request that wintering bird surveys are conducted to assess the use of the development site and adjacent fields for presence and level use by the SSSI birds.

For advice on Protected Species refer to the Natural England standing advice.

Cheshire East Countryside Access: Destination signage should be sought at appropriate locations where links are made both to the public rights of way network and walking and cycling route to the town facilities. The developer would be requested to supply new residents with information on local walking and cycling routes and public transport options, for both transport and leisure purposes.

Canals and Rivers Trust: No objection.

Strategic Highways Manager: There is a high proportion of frontage parking which does precious little for place making and would create a high proportion of reversing maneuvers onto, in many cases, shared surface streets which does not put an emphasis on pedestrian priority.

CEC Flood Risk Manager: No comments received at the time of writing this report.

Environmental Health: No objection. An informative suggested in relation to hours of construction, conditions suggested in relation to a construction method statement and dust control.

Cheshire Brine Board: This site is just outside the Board's Consultation Area (the boundary runs down Booth Lane at this point) and therefore the Brine Board would not normally comment. However, the Brine Board would raise the matter of concern, regarding stability, of the potential for natural dissolution of the rock salt. The site is in a wet rockhead area, which would be the highest risk for natural dissolution, and it becomes paramount not to introduce point sources of drainage into the strata which could exacerbate the situation. However, the applicant does not appear to have addressed the issue of natural dissolution.

Ansa Open Space: 11,460sq.m of amenity green space is required on this site. The proposal is acceptable apart from to climbing unit for young children which is unimaginative. The Tottelbank Little Hamlet should be changed for a Brill plus.

VIEWS OF THE PARISH/TOWN COUNCIL:

Moston Parish Council: No comments received

Middlewich Town Council: Middlewich Town Council has now considered the above application and has the following comments:

- The previous contribution to Middlewich by the applicant should not be diminished by any alterations to the original scheme;
- A contribution should be made by the applicants to education facilities in Middlewich on the grounds that children occupying the houses on the development may attend schools in Middlewich; and
- An up to date traffic survey is carried out to ensure the contribution to highways is appropriate to the current traffic situation.

Sandbach Town Council: This site is not within Sandbach boundary, therefore Members were unable to consider however, as this proposal will significantly increase traffic through Sandbach, the Committee would like to know what provision has been made by CEC for the increased traffic.

Bradwall Parish Council: No comments received.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice erected.

A letter of objection has been received from 1 household raising the following points:

- There was a former sewage treatment plant on the site and it will be subject to contamination
- Contaminated land on this site
- Mercury on the site

A letter of representation has been received from CTC the national cycling charity raising the following points:

- The S106 contribution. I believe this is £640.000. Some of the £38.000 contribution for the Travel Plan might benefit cycling but the remainder of £602.000 will not and most schemes, like the £197.000 contribution for the 'Waitrose' roundabout in Sandbach. will worsen conditions for cyclists.
- The site is located around 3.5 km away from Sandbach town centre and this makes it by far the remotest site among the numerous developments in Sandbach. It can only be reached via the busy A534, Booth Lane. Still, the developer's Travel Plan confidently states that the site is '... highly accessible by cycle'.
- Existing public footpath immediately to the north of the proposed site access I believe this is Moston FP7Y and Bradwall FP4 and access for cyclists should be considered. Furthermore it could be developed for cyclists to the east to reach Wood Lane and the excellent network of quiet lanes there. However, this probably involves third party land.
- Trent and Mersey Canal. This would provide a good connection to both Sandbach and Middlewich. Cycling is permitted here but the surface is unsuitable for cycling. Any upgrade would be welcome. There is no pedestrian/cycle crossing to reach the canal.
- Speed limit I am pleased about the proposed extension of the 30 mph speed limit from Elworth up to the site. Relevant measures should be taken so drivers adhere to the speed limit.

An objection has been received on behalf of E.ON UK plc raising the following points:

- E.ON UK plc owns and operates a gas turbine power station to the north part of the Albion Chemicals site which operates within consented noise limits and this will continue for the foreseeable future
- The supporting noise assessment notes the location of the CHP. However it makes no reference to the facility and the existing noise levels produced. This is a significant omission in the assessment
- E.ON UK plc must have clarification that the proposed noise limits would not effect the operation of the gas turbine power station as this would be contrary to guidance contained within the NPPF
- The applicant must consider the need to provide suitable noise attenuation between the proposed development and the power station

A letter of support has been received from 1 household raising the following points:

- Support the application but is interested in the commercial aspects of this development
- What provision is being made in terms of vehicular access to the site. Off-site highway works will be required
- Lack of consultation

An objection has been received from Cllr Corcoran raising the following points:

- At outline planning permission stage there was talk of cycling links to Elworth and Middlewich. Why have these plans been dropped? There could also be opportunities to link cycle routes to nearby country lanes.
- The design of the houses is poor in terms of orientation to benefit from passive solar gain and to allow retro-fitting of solar panels. Why not have south facing houses?
- The Lyons Housing Review recommends adopting the zero-carbon standard. These houses are a long way off that.
- Concerned about the contamination of this land, particularly by mercury. The report by WSP Environmental Ltd/Bluefield Sandbach Ltd states "Whilst contaminant impacts had been recorded in the cell room area, the presence of a clay-dominated geology beneath the site was considered likely to restrict groundwater movement

and hence lateral migration and spread of contamination. Monitoring of Small Brook, identified as the priority receptor for contaminants arising from the site, indicated an absence of mercury related impacts. 2.5.4 concludes Further investigation/validation would be required across the site and a detailed remediation plan should also be formulated and implemented. What further investigation/validation across the site has been carried out?

- Cannot find details of what monitoring of Small Brook was carried out, nor can I find a detailed remediation plan. Appendices A-I (dealing with remediation plans) are blank on the document on the website.

APPLICANT'S SUPPORTING INFORMATION:

To support this application the application includes the following documents;

- Planning Statement (Produced by CBRE)
- Transport Statement (Produced by Croft transport Solutions)
- Residential Travel Plan Framework (Produced by Croft transport Solutions)
- Hedgerow Survey (Produced by Urban Green)
- Protected Species Survey and outline Mitigation Strategy (Produced by Urban Green)
- Site Waste Management Plan (Produced by Taylor Wimpey)
- Remediation Strategy (Produced by WSP)
- Ecological Appraisal (Produced by Urban Green)
- Affordable Housing Statement (Produced by Resolve S106)
- Arboricultural Report (Produced by Urban Green)
- Landscape Design Framework and Management Plan (Produced by Urban Green)
- Noise Assessment (Produced by RSK)
- Phase II Geo-Environmental Assessment (Produced by WSP)
- Design and Access Statement (Produced by Taylor Wimpey)
- Statement of Community Consultation (Produced by CBRE)

These documents are available to view on the application file.

APPRAISAL

The principle of residential development has already been accepted following the approval of the outline application (09/2083C).

Following the determination of application 09/2083C the applicant has applied to vary/remove conditions attached to this outline consent. This Reserved Matters application will respond to the outline application as varied by 14/4218C (if approved).

Affordable Housing

The S106 secured as part of the outline consent secures an affordable housing provision of 16% - to be provided on site (33% social rented and 67% intermediate/shared ownership), and an overage clause which provides for the viability calculations to be reviewed at appropriate intervals before completion of the development and for the figure of 16% to be increased if the economics of provision improve either by increased on site provision or by financial contribution in lieu.

The Affordable Housing Scheme has to be submitted and agreed prior to commencement of the development rather than at this point in time. However the Strategic Housing Manager states that

they have no objection to the scheme following the submission of amended plans/additional information.

Highways Implications

The wider traffic congestion issues in Sandbach/Middlewich were considered as part of the outline application.

To mitigate the congestion traffic impact of this development the following contributions have been secured as part of the S106 Agreement:

- A533/A54 Leadsmithy St, Middlewich:- £170,000
- A533/A534 The Hill/High St/Old Mill Rd/Brookhouse Rd roundabout, Sandbach £197,000
- £190,000 to be spent either on Junction 17 of the M6 or the Middlewich bypass whichever comes forward first (the decision regarding allocation of this contribution to be delegated to the Head of Planning and Housing, in consultation with the Chairman)
- Quality partnership bus shelters £25,000
- Real Time Information facility, Sandbach Rail Station £20,000
- Travel Plan facilities and targets £38,000

The access point into the site forms part of this application and the development would be accessed via a single priority access point with a right-turn lane into the site to be provided onto Booth Lane. The Strategic Highways Manager has not raised any objection to the point of access and this is considered to be acceptable.

In terms of the proposed layout/internal highways design and parking provision an amended plan has been submitted following negotiations with the Strategic Highways Manager. An update will be provided in relation to this issue when a formal consultation response has been received.

Amenity

There are no residential properties in close proximity to this application site (the nearest properties are located on the opposite side of Booth Lane to the south of the site) and as such it is not considered that the development would have a detrimental impact upon the residential amenities of nearby dwellings.

Contaminated Land

Given the previous use of the site as a chemical works there is land contamination issues associated with this site. This issue was subject to discussions at the outline stage by the Strategic Planning Board at the meetings on 16th February 2011 (where it was deferred for among other things further information in relation to land contamination) and 20th April 2011 (where members resolved to approve the outline application).

As stated within the report to Strategic Planning Board on 20th April 2011 the remedial works including the Mercury Plant decontamination and the remediation of the waste sludge lagoon, have been completed in accordance with statutory regulatory approval. Both the Environment Agency and the Council's Contaminated Land Officer confirmed as part of the outline application that they are satisfied with the works that have been carried out to date.

The additional remediation works that must be carried out in order to accommodate the proposed development is secured by planning condition attached to the outline application. The Council's Contaminated Land Officer and the Environment Agency indicated that they were happy with this approach.

Noise

In terms of the impact upon the future occupiers of the development this issue is dealt with on the outline consent with a condition attached to secure a scheme of noise mitigation.

Disturbance during the construction phase of the development

In this case there are the following conditions attached to the outline approval:

- Prior approval of external lighting details
- Hours of construction
- Pile driving details
- Method, timing and duration of floor floating
- Timing and phasing of the development

It is considered that these conditions attached to the outline consent would be adequate to protect residential amenity during the construction phase.

Trees and Hedgerows

Trees

The application site includes a number of trees none of which are protected by a Tree Preservation Order. The submission is supported by an Arboricultural Statement which incorporates a tree survey, an Arboricultural Impact Assessment and an Arboricultural Method Statement (AMS).

No trees are to be retained to the north of the site and the layout proposes to retain existing trees shown which are afforded grades A and B in the submitted survey. Whilst several of these trees are retained in public open space areas, in many cases the trees and their root protection areas are likely to be compromised by hard standing within the root protection areas.

Given the scale of the site, and the relatively low number of trees identified for retention within the main body of the site, there is no justification for compromising grade A and B trees. Such trees have the potential to make a useful contribution to a new development. Condition will be attached to ensure that all work within the RPA's is subject to a method statement.

Hedgerows

The only loss of hedgerow on this site will be from the formation of the access point. This is considered to be acceptable.

Landscape

As part of the application amended plans have been secured in terms of the landscaping for the site. These plans show an improved landscape provision within the site with the retention of hedgerows along the southern and eastern boundaries of the site and a greater degree of tree planting within the site. It is considered that the landscaping scheme is of an acceptable form but further information would be required in terms of the plot planting, as such a condition will be attached to secure further details.

Design

This is a reserved matter application for 371 dwellings including apartments. Outline planning approval was granted under planning reference 09/2083C for up to 375 units.

In terms of height this development would be for mainly two-storey developments although there would be some taller units in the form of 72 two-and-a-half storey units and 2 apartment blocks of three-storeys in height.

The layout plan includes three character areas 'The Heritage Core' around the listed buildings at Yew Tree Farm, 'The Booth Lane Frontage' along the road frontage and 'The Lanes' to the remainder of the site.

It is considered that the design of the units is appropriate and that the development would not appear out of character with other housing that currently exists within the vicinity of the site. A Building for Life Assessment has been carried out by the Councils Urban Designer and this rates the site as mainly Amber.

Details of the proposed boundary treatment and proposed materials will be secured by condition to comply with the submitted plans.

Following negotiations with the applicant it is considered that the design of the scheme is appropriate and that it accords with Policy GR2 (Design) of the Congleton Borough Local Plan.

Impact upon the Setting of the Listed Buildings

The Listed Building and barns at Yew Tree Farm would be retained and an application for their refurbishment/re-use will form part of a separate planning application.

As part of this application the taller units have been relocated away from the Listed Building and now only the two-storey units would be in close proximity to Yew Tree Farm.

An indicative plan has been provided to show how the Listed Buildings could be developed and to show that this Reserved Matters application would not compromise their re-use.

Based on the revised plans it is considered that the development would have a detrimental impact upon the setting of the listed buildings on this site.

Ecology

Impact upon the SSSI

In relation to this issue Natural England has raised an objection to the development and has requested wintering bird surveys are conducted to assess the use of the development site and adjacent fields for presence and level of use by the SSSI birds.

At the time of writing this report this wintering bird survey was awaited and an update will be provided in relation to this issue.

Trees and roosting bats

A number of trees on site have been identified as having potential to support roosting bats. These trees appear to be retained as part of the proposed development. The Councils Ecologist advises that the proposed development is unlikely to have a direct impact upon roosting bats. There is however likely to be some loss of foraging and commuting habitat.

Hedgerows

Hedgerows are a priority species. Apart from the loss of hedgerow required to facilitate the site entrance the hedgerow on Booths Lane would be retained.

Ditches

There is a loss of ditch habitat associated with the proposed development. Condition 19 of the outline consent requires the submission of a scheme to compensate for the loss of these ditches prior to the commencement of development.

Compensatory habitat

Condition 20 requires submission of details for habitat creation on the 'blue line' land on the east of the railway line prior to the commencement of development. The submitted landscape plan includes proposals for wet woodland planting adjacent to the brook.

The Council's Ecologist advises that the proposed woodland planting would be beneficial in compensating for the loss of breeding bird habitat and foraging opportunities for bats. However condition 20 was attached in order to secure compensatory habitat for Barn Owls. As a result the Councils Ecologist advises that the submitted proposals are inappropriate to discharge condition 20. In order to discharge this conditions the submitted plans need to be amended to include the provision of extensive areas of rough grassland and the provision of a number of barn owl nest boxes.

The rough grassland sward provided must be maintained to a sward height of 20-30cm and a litter layer 7-10cm deep. The area must not be cut less than 125mm above ground level (i.e. topped not mown) not more than once a year and not before 15th July. Management prescriptions to reflect this treatment must be submitted in support of the habitat creation proposals.

Under condition 21 this area should also include proposals for habitat creation to compensate for the loss of the onsite ditches. Information submitted to discharge this condition should include a time table for the implementation of the proposed habitat creation.

Breeding Birds

The application site has the potential to support a number of species of nesting birds including those priority species which are material consideration for planning. If planning consent is granted conditions should be attached to safeguard breeding birds.

Other Protected Species

An outlying sett is located within the site that would be lost as a result of the proposed development. To avoid the risk of this protected species being killed or injured during the construction process the applicant is proposing to close the sett under the terms of a Natural England license. The Councils Ecologist confirms that in the event that planning consent is granted this approach is acceptable to mitigate the potential impact of the proposed development.

The proposed development will result in the loss of an area of foraging habitat utilised by this protected species. However it is unlikely that this loss would have a major adverse impact upon the local badger population. If planning consent is granted a condition is recommended to secure the measures set out in the submitted *Survey & Outline Mitigation strategy produced by Urban Green*.

Public Open Space

The Councils Public Open Space Officer has requested 11,640sqm of amenity green space on this site. In this case the development would provide 22,900sqm of amenity green space, wildlife mitigation and a NEAP (Neighbourhood Equipped Area of Play). Therefore the open space provision is considered to be acceptable.

The NEAP would have 8 items of equipment and would meet the requirements of Ansa.

Education

This issue was dealt with as part of the outline application where a contribution of £100,000 was secured as part of the S106 Agreement.

Public Rights of Way

The objection from the PROW team is noted. However the imposition of a planning condition to require the diversion of the PROW prior to the commencement of development would address any issue. Furthermore an informative could be attached to remind the developer of its responsibilities in relation to the PROW.

Flood Risk and Drainage

The site covered by this Reserved Matters application 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 was submitted as part of the outline application.

At the time of writing this report no comments had been received from the Councils Flood Risk Manager. This information will be provided as part of an update report.

Brine Board

The Brine Board have noted that the site is outside the consultation zone. The case of structural stability will be dealt with at the Building Control stage but an informative can be added to the decision notice.

PLANNING BALANCE

The principle of development has already been accepted as part of the outline approvals on this site.

Social Sustainability

The development will not have a detrimental impact upon residential amenity, it would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.

The impact upon infrastructure would be neutral as the only impact would be upon education and this would be mitigated through the provision of a contribution secured as part of the outline application.

In terms of the POS provision and the proposed NEAP this is considered to be acceptable.

Environmental Sustainability

Design, layout and landscaping are considered to be acceptable. Further details of the proposed landscaping would be secured through the use of a planning condition. There is no reason to believe that an acceptable scheme could not be secured.

With regard to ecological impacts, the impact is considered to be neutral as mitigation would be secured. An update will be provided in relation to the issue of the SSSI/wintering bird survey.

An update will be provided in relation to the drainage/flood risk implications for this proposed development.

Although there are some tree conflicts on this site, the trees in question are not subject to TPO protection. It is considered that subject to the imposition of planning conditions that the development is acceptable in terms of its impact upon trees on this site.

Economic Sustainability

The proposed access point is acceptable and the traffic impact as part of this development has already been accepted together with contributions for off-site highway works. The internal design of the highway layout/parking provision will be subject to an update report.

The site is largely brownfield and in this case the redevelopment of the site would provide a number of economic benefits in the re-use of the site.

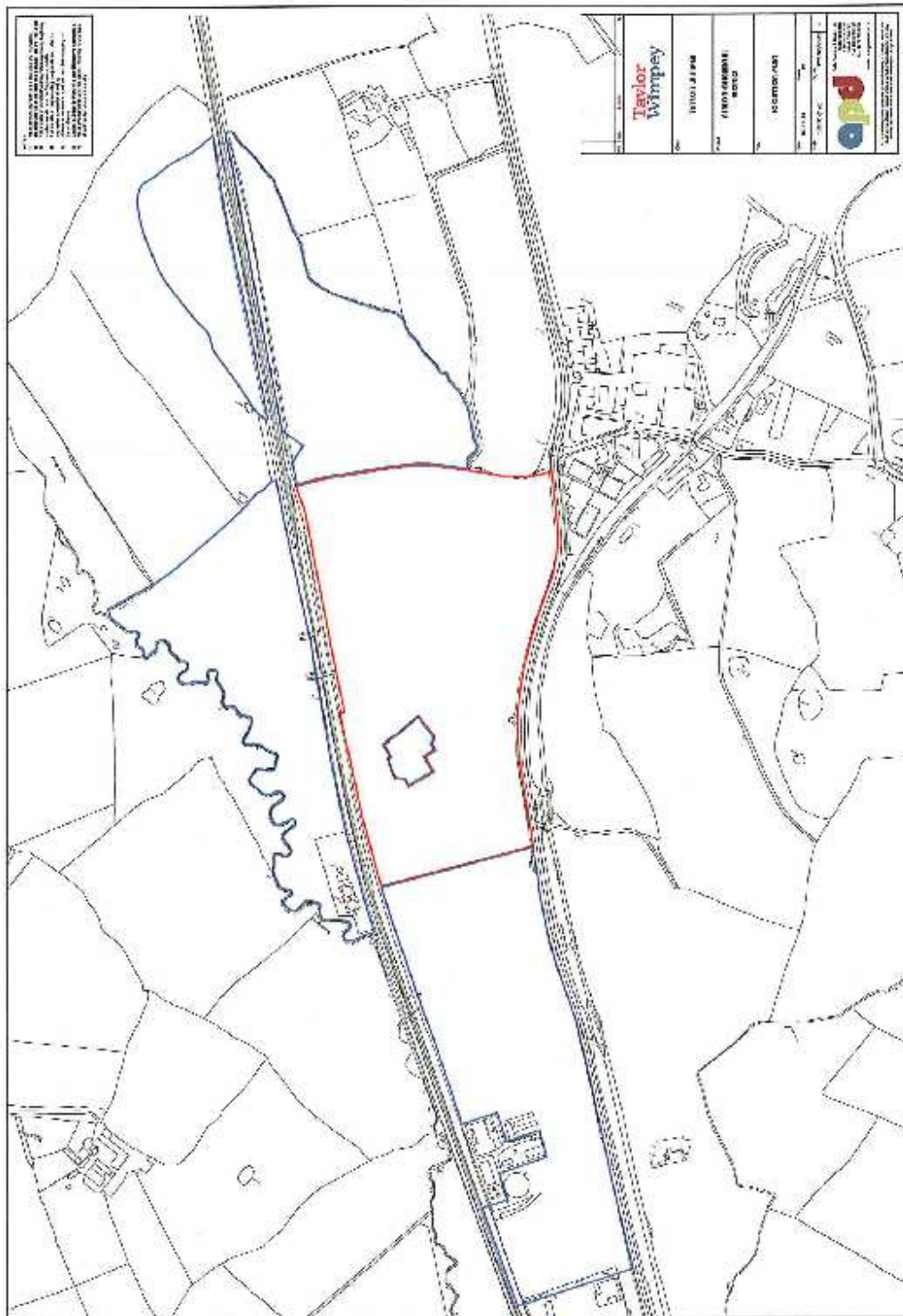
Taking account of appropriate planning policies, the presumption in favour of sustainable development within the NPPF, it is considered that the planning balance weighs in favour of this development.

RECOMMENDATION:

APPROVE subject to the following conditions

1. **Approved Plans**
2. **Materials to be submitted and approved**
3. **Landscaping details to be submitted to the LPA for approval in writing (including land levels for the proposed POS)**
4. **Implementation of the approved landscape scheme**
5. **Boundary treatment to be submitted and approved**
6. **The proposed development to proceed in strict accordance with the submitted Survey & Outline Mitigation strategy produced by Urban Green.**
7. **Breeding Birds Timing of Works**
8. **Provision of Breeding Bird Nest Boxes**
9. **Bin storage details for the apartments**
10. **Cycle storage details for the apartments**
11. **Submission of a revised tree protection scheme and arboricultural method statement**
12. **Method Statement for works within the RPA's to be submitted and approved**
13. **Details of surfacing materials within the RPA's to be submitted and approved**
14. **Construction Site Management Plan for trees to be submitted and approved**
15. **Construction Site Management Plan to be submitted and approved**
16. **Existing and proposed land levels within the RPAs of the retained trees to be submitted and approved.**
17. **Retention of existing hedgerows**

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Principal Planning Manager in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



Application No: 14/4218C

Location: Former Albion Chemical Works, Booth Lane, Moston

Proposal: Variation of conditions 6, 7, 25 and removal of condition 14 on application 09/2083C

Applicant: Taylor Wimpey Manchester

Expiry Date: 09-Dec-2014

SUMMARY:

The principle of development has already been accepted as part of the outline approvals on this site.

The variation/removal of the suggested conditions is considered to be acceptable in this case and would not change the environmental, social or economic sustainability considerations as part of the original application.

RECOMMENDATION:

APPROVE subject to the completion of a Section 106 legal agreement/deed of variation to secure the same Heads of Terms as application 09/2083C

PROPOSAL:

This application seeks to vary conditions 6, 7 and 25 and remove condition 14 attached to application 09/2083C. The condition wording is as follows:

6. The first reserved matters application shall include a Statement of Landscape Design principles and a Landscape Framework for the whole site. The statement and framework shall make provision for, inter alia, retention of existing features of both landscape and ecological value, alignment with ecological mitigation proposals and advanced structural planting.

Reason: In the interests of visual amenity and to comply with Policy GR1 of the adopted Congleton Borough Local Plan First Review.

7. The first reserved matters application shall include a landscape and ecological management plan for the whole site, to include, inter alia, a maintenance regime for areas of structural planting. The site shall thereafter be maintained in accordance with the approved management plan unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and to comply with Policy GR1 of the adopted Congleton Borough Local Plan First Review.

14. Prior to the commencement of development, the Yew Tree Farmhouse and associated curtilage listed buildings shall be utilised as site offices and shall remain in that use until such time as construction works are completed or it is converted to a permanent alternative use in accordance with relevant planning and listed building consents whichever is soonest, unless a scheme of maintenance and security for the buildings has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the building and to comply with Policies BH3 and BH4 of the adopted Congleton Borough Local Plan First Review.

25. The south west facing facades of dwellings hereby permitted shall be attenuated by close-boarded wooden fencing along the south west site boundary in order to provide a 5dB reduction unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of proposed residential properties / office park and to comply with Policies GR1 and GR6 of the adopted Congleton Borough Local Plan First Review.

SITE DESCRIPTION:

The application relates to approximately 19ha of land and is situated 3.6km north west of Sandbach Town Centre, and is 4.5km south east of Middlewich. The site comprises two distinct areas, an intensively developed chemical manufacturing facility extending to approximately 11.2ha, and a former sports ground affiliated to the chemicals factory extending to approximately 7.8ha. The factory site has now been cleared.

The former sports ground was predominantly undeveloped but does include the Grade II listed, Yew Tree Farm House, which dates from the 16th century, with 19th century additions. The predominantly two storey farmhouse was recently used as a club for Directors of the chemical works but has stood vacant for approximately 15 years. Constructed from an oak frame with plaster panels, the farmhouse was extended and partially rebuilt in brick. The listing description for the building notes that there is currently a clay roof in situ but concludes that this was probably formerly thatched.

The listed building and its curtilage structures were formerly used a staff social club are currently unoccupied and have been party to various degrees of damage due to relatively recent fire damage, criminal acts of both vandalism and theft. The buildings are secured in order to prevent further incidents. However, the complex does not benefit from any natural surveillance due to its isolation from the chemical plant and therefore there is a high probability of further criminal damage occurring in the future whilst the buildings remain undeveloped and unoccupied.

The application site has a plethora of identified constraints including a pedestrian footpath, which provides links through the site to the wider countryside to the north, an electricity substation and a series of mature trees. The character of the surrounding area is determined by its location within the Cheshire Plain and predominantly open countryside. However, there are additional industrial uses situated off Booth Lane, notably an electricity substation directly to the north –west and the British Salt Works complex located off Booth Lane, which affect the site's setting. An area of semi-

national ancient woodland, Hollins Wood, comprises native tree species is located to the south east of the site beyond the railway line. In addition Sandbach Flashes Site of Special Scientific Interest (SSSI) is located to the west of the site beyond the Trent and Mersey Canal.

On the west, the site has a long frontage to the A533, and it is bounded by the Sandbach to Middlewich railway line to the south. The site also lies adjacent to the Trent and Mersey Canal which is a designated Conservation Area.

RELEVANT HISTORY:

09/2083C - The comprehensive redevelopment of the site for a mix of uses comprising of up to 375 residential units (Class C3); 12000sqm of office floorspace (Class B1); 3810sqm of general industrial (Class B2) and warehousing (Class B8) floorspace; 2600sqm of commercial uses incorporating pub (A4), hotel (C1), restaurant (A3), Health club (D2), retail (A1), car dealership (Sui-generis), fast food restaurant (A5) and offices (B1); retention and change of use of Yew Tree Farm complex for up to 920sqm of residential (Class C3) and non-residential (D1) uses; public open space together with access and associated infrastructure, with all matters reserved as set out in the application and described in drawings DMP6059/001 revision C and DMP6059/004 revision C – Approved subject to S106 Agreement 14th May 2014

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 56, 57, 59, 109, 126, 128, 206.

Development Plan:

The Development Plan for this area is the Congleton Borough Council First Review 2005, which allocates part of the site within the settlement boundary and part of the site within the open countryside.

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
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
NR5 Habitats
H6 Residential Development in the Open Countryside
H13 Affordable Housing and low cost housing
E10 Re-use and redevelopment of existing employment sites

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

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

CONSULTATIONS:

Environmental Health: The south west facing facades of dwellings hereby permitted shall be attenuated to provide a 5dB reduction unless otherwise agreed in writing by the Local Planning Authority. It is also essential that the site ensures that all residential premises meet the requirements of BS8233:2014 and also those of the WHO guidelines for external areas.

VIEWS OF THE PARISH/TOWN COUNCIL:

Moston Parish Council: No comment to make.

REPRESENTATIONS:

A letter of objection has been received from 1 household raising the following points:

- There was a former sewage treatment plant on the site and it will be subject to contamination
- Contaminated land on this site
- Mercury on the site

An objection has been received on behalf of E.ON UK plc raising the following points:

- E.ON UK plc owns and operates a gas turbine power station to the north part of the Albion Chemicals site which operates within consented noise limits and this will continue for the foreseeable future
- The supporting noise assessment notes the location of the CHP. However it makes no reference to the facility and the existing noise levels produced. This is a significant omission in the assessment
- E.ON UK plc must have clarification that the proposed noise limits would not effect the operation of the gas turbine power station as this would be contrary to guidance contained within the NPPF
- The applicant must consider the need to provide suitable noise attenuation between the proposed development and the power station

A letter of support has been received from 1 household raising the following points:

- Support the application but is interested in the commercial aspects of this development
- What provision is being made in terms of vehicular access to the site. Off-site highway works will be required
- Lack of consultation

APPLICANT'S SUPPORTING INFORMATION:

To support this application the application includes the following documents;

- Noise Assessment (Produced by RSK)

These documents are available to view on the application file.

APPRAISAL:

Principle of Development

The principle of residential development has already been accepted following the approval of the outline application (09/2083C). This application is to consider the variation/removal of planning conditions attached to the outline consent.

It is necessary that planning conditions satisfy six tests as identified at paragraph 206 of the NPPF which states that conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;

6. Reasonable in all other respects.

The Planning Practice Guidance also states that in determining this application the local planning authority must only consider the disputed conditions that are subject of the application – it is not a complete re-consideration of the application.

Condition 6 (Statement of Landscape Design principles and a Landscape Framework for the whole site)

The applicant wishes to vary this condition as follows:

The first reserved matters application for each zone of development as shown on the parameter/Zone plan (reference AJC6059/004 Rev c) shall include a Statement of Landscape Design principles and a Landscape Framework for ~~the whole site~~ that zone. The statement and framework shall make provision for, inter alia, retention of existing features of both landscape and ecological value, alignment with ecological mitigation proposals and advanced structural planting.

The existing condition wording requires the landscape design principles and landscape framework for the whole of the site including the commercial element to be included within the first reserved matters application. The applicant does not consider that this requirement is relevant, necessary, precise or reasonable.

In this case it is considered that the suggested condition with the amended wording is precise and reasonable as it would still require the landscape design principles and landscape framework as part of the first reserved matters application for each phase. This would also enable the housing element of the approved development to come forward at an early opportunity and assist in the Councils 5 year Housing Land Supply position.

Condition 7 (Landscape and ecological management plan for the whole site)

The applicant wishes to vary this condition as follows:

The first reserved matters application for each zone of development as shown on the parameter/Zone plan (reference AJC6059/004 Rev c) shall include a landscape and ecological management plan for ~~the whole site~~ that zone, to include, inter alia, a maintenance regime for areas of structural planting. The site zone shall thereafter be maintained in accordance with the approved management plan unless the Local Planning Authority gives written consent to any variation.

The existing condition wording requires landscaping and ecological mitigation for the whole of the site including the commercial element to be included within the first reserved matters application. The applicant does not consider that this requirement is relevant, necessary, precise or reasonable.

In this case it is considered that the suggested condition with the amended wording is precise and reasonable as it would still require the landscape and ecological management plan as part of the first reserved matters application for each phase. This would also enable the housing element of the approved development to come forward at an early opportunity and assist in the Councils 5 year Housing Land Supply position.

Condition 14 (Yew Tree Farmhouse and associated curtilage listed buildings shall be utilised as site offices)

The applicant has requested that this condition is deleted in its entirety. The reason for this is that it does not meet the 6 tests. The applicant has also stated that they intend to submit a separate application for Listed Building Consent for the Yew Tree Farm buildings shortly. They have also stated that they do not consider the use of these buildings is relevant to the approved outline application nor is it reasonable due to the works required to make the buildings suitable for occupation as a site office taking into account the specific requirements of Taylor Wimpey during the construction phase.

This is accepted as it is considered that the suggested condition is not necessary, relevant to planning (the PPG states a condition must not be used to control matters that are subject to specific control elsewhere in planning legislation e.g. Listed Building Consents), relevant to the permitted development (the PPG states that a condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development) or reasonable in all other respects (the PPG states that conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness).

As such the removal of this condition is considered to be acceptable.

Condition 25 (The south west facing facades of dwellings hereby permitted shall be attenuated by close-boarded wooden fencing along the south west site boundary in order to provide a 5dB reduction)

The applicant wishes to vary this condition as follows:

The south west facing facades of dwellings hereby permitted shall be attenuated ~~by close-boarded wooden fencing along the south west site boundary in order~~ to provide a 5dB reduction unless otherwise agreed in writing by the Local Planning Authority.

The applicant states that this prescriptive requirement of the condition is no longer necessary or reasonable following the preparation of a Noise Survey. On this basis the applicants propose to amend the wording of this condition to remove the requirement for a close board fence but retain the requirement for a 5dB reduction in noise levels which will be undertaken in accordance with the recommendation set out in the noise survey.

The comments made in the representations are noted. However the suggested variation to this condition is considered to be reasonable as it would still require a 5dB reduction in noise levels from mitigation measures other than a close boarded fence. This view is supported by the comments from the Councils Environmental Health Officer.

S106 CONTRIBUTIONS:

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 approved outline application was considered to comply with the CIL Regulations and a S106/Deed of Variation will be required to secure the same Heads of Terms with these amendments to the conditions

PLANNING BALANCE:

The principle of development has already been accepted as part of the outline approvals on this site.

The variation/removal of the suggested conditions is considered to be acceptable in this case and would not change the environmental, social or economic sustainability considerations as part of the original application.

RECOMMENDATION:

APPROVE subject to the completion of a Section 106 legal agreement/deed of variation to secure the same Heads of Terms as application 09/2083C

1. a) Affordable housing provision of 16% - to be provided on site. The housing is to be provided based on 33% social rented and 67% intermediate/shared ownership, and to be provided in a variety of unit sizes to meet local requirements, in accordance with the scheme to be agreed at the Reserved Matters stage. The affordable housing to be 'tenure blind' and pepper potted throughout the site, subject to RSL operational requirements.

1. b) An overage clause which provides for the current viability calculations to be reviewed at appropriate intervals before completion of the development and for the figure of 16% to be increased if the economics of provision improve either by increased on site provision or by financial contribution in lieu.

2. The following contributions:-

A533/A54 Leadsmithy St, Middlewich:- £170,000

A533/A534 The Hill/High St/Old Mill Rd/Brookhouse Rd roundabout, Sandbach £197,000
£190,000 to be spent either on Junction 17 of the M6 or the Middlewich bypass whichever comes forward first (the decision regarding allocation of this contribution to be delegated to the Head of Planning and Housing, in consultation with the Chairman)

Quality partnership bus shelters £25,000

Real Time Information facility, Sandbach Rail Station £20,000

Travel Plan facilities and targets £38,000

Education contribution - £100,000

3. Provision for public open space to serve the whole of the development to be agreed with the Council when details of layout are submitted for approval. This must secure the provision and future management of children's play areas and amenity greenspace in

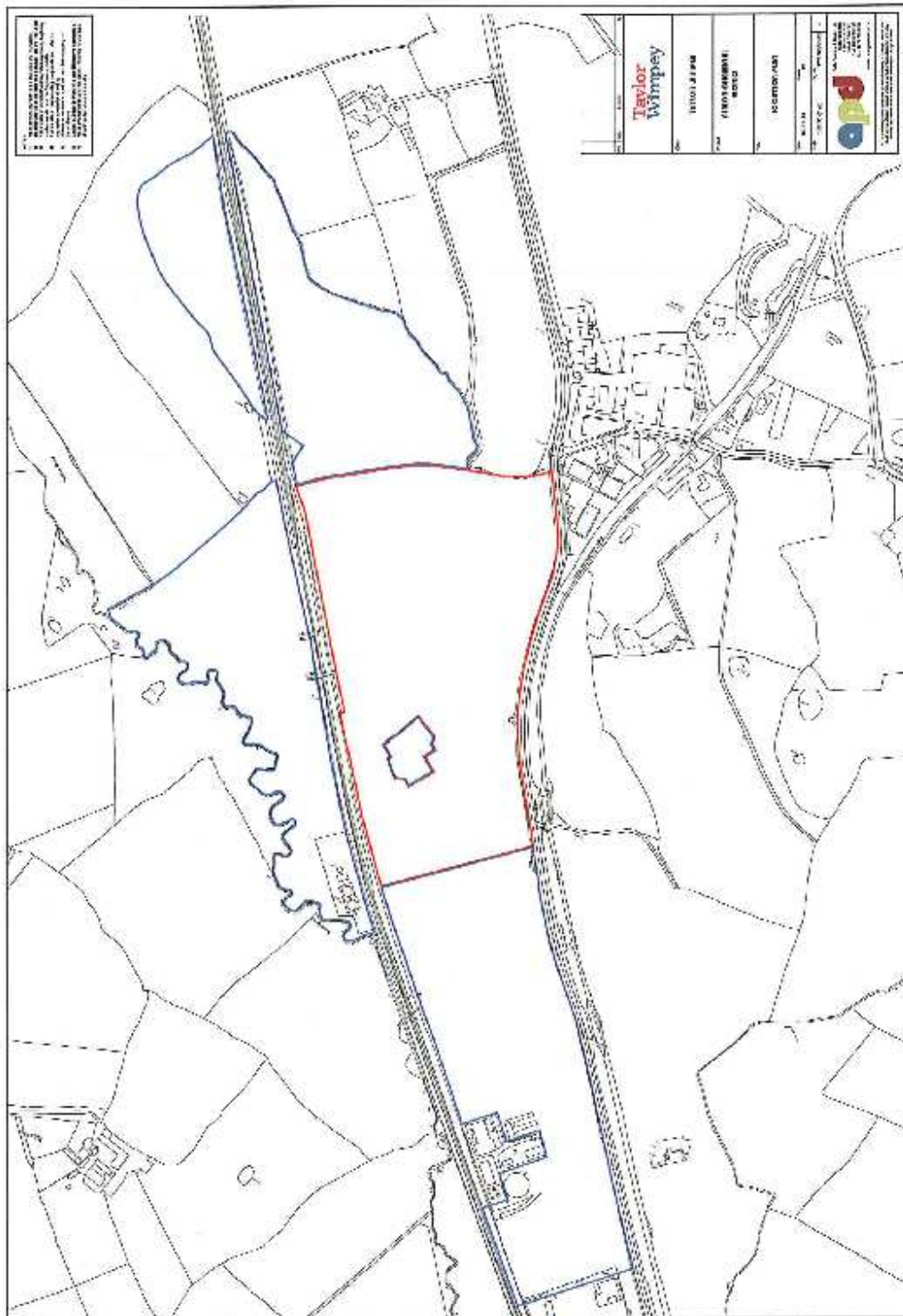
accordance with quantitative and qualitative standards contained in the Council's policy documents including the Congleton Borough Local Plan First Review SPG1 and it's Interim Policy Note for the Provision of Public Open Space 2008. Submitted details must include the location, grading, drainage, layout, landscape, fencing, seeding and planting of the proposed public open space, transfer to and future maintenance by a private management company.

and the following conditions:

1. Standard outline
2. Submission of reserved matters
3. Approved Plans – location and zoning
4. Notwithstanding detail shown – no approval of indicative residential masterplan.
5. Submission of Landscape Design principles
6. Submission of Landscape framework as amended by this report
7. Submission of Landscape and ecological management plan as amended by this report
8. Retention of trees and hedgerows
9. Submission of Arboricultural Impact Assessment
10. Submission of Arboricultural Method Statement
11. Submission of Comprehensive tree protection measures
12. Submission of assessments under the Hedgerow Regulations with each reserved matters application, for any hedgerows to be removed as part of that phase of development.
13. Submission of topographical survey as part of reserved matters.
14. geophysical survey in order to establish the need, if any, for further archaeological mitigation and submission / implementation of mitigation.
15. Submission of travel plan with each reserved matters application
16. Contaminated land assessment
17. A scheme for the provision and implementation of a surface water regulation system
18. A scheme for the management of overland flow
19. A scheme to be agreed to compensate for the impact of the proposed development on the two drainage ditches within the development boundary.
20. A scheme for the provision and management of compensatory habitat creation
21. Wetland creation, for example ponds and swales.
22. A scheme to dispose of foul and surface water
23. Submission of contaminated land investigation / mitigation
24. Submission of revised air quality impact assessment / mitigation
25. South west facing facades of dwellings to be attenuated to provide a 5 dB reduction.
26. The north western boundary shall be attenuated by a landscaped buffer zone which shall be 2m high and a minimum surface density of 15/20 kg/m³. Along the top of the bund shall be a 2m acoustic fence in order to provide further attenuation.
27. Submission of scheme for protecting the proposed dwellings from railway noise and vibration

28. Submission of a scheme for protecting housing from noise from all the commercial and industrial activities
29. Each reserved matters application for commercial activities to be accompanied by submission and approval of proposed hours of operation
30. Each reserved matters application for commercial activities to be accompanied by a noise impact assessment has been submitted to and approved by the Local Planning Authority. The noise impact assessment shall address;
- All hours of operation;
 - noise from moving and stationary vehicles;
 - impact noise from working activities;
 - noise from vehicles moving to and from the site in terms of volume increase;
- and
- current background levels of noise.
- Any recommendations within the report shall be implemented prior to the development being brought into first use.
31. Prior to commencement of development of any commercial building scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise, to be submitted
32. Prior to commencement of development of any commercial building details of any external lighting shall be submitted to and approved
33. Prior to commencement of development of any commercial building details of security for the car parks to prevent congregations of vehicles late at night to be submitted
34. Prior to commencement of development of any commercial building details of the specification and design of equipment to extract and disperse cooking odours, fumes or vapours
35. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays
36. Details of the method, timing and duration of any pile driving operations to be approved
37. Details of the method, timing and duration of any floor floating operations connected with the construction of the development hereby approved to be approved
38. A phasing scheme to be submitted and agreed with the Local Planning Authority.

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



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Application No: 14/3039N

Location: Land South of, Newcastle Road, Shavington & Wybunbury, Cheshire, CW2 5HR

Proposal: Reserved matters (appearance, landscaping, layout & scale) for residential development comprising 200 dwellings (30% affordable) and creation of public open space, in relation to outline approval 12/3114N

Applicant: Mr Niall Mellan, Persimmon Homes

Expiry Date: 22-Sep-2014

SUMMARY

The NPPF requires that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It also advises that planning should take full account of flood risk. The acceptability of the proposal with regards to sustainability is dependant on the scheme meeting these requirements.

The principle of the development and the associated access arrangements have already been established with the approval of the associated outline permission.

It is considered that the layout, scale, appearance and landscaping of the scheme are also acceptable.

The development would not have a detrimental impact upon neighbouring amenity, ecology, drainage and flooding, trees or public rights of way, subject to conditions.

RECOMMENDATION

APPROVE subject to conditions and completion of a Deed of Variation to a Section 106 Agreement

DETAILS OF PROPOSAL

Revised plans have been submitted seeking permission for the reserved matters of 200 dwellings on a section of the Shavington / Wybunbury Triangle which has outline permission for up to 360 dwellings. This is the first phase of the development

The reserved matters seeks approval of Appearance, Landscaping, Layout and Scale. The matter of the main point of access into the site was approved as part of application 12/3114N.

SITE DESCRIPTION

The application site falls within the Open Countryside and relates to a large (17.38 ha) triangular parcel of land that is bound on 2 sides by residential development (Stock Lane and Dig Lane) and by Newcastle Road on the other.

The site is made up of a number of fields of varying size. The larger fields occupy the western, central and southern parts of the site which is predominantly in arable use. The north-eastern part is smaller pasture fields and paddocks defined by hedgerows and fences. There are groups of hedgerow trees on the site and several isolated trees which have been identified and which can be retained.

The site straddles the boundary between Shavington-cum-Gresty and Wybunbury Parishes and is relatively level.

RELEVANT HISTORY

14/1161N - Variation or removal of Condition 30 of Planning Permission 12/3114N - Outline application for residential development of up to 400 dwellings, local centre of up to 700 Sq M (with 400 Sq M being a single convenience store), open space, access roads, cycleways, footpaths, structural landscaping and associated engineering works – Withdrawn 18th August 2014

14/1160N - Variation or removal of Conditions 48 - 51 Inclusive of Planning Permission 12/3114N - Outline application for residential development of up to 400 dwellings, local centre of up to 700 Sq M (with 400 Sq M being a single convenience store), open space, access roads, cycleways, footpaths, structural landscaping and associated engineering works – Resolution to approve – Awaiting Deed of Variation to S106

12/3114N - Outline Application for Residential Development of up to 360 Dwellings, Local Centre of up to 700 sqm (with 400 sqm being a single convenience store), Open Space, Access Roads, Cycleways, Footpaths, Structural Landscaping, and Associated Engineering Works – Approved 23rd January 2014

NATIONAL & LOCAL POLICIES

National policy

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development.

Of particular relevance to this application are paragraphs 17 (Core planning principles), 56-68 (Good design), 94 and 99-104 (Flood risk).

Development Plan

The Development Plan for this area is the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011.

The relevant Saved Policies are: -

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
RT3 – Provision of Recreational Open Space and Children’s Play Space in New Housing Developments
RT.6 - Recreational Uses on the Open Countryside
TRAN.3 - Pedestrians
TRAN.5 – Cycling

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG5 – Open Countryside
CS6 – The Shavington / Wybunbury Triangle
SC1 – Leisure and Recreation
SC2 – Outdoor Sports Facilities
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 – Design
SE2 – Efficient Use of Land
SE3 – Biodiversity and Geodiversity
SE4 – The Landscape
SE5 – Trees, Hedgerows and Woodland
SE6 – Green Infrastructure
SE7 – The Historic Environment
CO1 – Sustainable Travel and Transport

Supplementary Planning Documents

Development on Backland and Gardens

CONSULTATIONS

Strategic Highways Manager – No objections

Environmental Protection – No objections, subject to a number of conditions including; hours of piling, the prior submission of a piling method statement, the prior submission of lighting details,

the prior submission of a noise mitigation scheme, a noise mitigation implementation condition, the prior submission of a travel plan, the provision of electric vehicle infrastructure, the prior submission of a dust mitigation scheme and a biomass potential condition. In addition to the above, an hours of construction informative is proposed.

United Utilities – No comments received at time of report

Housing (Cheshire East Council) – No objections

Public Rights of Way (PROW) – No objections, subject to the detail of the footpath diversions proposed being agreed with them. In addition, an informative relating to the applicants responsibilities is recommended.

Environment Agency – Advice as per previous application (12/3114N) – No objections, subject to conditions

Natural England - No objections

Mid-Cheshire Footpath Society - No comments received at time of report

Open Space Society - No comments received at time of report

Ramblers Association - No comments received at time of report

VIEWS OF THE PARISH COUNCIL:

Wybunbury Parish Council – Object to the proposal on the following grounds;

- Variation of condition applications (14/1160N and 14/1161N) have not been determined (13/08/2014)

Shavington Parish Council - No comments received at time of report

Hough & Chorlton Parish Council – Object to the proposal on the following grounds;

- Application takes no account of the discharge of conditions applications therefore;
 - Drainage concerns with specific relation to Dig Lane
 - There is no wildlife corridor proposed to the rear of Dig Lane
 - The application includes 3-storey development
 - The application includes 2-storey development backing onto Stock Lane
 - The proposal clearly still proposes the erection of 456 dwellings
- Other conditions imposed on the outline application have not been satisfied.
- The proposal does not include an up-to-date protected species survey and as such, is contrary to Condition 45 on application 12/3114N.

OTHER REPRESENTATIONS

Neighbour notification letters were sent to all adjoining occupants and a site notice erected. 16 letters have been received objecting on the following grounds:

- Principle of development – No need for housing
- Proposal is contrary to variation of condition applications which have not been determined.
- Proposal cannot be considered until variation of condition applications have been determined
- Design – Out of character (3-storey development), dwelling heights – highly visible
- Amenity – Loss of privacy/overlooking, loss of light, noise and air pollution,
- Impact upon protected species / the application is not supported by an up-to-date protected species survey and as such, it contrary to Condition 45 of application 12/3114N
- Number of conditions on application 12/3114N have not been satisfied e.g. drainage condition, dust emissions
- Flooding and drainage concerns – Particularly on Dig Lane
- Highway safety – Increase in traffic volume
- Inaccuracies within the submitted sustainability appraisal
- Impact upon archaeology
- Impact upon breeding bird
- Concerns regarding the re-location of the pathways (PROW)

APPRAISAL

The key issues are:

- The principle of development
- The acceptability of the Layout, Scale, Appearance and Landscaping
- Access / Highway safety
- Impact on residential amenities
- Affordable housing requirements
- The impact upon ecology
- The impact upon drainage / flooding
- The impact upon trees
- The impact upon Public Rights of Way (PROW)
- The provision of open space

SUSTAINABILITY

This application shall consider the sustainability of the proposed development in the context of the reserved matters.

In this instance, consideration of the design, landscaping and drainage are the principal considerations.

Design

Paragraph 56 of the NPPF advises that;

'The Government attached great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'

Paragraph 63 of the NPPF advises that;

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.'

Paragraph 64 of the NPPF advises that;

'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

Layout (including Access)

The proposed layout comprises of an elongated parcel of land measuring approximately 4.86 hectares in size which forms part of the wider 'Shavington Triangle' development site which obtained outline planning permission for up to 360 dwellings in January 2014. Vehicular access to the site would be off Newcastle Road in accordance with the approved access at outline stage.

The density of the development proposed is now approximately 41 dph, with lower density housing along the Newcastle Road frontage. (This has been reduced from 46 dph on the advice of the Council's Urban Design Officer).

A green infrastructure network comprising of a north to south-west green corridor, which would incorporate a diverted public right of way, village green, balancing ponds and allotments is proposed. An east to west corridor including Cheerbrook watercourse will be opened up from the existing culvert which leads to the open space to the west. Some dwellings will front onto this watercourse.

The Strategic Highways Manager has advised that the proposed internal road layout is reasonable and speeds are likely to be low as is required within residential developments. There remains some concern about levels of off street parking, but a condition can be imposed to ensure that off street parking meets the necessary requirements

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

Scale

The proposed amended plan proposes 200 units.

This would comprise of the following 16 house types; Beadnell apartments, Alnwick (2-storey, 2-bed), Clayton (2-storey, 3-bed detached), Chedworth (2-storey, 4-bed detached), Roseberry (2-storey, 4-bed detached), Moseley (2 ½ storey, 3-bed mews), Kendal (2 storey, 4-bed detached), Hatfield (2 storey, 3-bed detached), Hanbury (2-storey, 3-bed Mews), Souter (2 ½ storey, 3-bed semi-detached), Rufford (2-storey, 3 bed detached), Regent (2 ½ storey, 5-bed detached), Marlborough (2-storey, 4 bed-detached), Compton (2-storey, 5-bed detached), Winster (2-storey 4-bed detached) and Leicester (3-storey, 4 bed detached).

The number of each of the above house types proposed is as follows; Beadnell apartments (16 units), Alnwick (22 units), Clayton (21 units), Chedworth (15 units), Roseberry (23 units), Moseley (5 units), Kendal (5 units), Hatfield (7 units), Hanbury (46 units), Souter (3 units), Rufford (11 units), Regent (1 unit), Marlborough (1 unit), Compton (4 units), Winster (10 units) and Leicester (10 units).

The height of these units range from 7 metres (Clayton) to 9.8 metres (Regent).

Of the 200 units, 184 would be 2 storey in height and the remainder 2½ storey .

Given that the closest properties to the development site on Newcastle Road and Dig Lane are two-storey in nature, it is not considered dwellings between this range in height would appear incongruous or conflict with the local form. The dwellings closest to Newcastle Road to the north would be inset from the highway by approximately 11.5 metres and 16 metres respectively. As such, their impact with regards to height upon the streetscene would be limited.

The proposed dwellings are comparable to the footprints of existing dwellings. As a result it is considered that the scale of the development is acceptable.

Appearance

The proposal would comprise of 200 dwellings consisting of 16 different house types.

The dwellings would either be detached, semi-detached or of a mews design, finished in either brick or render and would all have dual-pitched roofs.

The surrounding properties are of various heights, forms and fenestration finishes. As such, it is considered that the general mix of property styles, finishes and forms would largely reflect the characteristics of the surrounding area and would not appear incongruous within this setting.

As such, subject to the appropriate use of materials in order to respect the local character, it is considered that the appearance of the proposed dwellings would be acceptable and would adhere with Policy BE.2 of the Local plan.

Landscaping

The application is supported by a Landscape Report, a Landscape Management Plan and a proposed Landscape Plan.

The plan shows that the majority of existing trees identified as trees of landscape and amenity value will be retained. New trees would be planted across the site in the wildlife corridor and areas of public open space. It is advised that tree species will reflect the existing species on the site. The general management of such matters shall be required in line with the submitted Landscape Management Plan.

A phase 1 habitat area will be created to the west and this would include existing and proposed ponds. A low grassed mound is proposed to create a buffer from the highway junction.

The proposal will include a NEAP and a MUGA secured via a S106 Agreement at outline application stage.

The proposed hard and soft landscaping is considered acceptable subject to implementation conditions.

Amenity

Policy BE.1 of the Local Plan advises that new development should not be permitted if it is deemed to have a detrimental impact upon neighbouring amenity in terms of overlooking, visual intrusion or noise and disturbance. Furthermore, the level of private amenity space provided is a material consideration as detailed within the Supplementary Planning Document on Development on Backland and Gardens.

The closest neighbouring dwellings to the scheme would be the occupiers of the properties on the opposite side of Newcastle Road, to the north, and No's 326 and 328 Newcastle Road on the same side of the development.

These dwellings will be at approximately 33m away. As such, this relationship adheres with the minimum separation distance of 21 metres as detailed within the Development on Backland and Gardens SPD.

An electricity substation is proposed approximately 14.5 metres away from the side elevation of No.328 Newcastle Road. However, given its single-storey nature, it is not considered that this aspect of the development would create any amenity issues for this neighbour.

Given that this proposal is for the first phase of the housing on this site, a phase in the middle of the site, all other surrounding existing residential properties are a significant distance away from the proposed housing and as such are not considered to be significantly impacted.

In terms of the relationship between the proposed dwellings themselves, the dwellings are considered to be far enough away from each other, so not to create any particular issues with regards to overlooking, loss of light or visual intrusion. Certain relationships are safeguarded by the use of obscure glazing.

The amount of amenity space proposed for the dwellings is considered acceptable. Although some of the plots fall short of the recommended minimum standard, it is considered that they are large enough for the future occupiers to be able to carry out normal functions such as; sitting outside, hanging out washing etc and not sufficiently small to cause objection.

Environmental Protection have raised no objections, subject to a number of conditions to ensure the development would not create any issues in relation to noise, odour or contaminated land. These concerns were safeguarded at outline planning application stage by condition. These conditions therefore still apply.

Subject to the addition of these recommended conditions, an obscure glazing condition and a condition removing permitted development rights, it is considered that the proposed development would adhere with Policy BE.1 of the Local Plan.

Flooding concerns have been raised regarding the scheme. However, this is mitigated by the imposition of drainage and flooding conditions on the outline planning permission which still apply.

Trees

The proposed layout interfaces with only one tree (Oak T10) adjacent to Plot 128. The position of the access road to the south of this tree conflicts with the requirements of *BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations*. This particular tree was identified as a poor specimen in the supporting arboricultural information on the outline application. The Council's Tree Officer has advised that the long term retention of this tree is unlikely given the extent of excavation proposed for the road and likely root loss.

The tree officer has advised that given the tree is of poor quality, there are no significant arboricultural implications. Retention of existing trees around the periphery of the built development must be secured by tree protective fencing in accordance with the above British Standard.

As such, no objections on tree grounds are raised, subject to a tree retention and a tree protection condition.

Public Open Space

As part of the associated outline planning application, a Neighbourhood Equipped Area for Play (NEAP), a Multi Use Games Area (MUGA), an outdoor gym, allotments and 2 areas of community woodland were proposed and subsequently secured via a S106 Agreement. A management plan in perpetuity and the Provision of a local resident's management company to maintain all on site open space was also secured in the S106.

The proposed layout demonstrates 16.7 hectares of POS in the form of a 'Habitat Area' which will contain existing and proposed ponds and various planting. A footpath-cycleway will connect and travel through the centre of the area. An informal 'kickabout' area is also proposed.

Green links will run parallel with the wildlife corridor leading to other public open spaces. The proposed Village Green which will include the NEAP, MUGA and outdoor gym does not form part of this phase of the development.

The Council's Green Spaces Team have advised that they are satisfied with the proposal subject to the original agreed aspects of the development being secured.

Planning Balance

The principle of the development has already been approved.

The proposed scheme provides an acceptable design and layout, the dwellings are appropriate to the character of the area, appropriate landscaping and sufficient open space is provided.

The scheme therefore represents a sustainable form of development providing sufficient quality of design and landscaping and open space. Matters of drainage and flooding have been considered to be acceptable, subject to the conditions, on the associated outline planning application.

It is also considered that the development would not have a detrimental impact upon neighbouring amenity, ecology, trees, public rights of way or open space.

The application is therefore recommended for approval, subject to a deed of variation to the S106 Agreement to reflect the plans, application number and any other relevant changes to provisions of the agreement impacted by phase 1 of the development.

RECOMMENDATION

APPROVE subject to conditions and completion of a Deed of Variation to a Section 106 Agreement on application 12/3114N to secure;

1. Changes to reflect the plans, application number and any other relevant changes to provisions of the agreement impacted by phase 1 of the development.

And conditions;

1. Plans
2. Implementation of landscaping
3. Tree retention
4. Obscure glazing (First-floor side elevations on plots – 27, 32, 33, 35, 45, 48, 79, 80, 83, 114, 125, 157, 162, 166, 174, 179, 180 & 181)
5. Removal of Permitted Development Rights (Part 1 - Classes A-E)
6. Implementation of Protected Species Mitigation method statement prepared by TEP dates September 2014.
7. Submission / approval of detailed design of additional ponds
8. Submission / approval of scheme for the safeguarding of existing ponds and hedgerows during the construction process.
9. Submission / approval of method statement for the creation of meadow/wildflower grassland.
10. Implementation of submitted management plan (version 2)
11. Submission / approval of proposals for the provision of amphibian hibernacula within the habitat area.
12. Submission / approval of plan to demonstrate adequate off-street parking provision

In the event of any changes being needed to the wording of the Strategic Planning 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 Principal Planning 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.

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Application No: 14/4380N

Location: HURST HALL, WRENBURY ROAD, MARBURY, CHESHIRE, SY13 4LU

Proposal: Installation of a solar park with an output of approximately 13.28MW on land associated with Hurst Hall.

Applicant: Markus Wierenga, Green Switch Developments Ltd

Expiry Date: 22-Dec-2014

SUMMARY

The NPPF requires that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

In terms of sustainability, the benefits of the provision of a source of renewable energy, for which there is a recognised need, outweighs harm to the local environment having regard to the impact on open countryside and agricultural land.

The proposal would satisfy the economic and social sustainability roles by providing energy from a renewable, low carbon source.

The proposal is considered to be acceptable in terms of amenity, flood risk, highway safety and ecology.

The significant harm to the landscape character of the area however, is considered to significantly and demonstrably outweigh the benefits of the scheme, rendering it environmentally unsustainable.

The scheme therefore represents an unsustainable form of development and the planning balance weighs against supporting the development.

RECOMMENDATION:

Refuse due to significant adverse impact on landscape character.

PROPOSAL

The development proposal is for a circa 13.28MW Solar Park laid out across approximately 22.9 hectares of agricultural land within the existing field boundaries.

The panels would be freestanding units constructed of toughened glass set in aluminium frames. They would be mounted close to the ground (approx 2.33m high with a tilt angle of 25 degrees), and fixed in position through piles driven into the ground, meaning that no concrete

foundations are required. There would be approximately 54,230 panels. The panels would be arranged in rows on an east to west alignment, facing south to maximise exposure to sunlight. Security fencing would be erected around the boundary to restrict access to the site.

The solar park would be an unmanned facility and a control building/substation would be constructed close to the point of connection and would house 'Low Tension and High Tension' control panels and a transformer. This is the subject of a second application on this agenda (14/4500N). Ten inverters will also be installed at the site housed in a weather proof fibre glass enclosure.

Access during the construction period, for maintenance and subsequent decommissioning, would be from an existing access track off Wrenbury Road, through the farm yard and entering the site via the south eastern corner of the southernmost field on the site.

In this case the application is accompanied by an Environmental Statement.

SITE DESCRIPTION:

The application site is located in the south west of Cheshire East and covers an area of approximately 22.9 hectares of what is currently agricultural land, extending over a number of fields.

The topography of the wider area is broadly undulating and this is true of the site itself, in which the land generally slopes down to the Llangollen Branch of the Shropshire Union Canal, although there are distinct variations in topography across the application site.

The wider landscape surrounding the application site is agricultural and the Llangollen Branch of the Shropshire union canal is located just to the north of the site, Footpath 16 Norbury follows this route. The South Cheshire Way, a long distance footpath (Footpath 16 Marbury cum Quoisley) follows the southern boundary of the applications site.

The site is designated as being within Open Countryside in the adopted local plan.

RELEVANT HISTORY:

Environmental Impact Assessment screening and scoping opinions have been requested relating to this site. (14/4196S, 14/3982S, 14/1834S and 14/1722S)

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 98.

Development Plan:

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site as being within Open Countryside.

The relevant Saved Policies are: -

BE.1 – Amenity
BE.2 – Design Standards
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land
BE.14 – Development Affecting Historic Parks and Gardens
BE.16 – Development and Archaeology
BE.21 – Hazardous Installations
NE.2 – Open Countryside
NE.3 – Areas of Special County Value
NE.5 – Nature Conservation and Habitats
NE.6 – Sites of International Importance for Nature Conservation
NE.7 – Sites of National Importance for Nature Conservation
NE.8 – Sites of Local Importance for Nature Conservation
NE.9 – Protected Species
NE.11 – River and Canal Corridors
NE.12 – Agricultural Land Quality
NE.17 – Pollution Control
NE.19 – Renewable Energy
NE.20 – Flood Prevention
RT.9 – Footpaths and Bridleways

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 - Design
SE2 – Efficient use of Land
SE3 – Biodiversity and Geodiversity
SE4 – The Landscape
SE5 – Trees, Hedgerows and Woodland
SE6 – Infrastructure
SE7 – The Historic Environment
SE8 – Renewable and Low Carbon energy
SE9 – Energy Efficient Development
IN1 – Infrastructure

IN2 – Developer Contributions

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

Circular 02/99: Environmental Impact Assessment

Town and Country Planning (Environmental Impact Assessment) Regulations 2011

CONSULTATIONS:

Highways:

There will not be a material traffic impact from this development with the development phase the only element of traffic generation. No objection raised subject to a condition being attached requiring a detailed Construction Management Plan prior to first development.

Environmental Health:

An informative suggested in relation to hours noise generative work.

Environment Agency (EA):

No objection in principle to the proposed development. This is subject to a condition requiring the development to be carried out in accordance with the submitted flood risk assessment.

Natural England:

In terms of the Wildlife and Countryside Act 1981 no objection and requires no conditions. In terms of impact on agricultural land, Natural England considers that the development is unlikely to lead to significant and irreversible long term loss of the best and most versatile agricultural land.

For advice on protected species refer to the Councils standing advice.

Archaeology:

It is not considered that the potential for archaeological deposits is significant enough to justify an archaeological objection to the development or to lead to a recommendation for further pre-determination work. Instead, it is advised that the archaeological potential of the site may be addressed by a limited programme of archaeological mitigation, to be secured by condition.

Civil Aviation Authority:

No comments received at the time of writing this report.

Manchester Airport:

Manchester Airport has no safeguarding objections to the proposal.

Canals and Rivers Trust:

Consider that there would be a substantial impact on both short and long views of the site from the Llangollen Canal. Should the application be approved, they request that additional screening is provided on the northern, eastern and western boundaries of the site.

Marbury and District Parish Council:

The Parish Council wish to object to the proposed Solar Park and the extended sub station.

The development would appear to be against both Local and National Planning Objectives for use of agricultural land. It would also be an intrusion into the open countryside in an area well used by walkers and canal users.

The development is of an industrial scale and character and would be totally alien to the appearance and character of its rural landscape setting. The change to the outlook of various properties that overlook the site would have a detrimental effect and be of a negative nature.

The potential for noise pollution and disturbance during the construction of the Solar Park and its joining to the sub station/national grid is very high. There is also a concern about probable light pollution during the construction and afterwards from security lights.

Reference has been made earlier to intrusion into Open Countryside and the possible loss of habitat etc. The Council's Principal Planning Officer, Emma Williamson, in a letter to Greenswitch Solutions, dated 11th April 2014, stated "...that the proposal is likely to have significant effects..." and also in the same letter "The development could be easily viewed from Frith Lane and from a number of Public Footpaths, particularly the footpath on the southern site boundary. While the site would benefit from an element of natural screening provided by existing trees and vegetation the potential for long distance views of the scheme is great given the scale of the scheme proposed and conditions of the site and surroundings."

The comments above are based on statements made by Parish Councillors at a meeting of Marbury and District Parish Council on Monday, 20th October 2014. Statements were based on consultations with a substantial number of residents by the Parish Councillors and noted by the Clerk.

Comments were also made that the suggestion that the Solar Park has a "life" of 25 years is possibly misleading in that it could be much longer! Many participants were not impressed by the timing or the format of the "Consultation Event" and the changes in the application during its development.

Wrenbury cum Frith Parish Council:

The Parish Council wishes to object to the proposed Solar Park and the extended sub station.

The development is against both Local and National Planning Objectives for use of agricultural land. Councillors consider that it is would be an unacceptable loss of agricultural land. It would also cause a detrimental loss of visual amenity; visible from many footpaths and the canal. The Parish Council urges the Borough Council to refuse this application.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and site notices posted.

At the time of report writing approximately 172 comments have been received relating to this application. 144 objections and 28 in support of the application. These are summarised below and the full documents can be accessed through the Council's website.

The objections express the following concerns:

- Adverse impact on the landscape
- Visual intrusion
- Visibility from many viewpoints
- Loss of agricultural land for food production
- Scale of the development
- Impact on public rights of way
- Impact on the setting of the Conservation Area
- Does not fulfil the definition of sustainable development in the NPPF
- Contrary to local and national policy
- Industrial development in the countryside
- Brownfield land should be used for this form of development
- Vandalism of the countryside
- No amount of screening will disguise it
- Adverse impact on ecology
- The site is miles from the National Grid and disruption during connection
- The Secretary of State for Environment says these '*large scale solar parks are a blight on the countryside*'
- Cumulative impact of these types of development
- Alternative sites not properly considered
- Impact on local tourism
- Highway safety
- Extensive disruption during development period
- Loss of outlook
- Light and noise pollution
- Aircraft could be adversely impacted
- Impact on local parachute club
- Inconsistencies in the application documentation
- Levels of subsidy are too generous
- Technology already outdated
- Questions about what will happen after 25 years
- Flood risk
- Property prices

The objectors also have the support of the local MP. In addition photomontages have been submitted depicting how the site may look when completed, these can also be viewed on the Council's website.

The comments in support include a petition with 67 signatories and make the following points:

- Valuable production of renewable energy
- Reduction in local energy bills
- Will help to prevent catastrophic climate change
- No significant or intrinsically negative impact on landscape character
- Will have little impact once completed

- Green energy should be supported
- Important for farmers to be able to diversify and access other income streams
- Good for local business
- Increase in biodiversity
- The land can still be used for grazing
- This is only a temporary use that will be beneficial
- The country needs a more diverse energy balance.

APPRAISAL:

The key issues to be considered in the determination of this application are set out below. They are the principle of the development, sustainability, renewable energy production, highways, amenity, heritage assets, landscape, trees, ecology, flood risk and archaeology.

Principle of Development

The proposed development should be considered against the NPPF. This document identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The NPPF defines sustainable development and states that 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 including economic, social and environmental.

The National Planning Policy includes the core planning principles of encouraging '*the use of renewable resources (for example, by the development of renewable energy)*' and '*recognising the intrinsic character and beauty of the countryside*'.

Paragraph 98 of the NPPF then goes on to state that local planning authorities should approve applications for energy development unless material consideration indicate otherwise if its impacts are or can be made acceptable.

There is further guidance within the Planning Practice Guidance which states as follows:

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*

- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

Local Plan Policy

The relevant policies relating to the principle of development, as contained within the Borough of Crewe and Nantwich Replacement Local Plan, are Policies NE.2 (Open Countryside) and NE.19 (Renewable Energy).

Policy NE.2 identifies that the open countryside should be protected for its own sake and that development should be kept to a minimum in order to protect its character and amenity. The policy states that:

‘within the open countryside only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted’

The proposed development would be clearly contrary to Policy NE.2.

Policy NE.19 is considered to be consistent with the NPPF in that it is intended to ensure that such proposals cause minimum harm to the countryside, ensuring a quality environment for all residents of the Borough. Amongst other things policy NE.19 states that development will only be permitted where:

- *The development would cause no significant harm to the character and appearance of the surrounding area;*
- *The proposal includes effective measures to safeguard features or areas of particular landscape or nature conservation interest*

Emerging Policy

The most relevant policy of the Cheshire East Local Plan Strategy Submission version is Policy SE8 (Renewable and Low Carbon Energy) which states that *‘the development of renewable and low carbon energy schemes (including community-led initiatives), together with any ancillary building(s) and infrastructure, will be positively supported and considered in the context of sustainable development and any impact on the landscape’*.

The Policy then goes on to state that weight will be given to the wider environment, economic and social benefits arising from renewable and low carbon energy schemes, whilst considering the anticipated adverse impacts, individually and cumulatively upon:

‘The surrounding landscape including natural, built, historic and cultural assets and townscape; including buildings, features, habitats and species of national and local importance and adjoining land uses’.

The justification to the Policy then goes on to identify the technologies that will be most viable and feasible including *‘solar thermal and photovoltaics on south facing buildings throughout the Borough. Ground mounted schemes may be more appropriate where they do not conflict with other policies of the plan’.*

Need for Renewable Energy

In relation to need, paragraph 98 of the NPPF makes it clear that Local Planning Authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy.

Conclusion

In this case the principle of the proposed development would be contrary to the Policy NE.2 contained within the Borough of Crewe and Nantwich Replacement Local Plan. However, there is significant support within the NPPF and through the emerging policy for sustainable energy developments. As a result it is necessary to consider whether the development represents sustainable development and assess and if any other material considerations indicate if the development is acceptable.

Relevant Recent Appeal Decisions

This is one of a number of applications that may be forthcoming to Cheshire East with EIA Screening requests for 17 sites within the Southern part of the Borough.

Each application should be determined on its own merits but in this it is prudent to draw Members attention to the following appeal decisions which have been issued since the publication of the Planning Practice Guidance;

- Suffolk Coastal District Council – Hacheston (Appeal reference 2193911) – 22nd May 2014 – Application for a solar panel farm on 51 hectares of land within the open countryside. As part of this decision which was recovered and dismissed by the SoS it was concluded that; *‘there would be a major/moderate adverse impact on the landscape as perceived from the north side of the development and a similar visual impact for local recreational walkers’* and *‘there is significant doubt that maintenance and retention of the mitigation planting could be ensured for the 25 years of the scheme on the basis that the Unilateral Undertaking and associated agreements carry little weight. This is a critical consideration because of the site’s location in an area of countryside that is of special quality. The Secretary of State places significant weight on the harmful visual impacts’* and *‘the loss of a substantial area of productive agricultural land for at least 25 years is another negative factor’*

- Babergh District Council (Appeal Reference 2204846) – Wherstead – 2nd June 2014 – Application for a solar panel farm on 38.4 hectares of land within the open countryside. As part of this decision which was dismissed the Inspector concluded that; *‘the proposal would result in a significant, localised, adverse impact on the landscape in the short term, and whilst this impact would gradually reduce over time, it would nonetheless remain a considerable detractor from the rural character of the area. Therefore, the development does not respect the landscape’* and *‘it has not been demonstrated that the development of the agricultural land comprising the site is necessary. Nor has it been demonstrated that no suitable brownfield sites or sites of lower agricultural quality are available. Consequently, the Appellant has not complied with the sequential test set out in the PPG and, therefore, the proposal is not in accordance with Government guidance in this respect and is contrary to paragraph 112 of the Framework’*
- Swale Borough Council – Littles Farm, Kent (Appeal reference 2212592) – 13th June 2014 – As part of this decision which was dismissed the Inspector concluded that; *‘in view of the Planning Practice Guidance I have referred to, I conclude that the site’s use of BMV land, and its loss to most crops which rely (or crop most heavily) on such land, would significantly and demonstrably outweigh the renewable energy, biodiversity, employment, farm diversification and other benefits of the scheme and its accordance with certain elements of national and local policy. I therefore conclude that the scheme is not the sustainable development for which the Framework indicates there is a presumption in favour’*. In terms of the landscape impact the inspector found that the landscaping would take 5-7 years to take affect and would cause harm to the landscape during this period. It was found this added weight to the appeal decision but in view of the relatively limited period during which the harm would be likely to be experienced, it was not a determining factor in the decision.
- Cornwall Council – Land at Burthy Farm, Summercourt, Newquay (Appeal Reference 221234) – 30th September 2014 – As part of this decision that was allowed the Inspector concluded that: *“The appeal site would not go wholly out of agricultural use if, as contended by the appellant, sheep grazed the grass that would grow between the arrays. Though there is no certainty that this would occur and no mechanism to ensure that it would. Nevertheless, even if this did not occur, the appeal proposal would not lead to any permanent loss of agricultural land irrespective of quality. The appeal proposal is for a period of 25 years and can be conditioned accordingly. Thereafter it would revert to agricultural use. While not necessarily a short period in human terms, it would not amount to a permanent loss.”*
- Cornwall Council – Land at Kellygreen Farm, St Tudy (Appeal Reference 2212325) – 23rd June 2014 – As part of this decision that was allowed the Inspector concluded that: *“It follows that there would be a loss of productive agricultural land for 25 years, but not a great deal of land that is ‘best and most versatile’.* Moreover the appellant has put forward positive proposals for limited grazing and other uses for the land around and between the panels that would have ecological benefits. *I conclude on this issue that the proposal would cause only limited conflict with the aims of paragraph 112 of the NPPF and very limited harm to agricultural production; and that this needs to be put in the overall balance.* In terms of landscape impact, the Inspector concluded that there would

be moderate adverse impact and the benefits would significantly outweigh the disadvantages.

As can be seen from these decisions, Inspectors are taking differing conclusions in terms of the permanent loss of the 'best and most versatile' agricultural land.

Sustainability

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

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

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

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

Environmental role

The site is a greenfield site and therefore not the first priority for development hence the potential conflict with countryside policies. The proposal is however for a large renewable energy scheme that would help the move towards a low carbon economy. The visual impact of the proposal on the landscape will inevitably be a negative consequence of such developments, particularly if using quality agricultural land.

Economic Role

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”

The economic benefits of the development need to be balanced against the impact upon the open countryside and the loss of agricultural land.

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.”

Social Role

The proposal would contribute to the production of renewable energy which would be of benefit to the population by virtue of contributing to energy security.

Renewable Energy Production

The Planning Statement submitted in support of this application identifies that the development would *‘be a solar photovoltaic (PV) power plant of approximately 13.28 Mega Watt peak (MWp).’* It states that this would power *‘over 3,984 average sized homes per year’* and result in *‘a reduction of more than 6,640 tonnes of Carbon per year.’*

This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework’s renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development.

Highways Implications

The Strategic Highways Manager (SHM) has assessed the application and concluded that the construction phase of the development is the only element of the proposal that would generate traffic to any significant degree. It would involve a construction period of 12 weeks with a maximum of 20 trips in any one week. The SHM therefore considers this to be non-material.

Should consent be granted, a Construction Management Plan should be secured by condition, in order to control vehicle movements and parking of construction/delivery vehicles.

Amenity

Given the isolated rural nature of the site there are relatively few residential properties in close proximity to the application site. There would be some disruption caused during the development of the site, however it is considered that this would be limited and any noise and disturbance could be controlled by condition.

There would be alteration to the outlook from a limited number of properties, however this is not considered to result in an oppressive or overbearing outlook and as such could not be sustained as a reason for refusal. As a result it is not considered that the proposed development would raise any significant issues relating to residential amenity.

Impact upon the setting of the Local Heritage Assets

There are no designated heritage assets within the site; however there are 3 Scheduled Monuments, 3 Grade I, 5 Grade II* Listed Buildings and 2 registered parks and Gardens within 5 kilometres of the site.

There may be potential for some distant views of the proposed solar park and some potential for reflection from the solar panels, however this is not considered to cause any substantial harm to the heritage assets. The proposal therefore is in compliance with paragraphs 132 and 133 of the NPPF.

Landscape

A key issue in the determination of this application is the landscape impact of this large scale development upon the open countryside and landscape character. This is a core principle of the NPPF and also identified within the Planning Practice Guidance and Local Plan Policies.

The application site is located in the south west of Cheshire East and covers an area of approximately 22.9 hectares of what is currently agricultural land, extending over a number of fields. The topography of the wider area is broadly undulating and this is true of the site itself, in which the land generally slopes down to the Llangollen Branch of the Shropshire Union Canal, although there are distinct variations in topography across the application site. The wider landscape surrounding the application site is agricultural and the Llangollen Branch of the Shropshire union canal is located just to the north of the site, Footpath 16 Norbury follows this route. The South Cheshire Way, a long distance footpath (Footpath 16 Marbury cum Quoisley) follows the southern boundary of the applications site.

As part of the Landscape and Visual Impact Assessment (LVIA) the baseline landscape character is identified at both the national and regional level. The application site lies within the National NCA 61 Shropshire, Cheshire and Staffordshire Plain. At the regional level the application site overlaps two character areas, Landscape Type 9: Estate Woodland and Mere, Cholmondeley Character Area (EWM1) and Landscape Character Type 7: East Lowland plain, Ravensmoor Character Area (ELP1). As the LVIA indicates, the application site has many of the characteristics of these character areas, especially the EWM1 Cholmondeley Character Area, in which the greater part of the site is located.

As part of the landscape assessment of impacts upon landscape character the area is identified as having a very tranquil and rural character. The landscape value and sensitivity are assessed as being medium. It is the Council's view that the landscape value and sensitivity are in fact greater than this. It is considered that the installation of solar panels, inverters and security fence, along with a CCTV installation would have a high magnitude of impact on the existing landscape character, and also that the new elements would be prominent and uncharacteristic of the landscape. It is also considered that the level of impacts during construction and also during operation would be substantially adverse for the site and surrounding area, although it would certainly reduce for the wider Landscape Character Types.

As part of the Visual Impact Assessment a number of photographs have been submitted which form the basis of the visual impact assessment. It is agreed that views from the public highway have been assessed as being of medium sensitivity and that views from Public Rights of Way would be of high sensitivity.

The submitted Landscape and Visual Impact assessment identifies that application site will have 2.4m high security fencing, CCTV posts and cameras, inverters and an array of solar panels covering much of the site; in what is acknowledged to be an area with a very tranquil and rural character. The landscape impact of the proposals during construction and also during operation will be substantially adverse for the site and surrounding area, It is considered that they will remain so. The visual impacts are identified as being substantially adverse for the south Cheshire Way that follows the southern boundary of the site and for Footpath 16 Norbury which follows the route of the Llangollen Branch of the Shropshire Union canal to the north of the application site, it also identifies that it will be adverse for most of the remaining Photoviews included in the assessment.

Because of adverse landscape and visual impacts identified it is considered that the proposals would be contrary to a number of saved policies contained in the Borough of Crewe and Nantwich Replacement Local Plan 2011, namely NE.2 Open Countryside, NE.11 River and Canal Corridors and NE.19 Renewable Energy.

Trees and Hedgerows

The Environmental Statement (ES) states at 2.1.4 "The existing hedgerows and hedgerow trees within the site will be retained where possible, and as a result the facility will be subdivided into four sections which will approximately correspond". At 3.6.1 the ES states "The site boundaries are well screened by existing trees and hedgerows, which will be retained as part of the proposal." At 3.6.2 the ES states "trees and hedgerows will for the most be retained as detailed in Chapter 5.

A bund is proposed to screen the site and the applicant will need to show how the bund will be constructed without compromising soil structure within the Root Protection Areas and how they intend to protect the branches and main stems of the trees during the construction process, and for all the trees being retained. This can be controlled by condition.

In addition, the applicant will need to demonstrate that cable runs to the proposed solar arrays, will not impact on the trees to be retained within the site. This can also be controlled by condition.

Should the application be approved, there should be a suite of conditions relating to tree protection, retention, and pruning/felling specification and the submission of an arboricultural method statement, levels survey and service/drainage layout.

Public Rights of Way

The development has the potential to affect Public Footpath Marbury cum Quoisley No. 16, as recorded on the Definitive Map of Public Rights of Way.

Should consent be granted there should be no change to the surface of the right of way without consultation with the Public Rights of Way Unit.

Any alteration to the public footpath will require the prior consent of the Public Rights of Way Unit. If the development would permanently affect the right of way, then the developer must

apply for a diversion of the route under the Town and Country Planning Act 1990 (as amended).

If the development will temporarily affect the right of way then the developer must apply for a temporary closure of the route (preferably providing a suitable alternative route).

Ecology

The application has been assessed by the Council's Principal Nature Conservation Officer as the Environmental Assessment includes an Ecological Impact Assessment. He is satisfied that the development would not have any significant adverse impact on protected species and other species within and around the site, subject to the imposition of conditions. These conditions would include the following:

Conditions

In the event that planning consent is granted it is recommended that the following should be addressed through appropriate conditions:

- Safeguarding of breeding Birds
- Submission of proposals for creation enhancement of grassland habitats.
- Submission of method statement for the implementation and safeguarding of a 10m buffer zone adjacent to on site water course and boundary hedgerows and pond and for the retention and safeguarding of the arable field margin located adjacent to the proposed bund.
- Submission of updated badger survey immediately prior to commencement of construction.
- Submission of details to show the incorporation of 200mm gapes under security fence
- Implementation of Great Crested Newt reasonable avoidance measures.
- Submission of a habitat management plan to be implemented for the operational life of the solar park.

Flood Risk

The application is accompanied by a Flood Risk Assessment (FRA) and the Environment Agency have no objection subject to a condition requiring development to be carried out in accordance with the FRA. At the time of report writing, no response has been received from the Council's Flood Risk Manager.

The proposal is therefore considered to be acceptable in terms of flood risk. Should the Flood Risk Manager put forward a response an update will be provided to Members.

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.

The Planning Practice Guidance states that Local Planning Authorities should consider '*where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be **necessary** and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*

The guidance references a Ministerial speech of April 2013 by the Rt Hon Gregory Barker MP which includes the statements "*Solar is a genuinely exciting energy of the future, it is coming of age and we want to see a lot, lot more. But not at any cost... not in any place....*" And "*Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation....*"

The Statements submitted in support of the application states that the development would utilise the following areas of land;

- Grade 3a – 14.7 hectares – 63% of total site area
- Grade 3b – 8.6 hectares – 37% of total site area

Therefore the proposed development would result in the loss of 14.7 hectares of best and most versatile agricultural land for the 25 year lifetime of the development.

The issue of loss of BMV was a key issue at three of the appeals listed above where the solar panel were proposed for 25 year resulting in the loss of BMV. As part of two appeals (Swale District Council and Bebergh Borough Council) the Inspector concluded that the word *necessary* requires a developer to provide a sequential test to support their application, which demonstrates that there are no more suitable alternative sites (brownfield and then greenfield) within the vicinity. The Inspectors also concluded that the search area should not be confined by district boundaries.

In respect of both appeals, the Inspector was very dismissive of the lack of evidence provided by the developer to justify the use of a greenfield as opposed to a brown field site and agricultural land of an inferior quality. The Inspectors set a very high bar in respect of what was needed to demonstrate that the proposal was *necessary*.

Both the appeal decisions at Cornwall Council reached the conclusion that the developments would not result in the permanent loss of agricultural land, and that limited grazing and other uses could take place around and between the panels and the appeals were allowed.

A previous application at land north east of Combermere Abbey was before Strategic Planning Board in November (14/2247N). Members resolved to approve the application subject to a condition relating to the restoration of the land. It is considered that if Members resolve to approve this application, then a similar condition should be imposed.

Archaeology

This application is supported by an archaeological desk-based assessment, which has been prepared by Wardell Armstrong on behalf of the applicants. The report considers information held in the Cheshire Historic Environment Record, including reports on the results of other assessments and field investigations carried out in the vicinity of the application. It also describes the results of an examination of aerial photographs, historic mapping, and other readily-available secondary sources.

It concludes that there is some potential for archaeological deposits to be present across the site and particularly draws attention to a concentration of Romano-British metalwork, comprising coins, brooches and other objects, which may be indicative of a settlement or a dispersed hoard.

It is not considered, however, that this potential is significant enough to justify an archaeological objection to the development or to lead to a recommendation for further pre-determination work. Instead, it is recommended that the archaeological potential of the site may be addressed by a limited programme of archaeological mitigation, to be secured by condition. This should consist of a rapid, supervised metal detector survey across the development area, followed by targeted further work where any concentrations of material are identified. A report will also need to be produced.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. These issues are summarised in the representations and include impacts on landscape, open countryside, agricultural land, scale, appearance, public rights of way, highway safety, amenity, ecology, tourism and pollution.

Planning Balance

The proposal is contrary to development plan policies NE.2 (Open Countryside) and NE.12 (Agricultural Land) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration is the NPPF which states at paragraph 98, that:

When determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects

outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

In this case, the benefits of the provision of a renewable energy source are considered to be significantly and demonstrably outweighed by the identified adverse impact on the landscape character of the site and its surroundings.

Balanced against the identified benefits must be the loss of an area agricultural land. Given the nature of recent appeal decisions, it is considered that it would be difficult to defend a reason for refusal relating to the loss of agricultural land.

Issues relating to amenity, ecology trees and highways can be addressed by conditions.

Having regard to sustainability, including environmental, economic and social sustainability, the benefits of the scheme by virtue of the provision of a source of renewable, low carbon energy, are outweighed by the harm to the landscape character of the area identified in the recommended reason for refusal.

On the basis of the above, it is considered that the application should be refused due to the adverse impact on the landscape character of the site and the surrounding area.

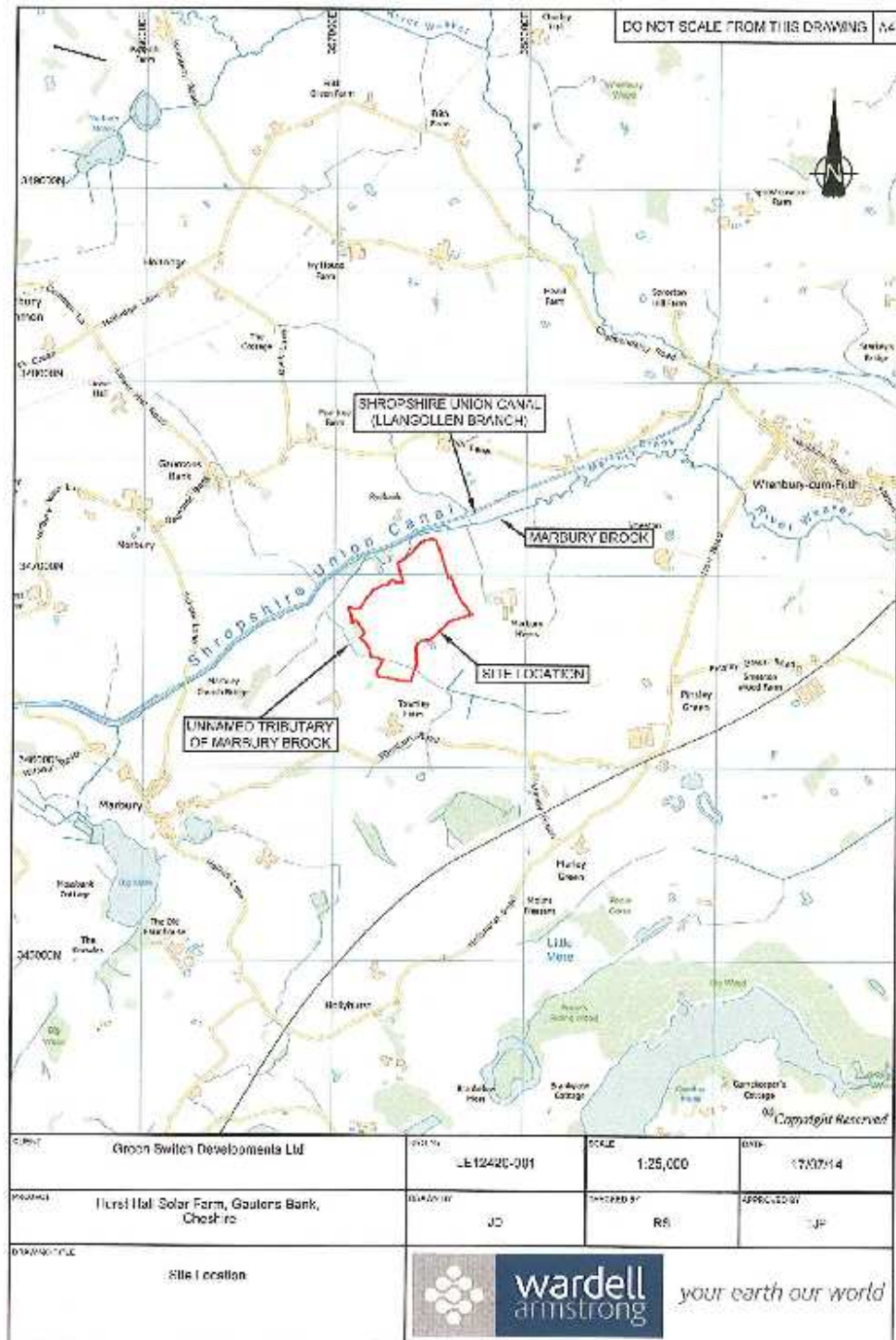
RECOMMENDATION

Refuse for the following reason:

1. The development of the proposed solar park would have a significant adverse impact on the landscape character of the site. In particular the views from the South Cheshire Way on the southern boundary of the site and Footpath 16 Norbury, following the route of the Llangollen Branch of the Shropshire Union canal to the north. This adverse impact significantly and demonstrably outweighs the benefits of the scheme in terms of renewable energy production. The proposal is therefore contrary to paragraph 98 of the NPPF and Policies NE.2, NE.11 and NE.19 of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

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 Principal Planning 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 Principal Planning 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: 14/4500N

Location: Land adjacent to Bank Farm, Cholmondeley Road, Wrenbury, Nantwich, CW5 8HJ

Proposal: Erection of a solar park substation and Distribution Network Operator (DNO) substation in connection with the proposed solar park at land associated to Hurst Hall Farm, Marbury, SY13 4LU. (to accompany application 14/4380N)

Applicant: Markus Wierenga, Green Switch Developments Ltd

Expiry Date: 18-Nov-2014

SUMMARY:

The NPPF requires that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

In terms of sustainability, the benefits of the provision the means of distribution of a source of renewable energy, for which there is a recognised need, outweighs harm to the local environmental harm having regard to the impact on open countryside and agricultural land.

The proposal would satisfy the economic and social sustainability roles by facilitating the distribution of energy from a renewable, low carbon source.

The proposal is considered to be acceptable in terms of amenity, design and highway safety.

Given that the solar park to which this proposal is linked, is recommended for refusal the buildings are not necessary in this open countryside location and are therefore contrary to Policy NE.2 of the adopted local plan and Policy PG5 of the emerging local plan.

The scheme therefore represents an unsustainable form of development and the planning balance weighs against of supporting the development.

RECOMMENDATION:

Refuse due to the building being contrary to Policy NE.2 of the adopted local plan and Policy PG 5 of the emerging local plan and there are no other material considerations that make it acceptable.

PROPOSAL:

The application proposal is for the erection of a solar park substation and Distribution Network Operator (DNO) substation in connection with the proposed solar park at land associated to Hurst Hall Farm, Marbury, SY13 4LU. (14/4380N)

The proposal comprises two buildings; one constructed of glass reinforced plastic (GRP) and one of a brick and tile construction. They would house the equipment required to allow connection into the National Grid. The site would be accessed from an existing field access off Cholmondeley Road, which would be upgraded as part of the proposal.

SITE DESCRIPTION:

The application site comprises an area of pasture land adjacent to Bank Farm, Cholmondeley Road, Wrenbury. It is served by an existing field access and is adjacent to a public footpath. A new entrance gate is proposed, which would allow pedestrian access. The new buildings would be sited in close proximity to the existing agricultural buildings at Bank Farm.

The site is designated as being within Open Countryside in the adopted local plan.

RELEVANT HISTORY:

14/4380N Current application for solar park at Hurst Hall

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 98.

Development Plan:

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site as being within Open Countryside.

The relevant Saved Policies are: -

BE.1 – Amenity
BE.2 – Design Standards
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land
BE.21 – Hazardous Installations
NE.2 – Open Countryside
NE.5 – Nature Conservation and Habitats
NE.12 – Agricultural Land Quality
NE.17 – Pollution Control
NE.19 – Renewable Energy

NE.20 – Flood Prevention
RT.9 – Footpaths and Bridleways

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 - Design
SE2 – Efficient use of Land
SE6 – Infrastructure
SE8 – Renewable and Low Carbon energy
SE9 – Energy Efficient Development
IN1 – Infrastructure

CONSULTATIONS:

Highways:

None received at the time of report writing.

Environmental Health:

Recommend conditions/informatives relating to noise generation and external lighting.

Marbury and District Parish Council:

The Parish Council wish to object to the proposed Solar Park and the extended sub station.

The development would appear to be against both Local and National Planning Objectives for use of agricultural land. It would also be an intrusion into the open countryside in an area well used by walkers and canal users.

The development is of an industrial scale and character and would be totally alien to the appearance and character of its rural landscape setting. The change to the outlook of various properties that overlook the site would have a detrimental effect and be of a negative nature.

The potential for noise pollution and disturbance during the construction of the Solar Park and its joining to the sub station/national grid is very high. There is also a concern about probable light pollution during the construction and afterwards from security lights.

Reference has been made earlier to intrusion into Open Countryside and the possible loss of habitat etc. The Council's Principal Planning Officer, Emma Williamson, in a letter to Greenswitch Solutions, dated 11th April 2014, stated ".that the proposal is likely to have significant effects..." and also in the same letter "The development could be easily viewed from Frith Lane and from a number of Public Footpaths, particularly the footpath on the

southern site boundary. While the site would benefit from an element of natural screening provided by existing trees and vegetation the potential for long distance views of the scheme is great given the scale of the scheme proposed and conditions of the site and surroundings."

The comments above are based on statements made by Parish Councillors at a meeting of Marbury and District Parish Council on Monday, 20th October 2014. Statements were based on consultations with a substantial number of residents by the Parish Councillors and noted by the Clerk.

Comments were also made that the suggestion that the Solar Park has a "life" of 25 years is possibly misleading in that it could be much longer! Many participants were not impressed by the timing or the format of the "Consultation Event" and the changes in the application during its development.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice posted.

Members of the public have largely made joint comments on this application and the one for the solar park, these are addressed below.

At the time of report writing approximately 172 comments have been received relating to the application. 144 objections and 28 in support of the application. These are summarised below and the full documents can be accessed through the Council's website.

The objections express the following concerns:

- Adverse impact on the landscape
- Visual intrusion
- Visibility from many viewpoints
- Loss of agricultural land for food production
- Scale of the development
- Impact on public rights of way
- Impact on the setting of the Conservation Area
- Does not fulfil the definition of sustainable development in the NPPF
- Contrary to local and national policy
- Industrial development in the countryside
- Brownfield land should be used for this form of development
- Vandalism of the countryside
- No amount of screening will disguise it
- Adverse impact on ecology
- The site is miles from the National Grid and disruption during connection
- The Secretary of State for Environment says these '*large scale solar parks are a blight on the countryside*'
- Cumulative impact of these types of development
- Alternative sites not properly considered
- Impact on local tourism
- Highway safety
- Extensive disruption during development period

- Loss of outlook
- Light and noise pollution
- Aircraft could be adversely impacted
- Impact on local parachute club
- Inconsistencies in the application documentation
- Levels of subsidy are too generous
- Technology already outdated
- Questions about what will happen after 25 years
- Flood risk
- Property prices

The objectors also have the support of the local MP. In addition photomontages have been submitted depicting how the site may look when completed, these can also be viewed on the Council's website.

The comments in support include a petition with 67 signatories and make the following points:

- Valuable production of renewable energy
- Reduction in local energy bills
- Will help to prevent catastrophic climate change
- No significant or intrinsically negative impact on landscape character
- Will have little impact once completed
- Green energy should be supported
- Important for farmers to be able to diversify and access other income streams
- Good for local business
- Increase in biodiversity
- The land can still be used for grazing
- This is only a temporary use that will be beneficial
- The country needs a more diverse energy balance.

APPRAISAL:

The key issues to be considered in the determination of this application are set out below. In summary they comprise the principle of this development in Open Countryside, highway safety, amenity and design.

Principle of Development

The proposed development should be considered against the NPPF. This document identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The NPPF defines sustainable development and states that 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 including economic, social and environmental.

The National Planning Policy includes the core planning principles of encouraging *'the use of renewable resources (for example, by the development of renewable energy)'* and *'recognising the intrinsic character and beauty of the countryside'*.

Paragraph 98 of the NPPF then goes on to state that local planning authorities should approve applications for energy development unless material consideration indicate otherwise if its impacts are or can be made acceptable.

Local Plan Policy

The relevant policies relating to the principle of development, as contained within the Borough of Crewe and Nantwich Replacement Local Plan, are Policies NE.2 (Open Countryside) and NE.19 (Renewable Energy).

Policy NE.2 identifies that the open countryside should be protected for its own sake and that development should be kept to a minimum in order to protect its character and amenity. The policy states that:

'within the open countryside only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted'

Having regard to this application, there is a direct link to the application for the solar Park at Hurst Hall. This application appears on this agenda and is recommended for refusal due to significant adverse impact on the landscape character of the area. Therefore the sub-station facility is not necessary to serve a renewable energy, low carbon facility. As it is not *'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,'* it is contrary to the requirements of Policy NE.2.

Emerging Policy

The most relevant policy of the Cheshire East Local Plan Strategy Submission version is Policy SE8 (Renewable and Low Carbon Energy) which states that *'the development of renewable and low carbon energy schemes (including community-led initiatives), together with any ancillary building(s) and infrastructure, will be positively supported and considered in the context of sustainable development and any impact on the landscape'*.

The Policy then goes on to state that weight will be given to the wider environment, economic and social benefits arising from renewable and low carbon energy schemes, whilst considering the anticipated adverse impacts, individually and cumulatively upon:

'The surrounding landscape including natural, built, historic and cultural assets and townscape; including buildings, features, habitats and species of national and local importance and adjoining land uses'.

The justification to the Policy then goes on to identify the technologies that will be most viable and feasible including *'solar thermal and photovoltaics on south facing buildings throughout the*

Borough. Ground mounted schemes may be more appropriate where they do not conflict with other policies of the plan'.

Policy PG5 relates to Open Countryside and largely echoes the requirements of Policy NE.2 of the adopted local plan. Therefore as explained above the proposal is also contrary to this policy.

Sustainability

The three dimensions to sustainable development give rise to the need for the planning system to perform a number of roles:

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

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

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

Environmental role

The site is a greenfield site and therefore not the first priority for development hence the potential conflict with countryside policies. The proposal is however in connection with a renewable energy scheme that would help the move towards a low carbon economy.

Economic Role

Government policy is committed to supporting sustainable economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. The substation would be of limited value in itself but would assist in facilitating the associated solar park.

Social Role

The proposal would contribute to the distribution of renewable energy which would be of benefit to the population by virtue of contributing to energy security.

Highways Implications

The Strategic Highways Manager (SHM) has not commented on this application. However the proposal is for buildings to house an electricity sub-station, which would not result in any

significant increase in vehicle movements to this existing field access. It is therefore considered that the proposal is acceptable in highway safety grounds.

Amenity

Given the isolated rural nature of the site there are relatively few residential properties in close proximity to the application site. There would be some disruption caused during the development of the site, however it is considered that this would be limited and any noise and disturbance could be controlled by condition.

Design

The buildings would have a utilitarian appearance appropriate to their proposed use. The substation would be constructed of glass reinforced plastic (GRP) and finished in green and the DNO substation would be constructed of brick and tile. Should the development be approved, the design and materials are considered to be acceptable in this location.

Landscape

The proposal comprises a small amount of development in open countryside, in close proximity to existing agricultural buildings. As such it is not considered that there would be any significant adverse impact on the character of the surrounding landscape.

Public Rights of Way

The proposal has the potential to affect Public Footpath Wrenbury cum Frith No.19. The obstruction of a public footpath would not be acceptable and as such the applicant would have to apply to divert it. At the time of report writing, no diversion has been applied for.

Agricultural Land

The application is for a small amount of development on this agricultural field. An agricultural land classification has not been submitted with the application; however it is not considered that the loss to agriculture, of this small piece of land would cause any significant adverse impact.

Response to Objections

The representations of the members of the public are primarily related to the overall solar park development rather than the substation. However, such matters have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report – particularly those of impact on the landscape and open countryside.

Planning Balance

The proposal is contrary to development plan policies NE.2 (Open Countryside) and NE.12 (Agricultural Land) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration is the NPPF which states at paragraph 98, that:

When determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

In this case, the accompanying application for a solar park is recommended for refusal, as such the proposal is not considered necessary to serve that facility and is therefore contrary to Policy NE.2 of the adopted local plan and Policy PG 5 of the emerging local plan.

On the basis of the above, it is considered that the application should be refused due to the lack of a need for the buildings in this open countryside location.

RECOMMENDATION

Refuse for the following reason:

- 1. The development of the proposed solar park substation and distribution network operator substation is within Open Countryside and is contrary to the requirements of Policy NE.2 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy PG 5 of the Cheshire East Development Strategy – Submission Version. This is by virtue of the introduction of buildings into the open countryside that are not required for the purposes of agriculture , forestry or outdoor recreation.**

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 Principal Planning 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 Principal Planning 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: 14/3976N

Location: 22, HEATHFIELD ROAD, AUDLEM, CW3 0HH

Proposal: Outline application for erection of up to 26 dwellings, access and open space.

Applicant: Frank Hockenhull, Hockenhull Properties Ltd

Expiry Date: 20-Nov-2014

SUMMARY:

It is acknowledged that the Council is unable to robustly demonstrate a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing that can demonstrate that they meet the definition of sustainable development.

There is an environmental impact in the locality due to the loss of open countryside and agricultural land. However, the proposal will not have a significant impact on the landscape character of the area and will represent a partial rounding off of the settlement without resulting in an unacceptable intrusion into the open countryside.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing adjoining an existing settlement where there is existing infrastructure and amenities. The proposal would provide policy compliant levels of affordable housing, contributions to education and local health care. In addition it would also provide appropriate levels of public open space both for existing and future residents.

The boost to housing supply is an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release.

Local concerns of residents are noted, particularly in respect of highway matters but the impact is not considered to be severe under the NPPF test. An appropriate quality of design can be secure at reserved matter stage as can any impacts on amenity.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, flood risk, drainage, landscape and ecology.

The scheme represents a sustainable form of development and that the planning balance weighs in favour of supporting the development subject to a legal agreement and conditions.

RECOMMENDATION:

Approve subject to the completion of a Section 106 Agreement

PROPOSAL

This is an outline application for the erection of up to 26 dwellings, provision of open space and access works on land east of Heathfield Road, Audlem. The application is in outline form with all matters reserved apart from access. However several indicative plans have been submitted with the application including layout and house types.

Access is proposed from a junction to be created off Heathfield Road, opposite Hilary Road and would be created by the demolition of number 22 Heathfield Road. This would run through the site to the proposed dwellings forming a 'T' shape.

The previous proposal was for up to 39 dwellings and included two further parcels of land to the east and south of Mill Lane. This proposal does not include that land.

SITE DESCRIPTION

The application site covers an area of approximately 1.27 ha and is located to the east of Audlem on land to the east of Heathfield Road. The site comprises the curtilage of 22 Heathfield Road and an adjacent field to the south. It is bounded by residential dwellings on Heathfield Road to the west, Mill Lane to the north east and properties known as The Paddock and Mill Cottage to the north.

The majority of the site is designated as being within the open countryside, with the access point from Heathfield Road being within the settlement boundary.

RELEVANT HISTORY

Two previous applications have been refused by Strategic Planning Board and Southern Planning Committee, the first being 13/3210N the reasons for which are below:

- 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.*
- 2. The proposed access to plots 19 and 20, on Mill Lane is not suitable for further development. The proposal would therefore have a significant adverse impact on highway safety. The development would therefore be contrary to Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the National Planning Policy Framework.*
- 3. Insufficient information has been submitted with the application relating to bats in order to assess adequately the impact of the development having regard to the issue of protected species. In the absence of this information, it has not been possible to demonstrate that the*

proposal would comply with Development Plan policies, the NPPF and other material considerations.

4. The proposal fails to make adequate provision for infrastructure requirements and community facilities, in the form of medical provision, the need for which arises directly as a consequence of the development, contrary to Policy BE 5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan. It is therefore socially unsustainable contrary to the provisions of the National Planning Policy Framework.

The second application, 13/5162N, was refused for the following reasons:

1. The proposed residential development is unsustainable because it is located within Open Countryside, contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version 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.

2. The proposal fails to make adequate provision for infrastructure requirements and community facilities, in the form of medical provision, the need for which arises directly as a consequence of the development, contrary to Policy BE.5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan. It is therefore socially unsustainable contrary to the provisions of the National Planning Policy Framework.

The second application is now the subject of an appeal and a Public Inquiry is scheduled to begin on 13th January 2015 and Proofs of Evidence must be with the Planning Inspectorate by 16th December 2014.

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 47.

Development Plan:

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates part of the site as being within the Settlement Boundary of Audlem but largely within Open Countryside.

The relevant Saved Policies are: -

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land
NE.2 – Open Countryside
NE.5 – Nature Conservation and Habitats
NE.9 – Protected Species
NE.17 – Pollution Control
NE.20 – Flood Prevention
RES.7 – Affordable Housing
RES.3 – Housing Densities
RT.3 – Provision of Recreational Open Space and Children's Playspace in New Housing Developments

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

SD 1 Sustainable Development in Cheshire East
SD 2 Sustainable Development Principles
SE 1 Design
SE 2 Efficient Use of Land
SE 3 Biodiversity and Geodiversity
SE 4 The Landscape
SE 5 Trees, Hedgerows and Woodland
SE 9 Energy Efficient Development
SE 12 Pollution, Land Contamination and Land Instability
PG 1 Overall Development Strategy
PG 2 Settlement Hierarchy
PG5 Open Countryside
EG1 Economic Prosperity

Other Considerations:

Interim Planning Statement: Affordable Housing (Feb 2011)
North West Sustainability Checklist
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

CONSULTATIONS:

Highways:

No objection subject to a condition relating to construction of the access.

Environmental Health:

Recommend conditions/informatives relating to contaminated land, noise generation, lighting, electric vehicle infrastructure, travel plans and bin storage.

Housing:

Require that the proposed 30% provision of affordable housing comprises a balanced mix and that any social rented/affordable rented units should be provided through a registered provider of affordable housing.

Environment Agency (EA):

Issue their standing advice on flood risk which advises that for developments of greater than 1 hectare in Flood Zone 1 - a Flood Risk Assessment should be submitted.

Flood Risk Manager:

No objection subject to a condition relating to the disposal of surface water.

United Utilities:

No objection subject to no building over a public sewer that runs through the site and submission of scheme for the disposal of foul and surface water.

Education:

No comments received at the time of reporting, however their response on the previous application for 26 dwellings sought a contribution of £49,028 towards secondary education.

Public Open Space:

Greenspaces have not commented on this application but on the previous one they stated that they would like to see a floodlit multi use games area on the open space within the development.

Audlem Parish Council:

Object to the application on the characteristics, design and vitality of the village, safety of the villagers and potential environmental and sustainability hazards caused by the proposed development of the site. The full objection letter (21 pages) can be viewed on the Council's website.

In addition the Parish Council have commissioned and submitted a Highways Report that can also be viewed on the Council's website.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice posted.

24 representations have been received which can be viewed on the Council website. The express the following concerns:

Principal of the development

Circumstances have not changed since the Local Plan Inspector rejected the site as a housing allocation

The site is outside the settlement boundary in open countryside

Loss of good quality agricultural land

The proposal does not comply with

Adverse impact when considered in conjunction with the proposed Gladman development

Unplanned development in open countryside

Contrary to the Audlem Village Design Statement and Landscape Character Assessment
Cheshire East can now demonstrate a 5 year housing land supply
The amount of development is excessive in relation to local plan requirements
The site is in an unsustainable location
The SHLAA does not deem that this site is suitable for development
Development should be on 'Brownfield' land
The site is inaccessible peripheral and has a rural character

Design and Scale

Inappropriate design and scale of the proposed development
The dwellings would be out of keeping with the bungalows on Heathfield Road
Adverse impact on the visual amenity of the area
Excessive density of the development
Disproportionate size
The development would be over dominant due to its elevated position
Poor quality design
The design is a 'stereotypical reproduction of urban twee'
The properties are of the 'standard identikit Legoland cottage pastiche'
The development would be a visual eye-sore

Amenity

The land is elevated and would lead to a loss of privacy
Noise and disruption
Overshadowing/Loss of outlook
Overlooking/loss of privacy
Light pollution
The car park on the public open space will affect the peace and quiet of existing local residents
The site should not have a floodlit multi-use games area

Highways

Increased traffic congestion
Parking problems
Highway safety
The roads in the area are in a poor state of repair
Lack of pavements on Heathfield Road
Danger to children walking to school from additional traffic
75% of the traffic will use Heathfield Drive as evidenced by a traffic survey undertaken by local residents
There was no pre-application consultation with the local community
Inappropriate access through a residential estate
Heathfield Road unsuitable for additional traffic
This is urban sprawl

Infrastructure

General lack of the necessary infrastructure in the village
Existing secondary schools are full
Medical has reached capacity and would have 'to close our list'
The local drainage system would not be able to accommodate further development

Ecology

- Impact upon protected species
- Loss of habitat
- Adverse Impact upon wildlife
- Loss of protected hedgerow
- Loss of protected trees
- Inadequate protected species surveys

Heritage

- The development would help connect Salford and Audlem and have an adverse impact on the Woore Road (Audlem) Conservation Area
- Adverse impact on the character of the Conservation Area
- Adverse impact on the setting of 'The Mount'
- Loss of an iconic view

Other issues

- The reduction in the amount of houses does not change the objections
- No demand for new houses
- Audlem needs more low cost housing
- The location of the site is not sustainable
- The flood risk assessment is wholly inaccurate
- Increased flooding from the site caused by the development of the site
- Lack of employment in Audlem
- The site was used for burying cattle during a Foot and Mouth outbreak
- Loss of biodiversity
- Increased surface water run-off
- Inadequate notification to local residents
- Formal notification of local residents during the Christmas period
- No information on who will maintain the open space and car park
- Would open up the opportunity for further development

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of Development

The site lies largely 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 does not fall within any of these exceptions. 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 the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Housing Land Supply

Paragraph 47 of the National Planning Policy Framework requires that Councils identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.

This calculation of Five Year Housing Supply has two components – the housing requirement – and then the supply of housing sites that will meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

The current Housing Supply Position Statement prepared by the Council employs the figure of 1180 homes per year as the housing requirement, being the calculation of Objectively Assessed Housing need used in the Cheshire East Local Plan Submission Draft.

The Local Plan Inspector has now published his interim views based on the first three weeks of Examination. He has concluded that the Council's calculation of Objectively Assessed Housing Need is too low. He has also concluded that following six years of not meeting housing targets, a 20% buffer should also be applied.

Given the Inspector's Interim view that the assessment of 1180 homes per year is too low, we no longer recommend that this figure be used in housing supply calculations. The Inspector has not provided any definitive steer as to the correct figure to employ, but has recommended that further work on housing need be carried out. The Council is currently considering its response to these interim views.

Any substantive increase of housing need above the figure of 1180 homes per year is likely to place the housing land supply calculation at or below five years. Consequently, at the present time, our advice is that the Council is unable to robustly demonstrate a five year supply of housing land. Accordingly recommendations on planning applications will now reflect this position.

Open Countryside Policy

In the absence of a 5 year housing land supply we cannot rely on countryside protection policies to defend settlement boundaries and justify the refusal of development simply because it is outside of a settlement, but these policies can be used to help assess the impact of proposed development upon the countryside. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Policy NE.2, seeks to protect the intrinsic character and beauty of the countryside.

The proposal is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth, it is immediately adjacent to existing residential development in the local service centre of Audlem and there are dwellings to the south, east and north of the site. As such it is considered that whilst the majority of the site is designated as Open Countryside in the adopted local plan, its loss would not cause a significant level of harm to the character and appearance of the countryside that would significantly and demonstrably outweigh the benefits provided by the proposed development.

Sustainability

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 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

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

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

Environmental Role

The site is a greenfield site and therefore not the first priority for development. One of the core principles of the Framework is to protect “the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

The application does not include an assessment using the North West Sustainability Checklist but puts forward the argument that the Development Strategy identifies Audlem as a ‘Local Service Centre’ that provides a range of services and facilities.

It is considered that as the site lies adjacent to existing residential development in Audlem, it would therefore be difficult to uphold a reason for refusal on the grounds of the site not being in a sustainable location.

Accordingly, it is considered that this is a locationally accessible site.

Economic Role

Government policy is committed to supporting sustainable economic growth.

Given the countryside location of the site, consideration must also be given to one of the core principles of the Framework, which identifies that planning should recognise:

“the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”

The economic benefits of the development need to be balanced against the impact upon the open countryside and the loss of agricultural land.

In addition, the proposed development will help to maintain a flexible and responsive supply of land for housing, business and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal will also deliver economic benefit in the form of additional Council Tax revenue which is a material consideration.

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.”

Social Role

The proposal will provide new family homes, including 30% affordable homes, on site public open space. The site is also within walking distance of the centre of Audlem village, which offers a wide range of essential facilities.

Affordable Housing

The Interim Planning Statement: Affordable Housing states that for both allocated sites and windfall sites the Council will negotiate for the provision of a specific percentage of the total

dwelling provision to be affordable homes. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the 2010 Strategic Housing Market Assessment. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social or affordable rented and intermediate housing. Pepper Potting and phasing of the provision is also required.

There is currently a shortfall of affordable housing delivery in Audlem and therefore there should be affordable housing provision as per the Interim Planning Statement: Affordable Housing, based on the proposal for a total of up to 26 dwellings this equates to a requirement for 5 social or affordable rented dwellings and 3 intermediate tenure dwellings.

The applicants are offering 30% of the total dwellings as affordable. As there is evidence of need for a variety of sizes of affordable homes a balanced mix of affordable dwellings would be required and the applicant should have further discussions with the Council about the type of affordable housing to be provided prior to the submission of any Reserved Matters application. Any social rented/affordable rented units should be provided through a registered provider of affordable housing.

Highways Implications

Considerable concern has been expressed by local residents and the Parish Council that the development would have a severe adverse impact on highway safety due to lack of footways and high levels of existing traffic being exacerbated by increased vehicle movements generated by the proposed development.

The Parish Council have also submitted a Highway Statement.

Access

Access to the site can be gained from either Heathfield Road which is a narrow rural road or Hillary Drive which is a residential road that has been traffic calmed with road humps. The main access to the site is proposed to be an extension of Hilary Drive with Heathfield Road becoming effectively a side road giving way to Hilary Drive.

The proposed new access is a traffic calmed table with a change of priority and is shown on the applicant's drawing SCP/13092/F01, in terms of highway design this is considered to be acceptable solution to serve a development of 26 units.

Internal Site Layout

As the application is in outline site layout remains to be determined the reserved matters stage.

Traffic Generation

The morning and evening peak hour traffic generation associated with the development is expected to be modest, at around 15 two-way trips per peak hour.

Although the access roads to this site are in some cases narrow and not suited to large traffic flows, once distributed on the road network the development traffic would only result very small increases in the traffic flow. Given that the Highway Authority would have to prove that

there is severe harm arising from this increase, this would not be possible given the level of trip generation predicted.

The trip rates submitted by the applicant are not unduly low and even if a higher trip rate is used as suggested by Mr Boone, it will not result in significant additional trips. This is due to the fact that the applicant has estimated that the site will generate 14 trips and the difference is a further 5 trips. This level of additional traffic cannot be deemed to have a severe impact on the road network.

Road Safety

There have been no recorded Personal Injury Accidents (PIA) since 2007 during this period of time and the development proposals would be unlikely to have a negative impact on road safety.

The Council has assessed the Highways Statement prepared by Simon Boone and submitted by the Parish Council and makes the following points.

Accidents

There is no evidence that there are no accidents at all because only locals use these roads, clearly there are visitors, deliveries and other vehicle movements on a daily basis.

Safety Audit

Cheshire East Council commissioned an independent safety audit on the access design which concluded that there were no major design issues.

The proposal is therefore considered to be acceptable in highway safety terms subject to a condition requiring the access to be constructed prior to development of the housing being commenced.

Amenity

An indicative layout has been submitted with the application and this shows that minimum separation distances could be achieved between the proposed and existing dwellings adjacent to the site.

Having regard to the amenity of future occupiers of the dwellings, adequate private residential amenity space could be provided, although it is considered that plots 1-7 may be dominated by trees on the northern boundary that overhang the site. However; as this proposal is in outline with all matters other than access to be determined at reserved matters stage, this issue could be addressed at that stage.

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 along with an indicative layout and house types.

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 put forward that the development would be

appropriate and in keeping with the area. The site is elevated in parts and it is considered that substantial dwellings in excess of two-storeys dwellings could appear quite prominent because of this. The density of the scheme appears to be attainable such that an appropriate design and layout can be accommodated at reserved matters stage.

Landscape

The Cheshire Landscape Character Assessment identifies the application site as being located beyond the urban edge of Audlem in Landscape Type 10: Lower Farms and Woods and specifically within the Audlem Character Area (LFW4). This identifies this character area as being broadly undulating, with steeper slopes along watercourses and an area where settlement is of relatively low density, with settlements linked by a network of narrow country lanes. The assessment also identifies that around Audlem specifically the topography is more undulating, with tree-lined streams and small woodlands and copses and that the resulting landscape is a verdant and enclosed landscape on a smaller scale. The application site would appear to be representative of the Audlem Character Area (LFW4).

Unfortunately a landscape and visual appraisal or assessment has not been submitted as part of this application, but the agricultural nature of the application site together with the topography, relatively intact nature of the agricultural landscape, and proximity of adjacent conservation areas would indicate that there will inevitably be a landscape impact on the landscape character, as well as a visual impact as well – many of the receptors and the location of a bridleway running through the site would normally be considered to be the most sensitive of receptors.

While the Design and Access Statement indicates (4.17) that ‘The scheme provides the an opportunity to create additional landscaping which will expand the existing context and further enhance the ecological opportunities’, this is an outline application and since no landscape or visual appraisal or assessment has been submitted it is not clear how any landscape works can enhance or exactly what is meant by this statement. In reality the proposals do have the potential to have a significant landscape and visual impact on an attractive rural local and an area that is identified in the Crewe and Nantwich Replacement Local Plan 20111 as being Open Countryside, as such policy NE:2 would also be relevant. This policy specifically states that approval will only be given for 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. As justification this policy indicates that such works themselves would be expected to respect the character of the open countryside. Since this is an outline application for housing in the Open Countryside it is not clear how this will respect the character of the Open Countryside.

The impact is not considered to be so severe as to warrant refusal on these grounds. However, careful consideration of the size and siting of the proposed dwellings will need to be given at reserved matters stage, should the application be approved. It may be necessary to limit the development to no more than two storey dwellings.

Trees and Hedgerows

Two mature Lime trees standing to the north west of the site are the subjects of TPO protection.

The submission is supported by an Arboricultural Statement prepared by Cheshire Woodlands which incorporates a tree survey, a tree constraints plan and an evaluation of the Illustrative site layout.

The submitted arboricultural evaluation of the Illustrative site layout indicates that the development would require the removal of one moderate value category B tree to accommodate the access road, 4 individual and 3 groups and one area of low value category C trees, 2 hedges and 5 sections of hedge.. Two dead trees are recommended for felling. The evaluation concludes that the loss of trees will have only a modest impact on the wider amenity that can be mitigated by silvicultural management and the provision of new trees and landscaping. It suggests all trees, shrubs and hedges proposed for retention can be retained and protected in accordance with current best industry best practice guidance.

As an outline application with only access included, limited weight can be afforded to the indicative layout. It would appear that the provision of access as indicated would result in the loss of one medium grade early mature Ash tree and several lower grade trees. In addition, potentially, it is considered that plots in the vicinity of proposed plots 1 – 7 would be dominated by trees on the northern boundary which overhang the site

The wider arboricultural impacts could only be assessed in a comprehensive manner with a detailed layout at reserved matters stage and with full detail of services, proposed levels etc. Nonetheless, the indicative layout appears to suggest the site has the potential capacity of the site to accommodate the scale of development proposed without significant tree losses. The location of the proposed POS in the former garden of the residential property makes provision for the retention of significant trees.

Should the development be deemed acceptable, comprehensive arboricultural conditions should be imposed. At reserved matters stage the applicant would need to ensure that the layout took full account of tree constraints and provided adequate space associated with the new dwellings for the future growth potential of retained trees. Particular attention would need to be given to levels to ensure no changes in tree or hedge root protection areas.

Public Rights of Way

Public Bridleway No. 30 in the Parish of Audlem) would appear to be unaffected by the proposal.

This route is a popular route of a distinct track nature, forming a key link in the network of Public Rights of Way and lanes for non-motorised users to access the countryside. This category of Public Right of Way is relatively sparse in number in Cheshire East, as recognised in the Council's statutory Rights of Way Improvement Plan. Therefore the integrity of the route is important to retain – the Illustrative site layout suggests that this will be achieved 'where possible'.

The Illustrative site layout plan also depicts a 'potential footpath link' from the proposed development site to the Public Bridleway. As the Public Bridleway is available to users on foot, bicycle and horseback, it could be anticipated that at least the first two categories of users may wish to use this potential link, and this should be borne in mind during detailed

design. The legal status of this link path would require the agreement of the Council as the Highway Authority, and the developer would be expected to include the maintenance of the path within the arrangements for the open space of the site. This would assist in making the development more readily sustainable in terms of walking and cycling.

Ecology

The stream within the blue line of the application has been identified as having potential to support water voles and is a feature of some nature conservation value in its own right. Based on the submitted indicative layout it is considered that the proposed development is unlikely to have an adverse impact on the stream.

No evidence of roosting bats was recorded within the bungalow on site and the building appears to have relatively limited potential to support a roost.

Three trees on site have been identified as having bat roost potential one of these trees will be removed as part of the proposed development. As is often the case of surveying trees for bats this survey has been constrained by the height of the trees and dense ivy cover. None of the trees are considered as having high bat roosting potential and so in accordance with best practice the submitted report recommends that a bat worker be present during the felling process. This approach is acceptable and bats are not reasonably likely to be present or affected by the proposed development.

The proposed development is unlikely to affect Great Crested Newts due to its distance from any potential breeding ponds.

Hedgerows are a Biodiversity Action Plan priority and a material consideration. A number of hedgerows are present around the boundaries of the proposed development site. As no detailed landscaping proposals have been submitted it is unclear whether there will be any hedgerows lost to the development however it is likely there would be some loss of existing hedgerows. It is therefore recommended that new appropriate native species hedgerows be incorporated into any landscaping scheme produced for the site.

If planning consent is granted standard conditions will be required to safeguard breeding birds and to incorporate features for them in the development.

Public Open Space

An area of Public Open Space is identified adjacent to the access to the site. The Public Open Space Officer has requested that a floodlit, multi use games area is provided within the site. Details of this should form part of any reserved matters application. The Section 106 Agreement should ensure that this area is passed on to a Management Company.

Objectors expressed concerns about this in terms of noise and anti-social behaviour. Whilst these concerns are noted, there is no evidence to uphold that such a facility would have this sort of negative effect.

Education

The Education Department were consulted on this application but have not responded at the time of report writing. However on the previous application they anticipated that the development would generate the need for 5 primary and 3 secondary aged school places. They confirmed that the local primary school has spare capacity to accommodate this group of pupils, but the catchment secondary school, Brine Leas is forecast to be oversubscribed. Therefore a contribution of £49,028.00 would be required. This should be secured by Section 106 Agreement.

Flood Risk and Drainage

The site is within Flood Zones 1, 2 and 3. A Flood Risk Assessment was submitted with the previous application and this was assessed by the Environment Agency. They did not object to the proposal but recommended that several conditions be imposed in order to protect against flood risk and retain the integrity of Audlem Brook.

The Council's Flood Risk Manager has no objections to the proposal provided that the disposal of surface water is addressed in detail. This should be secured by condition.

Several of the objections refer to flood risk, in particular that if the site is developed it would cause additional flooding to existing properties in Audlem. Whilst these concerns have been given careful consideration, it is considered that a refusal on these grounds would not be sustainable given the advice from the Environment Agency and the Council's Flood Risk Manager.

Many of the objections to the proposal have referred to existing problems with drainage and the sewers in Audlem. United Utilities have stated that they do not object to the development but emphasise that there is a public sewer that runs through the site that they would not permit building over. The developer would need to use this information to inform the design of the layout of the site at reserved matters stage. A condition should be imposed requiring submission of full details of foul and surface water drainage for approval.

Agricultural Land

Local Plan Policy NE.12 has been saved. The National Planning Policy Framework advises that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The supporting statement submitted with the application states that the proposal would not lead to the loss of the best and most versatile agricultural land but does not define its grading. However; given the scale of the proposal and the existing topography of the land, it is not considered that its loss would be significantly detrimental.

Infrastructure

One of the reasons for refusal on the previous applications related to the lack of adequate provision for medical facilities. The Council was contacted by a representative of the NHS who has confirmed that a s106 contribution could be deposited with the Council and then utilised when suitable works at the local surgery are identified.

The sum agreed with the applicant to contribute to health care is £25,000. However as stated in this report, the previous application is the subject of an appeal to be heard in January 2015. As such, it is recommended that should the Inspector for that appeal conclude that this is not required, or that other contributions should apply, delegated authority should be given to the Chairman of Strategic Planning Board and the Principal Planning Manager to agree any necessary changes to the Section 106 Agreement.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. However the disbenefits of the development identified by the objectors are not considered to significantly and demonstrably outweigh the benefits provided by the development.

S106 Contributions:

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, open space and the financial contributions the local medical facility and high school 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.

Conclusion – The Planning Balance

Taking account of Paragraphs 49 and 14 of the NPPF there is a presumption in favour of the development provided that it represents sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The proposal is contrary to development plan policy NE.2 (Open Countryside) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise, however given the lack of a demonstrable supply of housing land at this time it is considered that the policy in this context is out of date and cannot be relied upon.

The development would provide market and affordable housing to meet an acknowledged shortfall and contributions to education and health care. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

Balanced against these benefits must be the loss of an area agricultural land. All of the site will be lost from agriculture, whether built upon or subject to open space. However, much of Cheshire East comprises best and most versatile land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, previous Inspectors have attached very limited weight to this issue in the overall planning balance.

Previous highways concerns and the lack of a contribution to health care have now been resolved and can be addressed through appropriate conditions and a Section 106 Agreement, and it is no longer considered that these provide sustainable reasons for refusal.

It is also necessary to consider the negative effects of this incursion into Open Countryside by built development. Nevertheless, it is not considered that this is sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.

On the basis of the above, it is considered that the application should be approved subject to the imposition of appropriate conditions and the completion of a Section 106 Agreement to secure contributions to education and health care, provision of 30% affordable housing and the provision of public open space to be passed to a Management Company.

RECOMMENDATION

Approve subject to the completion of a Section 106 Agreement

Heads of Terms:

- Contribution of £25,000 to health care provision,
- £49,028 to secondary education,
- provision of 30% affordable housing
- provision of public open space to be transferred to a Management Company

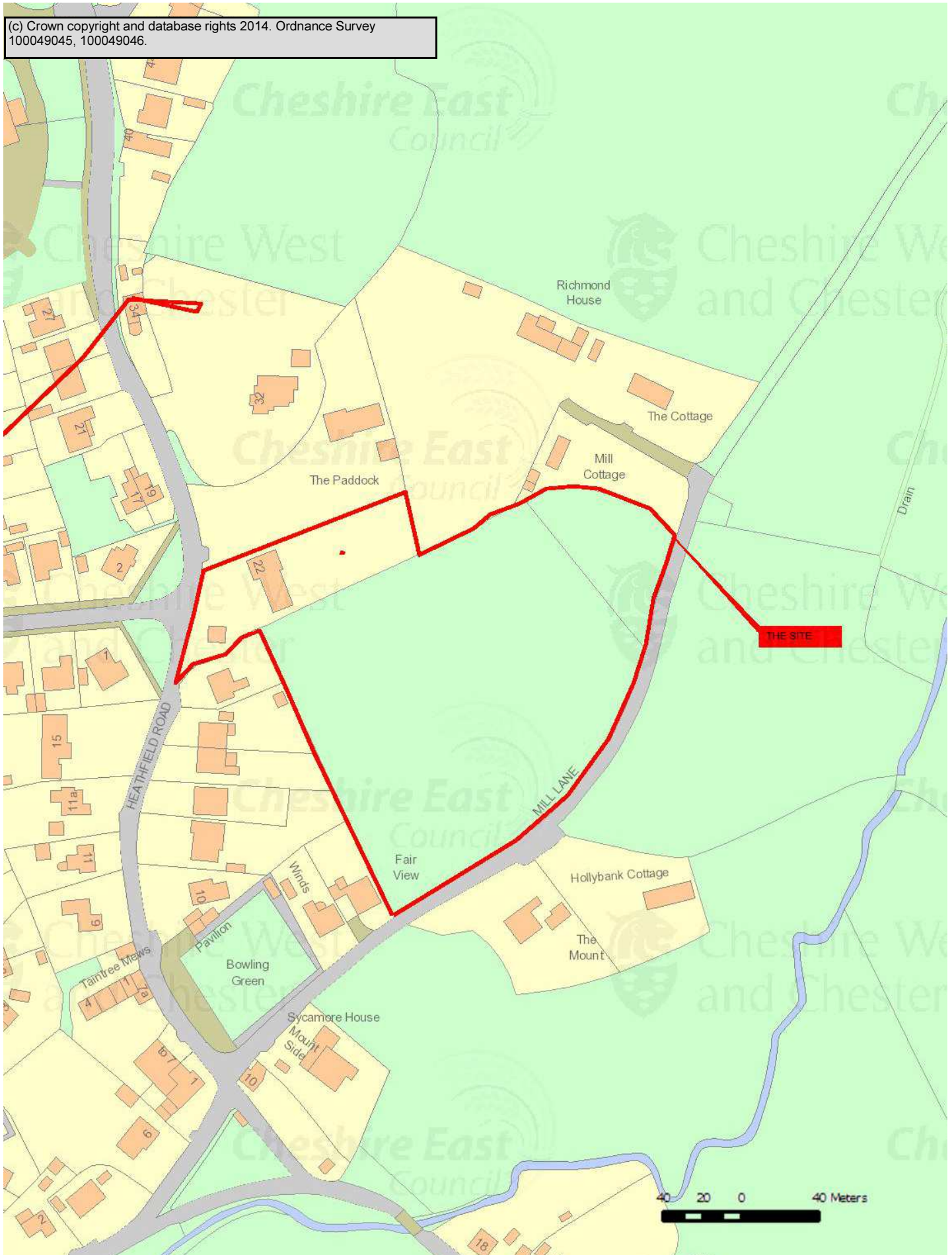
and the following conditions:

1. Commencement
2. Submission of reserved matters (all matters other than access)
3. Approved plans
4. Submission of a Phase II Contaminated Land Survey
5. Submission and approval of a construction management plan including any piling operations and a construction compound within the site
6. Reserved matters to include a detailed suite of design construction plans for the adoptable highways
7. The access shall be completed prior to commencement of development
8. Submission of drainage scheme to include foul and surface water
9. Tree and hedgerow protection measures
10. Breeding bird survey for works in the nesting season
11. Reserved matters to include details of boundary treatments
12. Reserved matters to include details of bat and bird boxes
13. Reserved matters to include details of existing and proposed levels
14. Reserved matters to include details of bin/cycle storage
15. Reserved matters to include a single electric vehicle charging point for each dwelling
16. The proposed dwellings of two-storey or less, with a maximum ridge height of 8 metres

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 Principal Planning 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 Principal Planning 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: 10th December 2014
Report of: David Malcolm – Principal Planning Manager
Title: Holmes Chapel Road, Congleton.

1.0 Purpose of Report

- 1.1 To consider the withdrawal of 4 reasons for refusal relating to planning application 14/0134C for a proposed development of land for up to 70 dwellings and associated works at Holmes Chapel Road, Congleton.

2.0 Decision Required

- 2.1 To agree to withdraw the reasons for refusal in respect of open countryside, housing land supply, important hedges, highways and landscape and to instruct the Principal Planning Manager not to contest the issues at the forthcoming public inquiry.
- 2.2 Resolve to enter into a Section 106 in respect of the forthcoming Appeal to secure the Heads of Terms set out below.

3.0 Background

- 1.2 Members may recall that on the 17th September 2014, Strategic Planning Board considered an application for a proposed residential development of up to 70 dwellings and associated works at Holmes Chapel Road, Congleton. (14/0134C refers)
- 3.1 *The Application is the subject of an Appeal against non-determination and the Strategic Planning Board resolved to contest the Appeal on the following grounds:*
1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 and H6 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version 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 in accordance with the National Planning Policy Framework and*

consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan, to the emerging Development Strategy and the principles of the National Planning Policy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.

- 2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.*
- 3. The proposed residential development, by virtue of the adverse impact that the proposals would have on the local landscape character thereby failing to recognise the intrinsic character and beauty of this site and the contribution to the wider landscape setting is contrary to Policies GR5, GR3 of the Congleton Borough Adopted Local Plan First Review 2005 and policies SE4, SE5 and SE6 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of Paragraph 17 of the National Planning Policy Framework.*
- 4. Insufficient information has been submitted to demonstrate that the proposal will have an acceptable impact upon the operation of the highway network in the vicinity in terms of safety and congestion impacts and lack of data in the Transport Assessment contrary to Policies GR9 and GR10 of the Congleton Borough Adopted Local Plan First Review 2005.*
- 5. Insufficient information has been submitted to demonstrate that the scheme would provide for the retention and protection of existing trees of amenity value and no assessment of historic hedgerows has been provided therefore the applicant has failed to demonstrate that the proposal complies with Policies GR1 and NR1 of the adopted Congleton Borough Local Plan First Review 2005 and policy SE3 and SE5 of the emerging Cheshire East local Plan and the provisions of the National Planning Policy Framework.*

- 3.4 Following submission of the Appeal a duplicate application (14/2685c refers), was submitted to the Council, and refused for the same reasons by the Strategic Planning Board on 15th October 2014. However, since that time the application has been the subject of on-going negotiations with Officers which have led to the resolution of a number of the Board's previous concerns. These are explained in more detail below. In addition, the Local Plan Inspectors interim report has

been received which warrants the reconsideration of the other reasons for refusal.

Open Countryside & Housing Land Supply

- 3.2 Paragraph 47 of the National Planning Policy Framework requires that Council's identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements
- 3.3 This calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing suites that will help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.
- 3.4 The current Housing Supply Position Statement prepared by the Council employs the figure of 1180 homes per year as the housing requirement, being the calculation of Objectively Assessed Housing Need used in the Cheshire East Local Plan Submission Draft
- 3.5 The Local Plan Inspector has now published his interim views based on the first three weeks of Examination. He has concluded that the council's calculation of objectively assessed housing need is too low. He has also concluded that following six years of not meeting housing targets a 20% buffer should also be applied.
- 3.6 Given the Inspector's Interim view that the assessment of 1180 homes per year is too low, we no longer recommend that this figure be used in housing supply calculations. The Inspector has not provided any definitive steer as to the correct figure to employ, but has recommended that further work on housing need be carried out. The Council is currently considering its response to these interim views
- 3.7 Any substantive increase of housing need above the figure of 1180 homes per year is likely to place the housing land supply calculation at or below five years. Consequently, at the present time, the Council is unable to robustly demonstrate a five year supply of housing land.
- 3.8 On the basis of the above, the Council at this time cannot reasonably continue to rely upon the first reason for refusal for this appeal.

Agricultural land

- 3.9 It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. Policy SE2 of the Submission Version of the Local Plan concerns the efficient use of land and states that development should safeguard natural resources including agricultural land.

- 3.10 In addition, the National Planning Policy Framework, 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”.

- 3.11 A survey has been provided to by the applicant which indicates that the entire 3.9 hectares of the site is Best and Most Versatile Agricultural land. 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. However, given that Cheshire East has a greater than 5 year supply of housing, it is considered that this argument does not apply and that the loss of the agricultural land makes the scheme less sustainable since it results in a loss of such land in the open countryside when there is no necessity to do so in housing land supply terms.
- 3.12 The proposal is therefore contrary to policy SE2 of the emerging local plan and the provisions of the NPPF in respect of loss of agricultural land.
- 3.13 However, taking account of the planning balance in respect of the weight that has been attached to the loss of agricultural land in other appeal decisions it is not considered that there would be sufficient justification to maintain the reason for refusal as outlined above.

Landscape

- 3.5 The application site occupies an area of approximately 3.9 hectares and is located on the western edge of Congleton within land defined in successive Local Plans' including the Submission Version of the Core Strategy as being Open Countryside.
- 3.6 The 200 house Loachbrook Farm development on the site to the north of the application site has commenced and it is in the context of the finished Loachbrook development that this assessment has been undertaken by the Council's Landscape Architect.
- 3.7 However, it is also important to recognise that the area of built development within the Loachbrook Farm Development itself terminates some distance to the south of this site on the other side of the Loach Brook itself. The area of land within the Loachbrook Farm development site immediately adjacent to the application site is entirely open public space as designed within the Loachbrook Farm Development, which would be entirely open when viewed from Holmes Chapel Road.
- 3.8 The Loachbrook Inspector identified the (now de-designated) Scheduled Ancient Monument as being important feature within the

landscape. This feature is a well tree'd mound which within the context of the current proposals lies to the west of the proposed housing .

- 3.9 The submission includes a Landscape and Visual Assessment (LVA). The LVA states that the methodology used encompasses the 'Guidelines for Landscape and Visual Impact Assessment' (GLVIA) published by the Institute of Environmental Assessment and the Landscape Institute (2002) and 'Landscape Character Assessment. Guidance for England and Scotland' (LCA) published by the Countryside Agency and Scottish National Heritage 2002. The baseline conditions are based on Natural England's Countryside Character Assessment defining the site as Character Area 61; Shropshire, Cheshire and Staffordshire Plain. The study also refers to the Cheshire Landscape Character Assessment (adopted in 2008) which identifies the site as being located in Landscape Type 10: Lower Farms and Woods, the site is also located within the Brereton Heath Character Area: LFW2.
- 3.10 The site description identifies that the surrounding landscape is predominantly pastoral with some areas of woodland, as well as the tree covered mound, formerly a Scheduled Ancient Monument, which is acknowledged to be 'an important element in the landscape. Its distinctive form can be clearly seen from the surrounding area and forms part of the view upon arrival from Congleton from the west'.
- 3.11 The Councils Landscape Architect has considered the detail of the application Landscape and Visual Character Assessment.
- 3.12 The assessment identifies that there would be a moderate/major adverse effect upon the site's landscape character at the construction phase. The Landscape Architect agrees with this
- 3.13 The assessment identifies that upon completion there would be a minor adverse landscape effect upon this localised part of the Brereton Character Area, this appears to be based on consideration of the already approved site to the south having an impact on the immediately surrounding landscape, and because the assessment considers that this landscape contains no significant features. This point is contested.
- 3.14 The assessment correctly identifies that 'the existing character of the site is dominated by its current use as agricultural farmland' and has also identified the former Scheduled Ancient Monument, a mound approximately 130m long and 25m wide, which 'forms an important element in the landscape. Its distinctive form can be clearly seen from the surrounding area and forms part of the view upon arrival into Congleton from the west'. This would appear to indicate that it is indeed a 'significant feature'. Nevertheless, the assessment notes that the overall significance of effects on the local landscape will be

minor adverse. It is considered that it would in fact be more adverse than this.

- 3.15 As part of the visual assessment a number of viewpoints have been identified (Viewpoints 1- 11). At the construction phase the assessment identifies that there would be a moderate to major adverse visual effect. The Landscape Architect concurs with this assessment.
- 3.16 Upon completion the assessment identifies that for those residential receptors on Holmes Chapel Road that there would be a negligible/minor to moderate/major significance. The Visual effects table notes that this would reduce to Moderate Adverse.
- 3.17 It is accepted that there are a small number of properties on Holmes Chapel Road, the Council's Landscape Architect is of the opinion that the significance would be moderate/major for most of these properties and would remain so upon completion.
- 3.18 The assessment also identifies that the operation visual effect on public rights of way will be moderate adverse and will remain so, and will also be minor adverse, and remain so for users of vehicles along Holmes Chapel Road. It should be noted that there is a footway along Holmes Chapel Road, the visual effects for walkers along this route would be, and would remain greater than minor adverse. Similarly, Sandy Lane is assessed as having a moderate adverse visual effect, reducing to minor adverse. Sandy Lane is a recognised cycle route and the Landscape Architect considers that the visual effect would remain greater than minor adverse.
- 3.19 The submitted Landscape and Visual Impact assessment identifies that relevant policies in the Congleton Borough Local First review are Open Countryside PS8 and Landscape GR5. Policy PS8 identifies suitable developments and that they should preserve the openness of the countryside and maintain or enhance its local character (II)
- 3.20 The submitted Landscape and Visual Impact Assessment notes that the surrounding landscape is predominantly pastoral with some areas of woodland, as well as the tree covered mound, formerly a Scheduled Ancient Monument, which is acknowledged to be 'an important element in the landscape and also notes that the most significant changes arising to the site's landscape character during the construction process would result from the change in land use from agricultural to residential, and that this would 'cause a noticeable change upon entrance to the town'.
- 3.21 The assessment notes that there will be a moderate major adverse landscape effect at construction and that this will remain as minor adverse upon completion. The assessment notes that the development will have an adverse landscape effects and that this will remain adverse, also acknowledging the most significant change, that of

agricultural land to residential. This is considered to be contrary to Policy PS8.

- 3.22 Policy GR5 notes that Development will be permitted only where it respects or enhances the landscape character of the area. Development will not be permitted which in the view of the Borough Council, would be likely to impact adversely on the landscape character of such areas or would unacceptably obscure views or unacceptably lessen the visual impact of significant landmarks or landscape features when viewed from areas generally accessible to the public, as a result of the location, design or landscaping of the proposal. Particular attention will be paid to the protection of features that contribute to the setting of urban areas.
- 3.23 The landscape effects have been described and as adverse which is considered to be contrary to Policy GR5. The Councils Landscape Architect also considers that notable features also appear to have been undervalued in the landscape assessment submitted.
- 3.24 In addition the visual assessment identifies that the visual effects will be moderate adverse and remain so for residential receptors along Holmes Chapel Road and also be moderate adverse, and remain so for users of the existing public footpath between Sandy Lane and Sandbach Road and that there will also be adverse visual effects for users of Sandy Lane and of Holmes Chapel Road. Clearly the acknowledged adverse landscape character and adverse visual effect are also contrary to Policy GR5.
- 3.25 The Pre-Submission Core Strategy (November 2013) recognises in Policy SE4 the high quality of the built and natural environment is recognised as a significant characteristic of the Borough and that all development should conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes.
- 3.26 The acknowledged adverse landscape and visual effects will also be contrary to policy SE4 and will be a significant weight against the sustainability of the proposals in the overall planning balance.

Highways

Highway Safety

- 3.27 The accident data has been considered and it is agreed between the Strategic Highways Manager and the Applicant that there are no existing highway safety issues along the site frontage with Holmes Chapel Road.
- 3.28 It is also agreed that the visibility attributes and operation of the residential driveways located opposite the site along the northern edge

of Holmes Chapel Road (as mentioned in the highway officer's consultation response) are not of concern.

Site Access

- 3.29 It is agreed that the simple priority form of junctions and achievable visibility splays which provide 160m lateral visibility along the section of Holmes Chapel Road which is subject to a 50 mph speed limit and 120m lateral visibility along 40 mph sections are acceptable.
- 3.30 The locations of the two proposed site accesses as shown in the "Development Framework" plan submitted as part of the planning application (Ref: 5912-L-03 rev E) are acceptable.
- 3.31 There are no highway capacity issues with regards to the proposed site junctions.

Baseline Traffic Conditions

- 3.32 It is agreed that the baseline traffic conditions set out in the transport assessment submitted alongside the application "Proposed Residential Development, Holmes Chapel Road, Congleton, Transport Assessment", 18 December 2013, A084622 are acceptable.
- 3.33 The committed developments set out in the transport assessment and listed below for ease of reference represent the known committed development traffic at the time of the application.
- Albany Mill, Canal Street, Congleton (residential, 43 units)
 - Bath Vale Works, Bath Vale Congleton (residential, 130 units)
 - Bossons Mill I Brooks Mill, Congleton (residential, 60 units)
 - Danebridge and Providence Mills, Congleton (residential, + 15 units)
 - Loachbrook Farm, Congleton (residential, 200 units)
 - Congleton Business Park extension (office, +6,436 sq m)

- 3.34 It is agreed that traffic associated with these committed developments should be included in future forecasts to recognise traffic growth from development.

Traffic Generation

- 3.35 The trip generation rates used to calculate the total development traffic within the transport assessment submitted alongside the application "Proposed Residential Development, Holmes Chapel Road, Congleton, Transport Assessment", 18 December 2013, A084622) are acceptable.

Traffic Distribution

- 3.36 It is agreed between the parties that the traffic distribution as adopted in the submitted transport assessment is acceptable to assess the impact of development traffic.

Traffic Impact

- 3.37 The Local Highway Authority maintain concerns with respect to traffic impact on the A34 corridor and is undertaking further modelling work using VISSIM. However, the applicant and the Strategic Highways Manager are continuing dialogue on this point and the Strategic Highways Manager is confident that the matter will be resolved. As and when further agreement has been reached an update will be provided to Members
- 3.38 It is agreed that traffic impact arising from the development at all other areas of the local highway network is acceptable.
- 3.39 On this basis, subject to a satisfactory outcome of the VISSIM sensitivity test, it is considered that all of the previous highway concerns have now been overcome.

Trees & Hedges

- 3.40 The Council's Landscape Officer examined the proposals and commented that discrepancies in respect of access points appear to have been clarified with two similar points shown on Tree retention plan detailed access figure 4 ref. 5912-A-04 and Hourigan Connolly Proposed Access plan 3.2 A
- 3.41 Plan 5912-A-04 appears to indicate that the two proposed access points and associated visibility splays whilst requiring removal of sections of roadside hedge, would not require the removal of trees. On the plan, the proposed combined footway/cycle way has been set back further into the site than indicated previously. The covering letter suggests the cycle /footway can be secured at reserved matters stage and that if required with the proposed landscape buffer, no dig construction could be used in the root protection area of retained trees. If this element of the layout is not to be determined at this stage, full details would have to be given careful consideration at reserved matters stage.
- 3.42 Evidence provided confirms that the roadside hedge and a hedge running at right angles to the road both qualify as ' Important' under the Hedgerow Regulations 1997 due to historic value.
- 3.43 In this case, it is the historic line of the hedgerow which is considered to be important rather than the species within it or the habitat which it

creates. It is acknowledged that only sections of the hedgerow need to be removed, and that, as its line follows that of the road, it could still be traced in the landscape following the implementation of the development. Notwithstanding this point, there are no overriding reasons for allowing the development and it is considered that there are suitable alternatives for accommodating the necessary housing supply. Therefore, the development fails to comply with all of the tests within Policy NR3 and it is a material consideration which weighs against the proposal in the overall planning balance.

4.0 Planning Balance and Conclusion.

- 4.1** The proposal is contrary to development plan policies PS8 (Open Countryside) GR5 (Landscape) and NR3 (Nature Conservation) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.
- 4.2** The most important material consideration in this case is the NPPF which 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.
- 4.3** The development plan is not “absent” or “silent”. The relevant policies are not out of date because they are not time expired and they are consistent with the “framework” and the emerging local plan. Policy GR5 is not a housing land supply policy. However, Policy PS8, whilst not principally a policy for the supply of housing, (its primary purpose is protection of intrinsic character and beauty of the countryside,) it is acknowledged has the effect of restricting the supply of housing. Therefore, where a 5 year supply cannot be demonstrated, Policy PS8 can be considered to be out of date in terms of its geographical extent and the boundaries of the area which it covers will need to “flex” in some locations in order to provide for housing land requirements. Consequently the application must be considered in the context of paragraph 14 of the Framework, which states:

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision taking means:

- *approving development proposals that accord with the development plan without delay; and 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.”

- 4.4 It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14. The cases of Davis and Dartford have established that that “*it would be contrary to the fundamental principles of the NPPF if the presumption in favour of development, in paragraph 14, applied equally to sustainable and non-sustainable development. To do so would make a nonsense of Government policy on sustainable development*”. In order to do this, the decision maker must reach an overall conclusion, having evaluated the three aspects of sustainable development described by the framework (economic, social and environmental) as to whether the positive attributes of the development outweighed the negative in order to reach an eventual judgment on the sustainability of the development proposal. However, the Dartford case makes clear that this should be done simultaneously with the consideration of whether “*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*” as required by paragraph 14 itself and not on a sequential basis or as a form of preliminary assessment.
- 4.5 In this case, the development would provide market and affordable housing to meet an acknowledged shortfall. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.
- 4.6 Balanced against these benefits must be the loss of a significant area of best and most versatile agricultural land. All of the site will be lost from agriculture, whether built upon or subject to open space. However, much of Cheshire East comprises best and most versatile land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, previous Inspectors have attached very limited weight to this issue in the overall planning balance.
- 4.7 The proposals would also result in the loss of part of an important hedgerow, although only a small gap would need to be created in order to form the access and the historic line could still be traced in the landscape, provided that the footpath and cycleway were constructed behind the hedge. This could be secured by condition.
- 4.8 As with agricultural land, in similar cases at Appeal, Inspectors, whilst concluding that the loss of important hedgerows goes against proposals in the overall planning balance, have not found this issue to be determinative.

- 4.9 Previous highways and tree concerns have now been resolved and can be addressed through appropriate conditions, and it is no longer considered that these provide sustainable reasons for refusal.
- 4.10 It is also necessary to consider the negative effects of this incursion into Open Countryside by built development effects that would be all the more marked in the locality given the conclusions of the Landscape Architect. Nevertheless, the change in the housing land supply position significantly alters the way in which this should be viewed in the overall planning balance, and it is not considered that this is sufficient, either individually or when taken cumulatively with the other negative aspects of the scheme to be sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.
- 4.11 On the basis of the above, it is considered that the Council should withdraw its putative reasons for refusal and agree with the Appellant not to contest the issue at Appeal, subject to the imposition of appropriate conditions and the Appellant agreeing to the necessary Section 106 contributions.

5.0 Recommendation

- 5.1 To agree to withdraw the reasons for refusal in respect of open countryside, housing land supply, important hedges, highways and landscape and to instruct the Principal Planning Manager not to contest the issues at the forthcoming public inquiry. .
- 5.2 Resolve to enter into a Section 106 in respect of the forthcoming Appeal to secure the Heads of Terms set out below.

- Affordable housing:
 - 30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)
 - A mix of 1, 2 , 3 bedroom and other sized properties to be determined at reserved matters
 - 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.
- Provision of minimum of 1680m2sqm and of shared recreational open space and children's play space to include a LEAP with 5 pieces of equipment
 - Private residents management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity
 - Commuted Sum (to be negotiated) towards improvement of the Waggon and Horses Junction and the improvements at Barn Road roundabout or other measures that will provide similar congestion relief benefits to the A34 corridor through Congleton – amount to be confirmed
 - Commuted sum of £40000 to upgrade existing Puffin Crossing to Toucan Crossing
 - Commuted Sum payment in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton of £68,000.

6.0 Risk Assessment and Financial Implications

- 6.1** There is a risk that if the Council continues to pursue the Appeal, in the light of the Local Plan Inspectors Interim findings when the outstanding information in respect of trees and highways has now been received and the issues can be adequately dealt with via conditions and Section 106 obligations, a successful claim for appeal costs could be made against the Council on the grounds of unreasonable behaviour.
- 6.2** There would also be an implication in terms of the Council's own costs in defending the reasons for refusal.
- 6.3** There are no risks associated with not pursuing the reasons for refusal at Appeal.

7.0 Consultations

Borough Solicitor

- 7.1** The Borough Solicitor has been consulted and recommends the withdrawal of the reasons for refusal.

Landscape Officer and Highway Engineer

- 7.2** The Council's Landscape Officer and Highway Engineer have been consulted on the withdrawal of the reasons for refusal.

8.0 Reasons for Recommendation

- 8.1 To ensure that an approved scheme for essential affordable housing within the rural area is delivered.

For further information:

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

Background Documents:

Applications 14/0134C

CHESHIRE EAST COUNCIL STRATEGIC PLANNING BOARD

Date: 10th December 2014

Report of: David Malcolm Principal Planning Manager

Title: Update following the resolution to approve application 13/3449C subject to a S106 Agreement

Site: GLEBE FARM, BOOTH LANE, MIDDLEWICH,

1.0 Purpose of Report

- 1.1 Planning application 13/3449C was determined by the Strategic Planning Board on 2nd April 2014. This report is to consider an amendment to the Section 106 requirements within the SPB resolution for this application in respect of affordable housing.
- 1.2 The minutes from the meeting are as follows:

That for the reasons set out in the report and in the written update to Board the application be approved subject to the completion of a Section 106 Agreement securing the following:-

- 1. A contribution towards playing pitch improvements at Sutton Lane £220,000 (Sum to be paid prior to the commencement of development)*
- 2. A contribution towards Middlewich Eastern Bypass of £4,780,000. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge– Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be submitted prior to the commencement of development.*
- 3. A scheme for the provision of 10% affordable housing all to be affordable rent. The scheme shall include:*
 - The numbers, type 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.*

4. Provision of Public Open Space, a NEAP and LEAP to be maintained by a private management company

2.0 Decision Required

- 2.1 To agree to the proposed changes to the affordable housing element of the s106 legal agreement.

3.0 Background

- 3.1 The site of the proposed development extends to 15.3ha and is located to the south of Middlewich. The site is within open countryside. To the north is residential development fronting Kingswood Crescent, Shilton Close, Northwood Avenue and Inglewood Avenue. To the north is agricultural land. A former sports ground is included within the site. To the east of the site is Booth Lane with the Trent and Mersey Canal beyond, to the west of the site is Warrington Lane. The majority of the site is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site. The site also includes a number of ponds.
- 3.2 A resolution to approve outline permission for residential development (approximately 450 dwellings), retail unit (A1, A2, A3, A4 and/or A5) and supporting infrastructure was granted by Members in April 2014.
- 3.3 Further negotiations have now taken place with the applicant. They have requested that the requirement to provide all the affordable housing as Affordable Rent be changed to 65% Affordable Rent and 35% intermediate tenure (eg. shared ownership or shared equity).
- 3.4 The applicant has also requested that should they be unable to find a Registered Provider to take the Affordable Rented units then they are able to sell these units as shared equity with a 30% discount from the open market value and initially to purchasers approved by the Council. (If such purchasers cannot be found the units can be sold on the open market on the same terms).
- 3.5 The applicant states that these amendments are required to avoid putting the wider Middlewich bypass project at risk. Further delays to signing the section 106 agreement will impact on the amount of money able to be claimed from the Government's Regional Growth Fund as an approved project, which would undermine overall viability and deliverability of the bypass scheme.

4 Officer Comment

- 4.1 In this case it is accepted that the applicant's requests can be agreed. This follows negotiations with the Councils Strategic Housing Team who have confirmed that the amendments will be acceptable.
- 4.2 The change in tenure split of the affordable housing is in line with the policy requirement and provides for a mix of tenures on the site.
- 4.3 If a Registered Provider cannot be found for the rented units then the alternative situation still provides affordable housing through the shared equity process. In order to make the rented units attractive to Registered Providers the applicant has agreed to build the rented units to the Homes and Communities Agency Design and Quality Standards (2007). This will increase the possibility of the rented units being taken by a Registered Provider and mean the alternative is a last resort.

5 Conclusion

- 5.1 On the basis of the above, it is considered that the minor amendment to the committee resolution is acceptable.

6 Recommendation

- 6.1 To agree to the proposed changes to the affordable housing element of the s106 legal agreement.

The resolution be changed to the following: -

3. A scheme for the provision of 10% affordable housing with 65% to be rented and 35% intermediate (all affordable units to be intermediate if proof that no Registered Provider will take the rented units). The scheme shall include:

- The numbers, type 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.*

7 Financial Implications

7.1 There are no financial implications.

8 Legal Implications

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

9 Risk Assessment

9.1 There are no risks associated with this decision.

10 Reasons for Recommendation

10.1 For the purpose of negotiating and completing a S106 Agreement for application 13/3449C and to issue the planning permission.

For further information:

Portfolio Holder: Councillor Don Stockton
Officer: Daniel Evans – Principal Planning Officer
Tel No: 01270 686751
Email: daniel.evans@cheshireeast.gov.uk

Background Documents:

Application 13/3449C

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD REPORT

Date: 10th December 2014

Report of: David Malcolm – Principal Planning Manager

Title: Performance of the Planning Enforcement Service during for Quarters 1 and 2 of 2014/15

WARDS AFFECTED

All

EXEMPT/CONFIDENTIAL ITEM

No

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to provide the Strategic Planning Board with information relating to the activities and performance of the Council's planning enforcement service during quarters 1 and 2 of 2014/15, including a status report on those cases where formal enforcement action has already been taken.
- 1.2 Members are requested to note the content of the report

2.0 BACKGROUND

2.1 Introduction

The Enforcement Task and Finish Group recommended that a summary of the performance of the planning enforcement service be reported half yearly

This is the first of those reports and follows a preceding report in July 2014 that provided an overview of performance for the year 2013/14

The report highlights the significant volume of work within the planning enforcement service, with 416 new investigations undertaken within the 6 month reporting period.

The report demonstrates the action being taken by the service to enforce planning control in Cheshire East.

The service has strived to provide an excellent service to local residents and Members and believes it has achieved this.

Officers continue to be busy actioning the recommendations of the Enforcement Task and Finish Group which includes developing new performance measures and targets for inclusion in a revised Planning Enforcement Protocol and publishing an online Enforcement Register.

2.2 Report Format

The information contained in this report is divided into three sections:

Section 3.1 provides a summary of investigative activity and formal enforcement action undertaken during the first two quarters of 2014/15. It also contains details of accumulation of cases that remain open and 'in hand' from previous years.

Section 3.2 provides an update those cases where formal enforcement action has been authorised and taken place.

Section 3.3 Advises on future reports

3.0 **REPORTED INFORMATION**

3.1 This section of the report contains statistical data relating to:

- a) The number of enforcement cases opened during the first two quarters of 2014/15 together with a breakdown of the types of cases - **See Table 1**
- b) The number of enforcement cases closed during during the first two quarters of 2014/15 together with a breakdown of the reasons for closure – **See Table 2**
- c) The numbers of enforcement cases that are still open and 'in hand' as the end of the 2nd quarter of 2014/15 (as at 30th September 2014) – **See Table 3**

- d) The amount of formal enforcement action take during the first two quarters of 2014/15, together with a breakdown of the type of action taken – **See Table 4**

**Table 1: Input of Planning Enforcement Cases between
1st April and 30th September 2014**

Type of Input (Investigation type)	Amount of Input	
	Number of Cases	Percentage
Unauthorised Building Works	200	48%
Unauthorised Change of Use	81	19%
Non Compliance with Planning Conditions	87	21%
Illegal Display of an Advertisement	26	6%
Untidy Land	9	2%
Unlawful Works to Protected Trees (TPO's)	6	2%
Unauthorised Deposit of Waste	4	Combined 2%
Unlawful Demolition	2	
Non Compliance with an Enforcement Notice	1	
Removal of Tree in Conservation Area	0	
Total	416	100%

Table 1 provides a breakdown of the 416 enforcement cases that were opened between 1st April and 30th September 2014.

It can be seen that the around two thirds of cases relate to buildings works and changes of use of land and buildings. Cases concerning non compliance with planning conditions constitute less than a quarter of all the reported cases and relate mostly to working/opening hours, tree protection, obscurely glazed windows and landscaping schemes.

The total percentage of cases involving advertisements, unauthorised works to trees, unlawful demolition and non compliance and Enforcement Notice amounts to 12%

Table 2: Outcomes of Planning Enforcement Cases Closed between 1st April and 30th September 2014

Type of Outcome (Reason for Closure)	Amount of Output	
	Number of Cases	Percentage
No breach/Permitted Development	177	48%
Breach Regularised Voluntarily through Negotiation	78	21%
Breach Regularised by granting Retrospective Planning Permission	61	17%
Not expedient to take any formal action	26	7%
Immune from formal action	13	3.5%
Other (formal notice complied with or special circumstances)	12	3.5%
Total	367	100%

Table 2 shows a breakdown of the outcome (reason for closure) of all case that were closed between 1st April and 30th September 2014. This includes cases that were opened in previous years as well as this period.

The data shows that 48% of investigations resulted in no breach of planning control being found. In the 52% of cases where a breach was found to have occurred:-

- 41% were regularised voluntarily through negotiation;
- 32% were granted retrospective planning permission;
- 14% were not causing any demonstrable planning harm and therefore it was not expedient to take formal enforcement action
- 13% were either immune from enforcement action or were complied with after formal enforcement action had been taken

Table 3: Enforcement Cases in Hand at end of 2nd Quarter of 2014/15

Year	Number of Cases Opened in the Year/Period	Cases still open as at 31 st March 2014		Cases still open as at 30 th September 2014		
		Number of Cases	%	Number of Cases	%	Reduction in Number Since 31/3/2014
2009/10 (CEC formed)	895 (607) *	188 (113) *	21% (17%) *	187	21%	1
2010/11	754 (612) *	233 (154) *	30% (25%) *	229	30%	4
2011/12	938	248	26%	220	23%	28
2012/13	894	280	31%	232	26%	48
2013/14	755	407	54%	293	39%	114
Total as at 31st March 2014	4652 (3806) *	1356 (1202) *	29% (31%) *	1161	25%	195
Q's 1+2 2014/15	416	-	-	244	59%	-
Total as at 30th September 2014	5068	-	-	1405	28%	-

Table 3 shows the number of new cases opened each year since the formation of Cheshire East Council and the number of cases for each of those years that were still outstanding at the end of the 2nd quarter of 2014/15 (at 30th September 2014). The same data for the end of 2013/14 is carried over for comparative purposes. It should be noted that the figures in brackets and marked with a * were incorrect figures that appeared on the reported presented to Members in the preceding report in July. The incorrect figures arose from a problem with the software reporting tool. The corrected figures appear directly above the incorrect figures

The purpose of reporting this information is to demonstrate the number of incoming cases each year /period and the accumulation of older cases from the current and previous years that make up the number of cases in hand.

The figure of 1405 cases does not include cases carried over from the legacy authorities. Work is being undertaken to identify and prioritise these.

**Table 4: Summary of Formal Enforcement Action Taken between
1st April and 30th September 2014**

Type of Formal Enforcement Action	Output (Number)
Planning Contravention Notices issued	12
Enforcement Notices issued	9
Temporary Stop Notices issued	1
Breach of Condition Notices issued	1
Untidy Land Notices issued	5
Injunctions/Court Orders obtained	1
Prosecutions where verdict secured	1

Table 4 shows the amount of formal enforcement action taken in terms of the number of Notices issued, Injunctions/Orders obtained and prosecutions secured. Information relating to work on enforcement appeals and ongoing legal proceedings is included in the Appendix to this report that provides an update on those cases where formal enforcement action has been authorised and taken place.

The table does not reflect the work that is undertaken to prepare reports, formal Notices collation of evidence and witness statements for legal proceedings which are not issued or are abandoned at the last minute due to compliance being achieved. This work is resource intensive, but becomes ‘hidden/lost’ work when formal enforcement action and legal proceedings are halted at a late stage.

3.2 Update on formal enforcement action already taken

Whilst the majority of the work of the enforcement team involves investigating reports of suspected breaches of planning control, the Appendix attached to this report details the status of those cases where it was appropriate to take enforcement action and serve a formal Notice.

The Appendix contains 41 cases. These comprise 13 new cases that have been added since the last update. A breakdown on the status of the 41 cases is as follows:-

- 5 have already been closed
- 3 are the subject of active legal proceedings
- 8 are not yet due for compliance
- 6 are the subject of an appeal and an appeal decision is awaited
- 19 await site visit to check for compliance, are pending a decision on next course of action or are being prepared for commencement of legal proceedings or other action.

The cases are listed in Ward order

3.3 Future Reports

The next report will be presented to the first available meeting in May or June 2015 and will contain information for the second two quarters of 2014/15

4. **RISKS ASSOCIATED WITH THE PROPOSED DECISION**

There are no risks

5. **OTHER IMPLICATIONS**

Financial	-	None
Staffing	-	None
Legal	-	None
Assets	-	None
Policy	-	None
Sustainability	-	None
Equality	-	None
Crime and Disorder	-	None
Other implications	-	None

6. **APPENDICES**

Appendix 1 – Status report on cases where formal enforcement action has been taken.

7. **BACKGROUND PAPERS**

Any background papers used to complete this report and are available for public inspection for four years from the date of the meeting from the Contact Officer(s) named above.

Background papers used: None

For further information:

Portfolio Holder: Councillor Don Stockton

Contact Officer: Debbie Kirk – Principal Planning Officer (Enforcement)

Tel No: 01625 383765

Email: Debbie.kirk@cheshireeast.gov.uk

APPENDIX 1: Status Report On Cases Where Formal Enforcement Action Has Been Taken – 30th September 2014

Site Address	Ward	Breach	Type of Notice	Current Status
Tollgate Farm, Linley Lane, Alsager	ALSAGER	Unauthorised change of use from agriculture to deposition of waste	Temporary Stop Notice (TSN) and Enforcement Notice	Temporary Stop Notice (TSN) issued to prevent further tipping. TSN not Complied with. Enforcement Notice served. No appeal lodged. Enforcement Notice not complied with. Prosecution for non compliance with TSN to be heard in Court on 15/12/14. Prosecution for non compliance with Enforcement Notice pending.
Land at Swanscoe Lane, Higher Hurdsfield, Macclesfield	BOLLINGTON	Unauthorised erection of two buildings and an area of hardstanding	Enforcement Notice	Enforcement Notice served. Appeal lodged. Appeal dismissed. Owner refused permission to lodge appeal in High Court. Costs awarded in favour of Council. Two buildings removed and therefore Enforcement Notice substantially complied with, but continuing to pursue removal of an area of hard standing
Land at Swanscoe Lane, Higher Hurdsfield	BOLLINGTON	Unauthorised erection of two timber buildings	Enforcement Notice	Notice served 08/10/13. Appeal Lodged 06/11/13. Appeal dismissed. Compliance due February 2015
Land West of Moss End Farm, Moss Lane, Smallwood	BRERETON RURAL	Unauthorised change of use of land for the stationing of a caravan used for residential purposes.	Enforcement Notice	Enforcement Notice issued. Appeal dismissed. Compliance due September 2014. Need to access land to check whether Notice complied with.
The Rumping Donkey, Hassall Green, Sandbach	BRERETON RURAL	Unauthorised works to a listed building	Listed Building Enforcement Notice	Enforcement Notice issued. No appeal. Notice not complied with. Prosecution for non compliance with Notice to be heard in Court on 15/12/14
Thimsworra Farm, Dragons Lane, Moston	BRERETON RURAL	Erection of entrance walls and piers contrary to approved landscaping plan	Breach of Condition Notice	Notice issued. Compliance due December 2014
Land North of Pedley Lane, Timbersbrook	CONGLETON EAST	Unauthorised change of use from and agricultural use to a recreational and education use.	Enforcement Notice	Enforcement Notice issued and appealed. Appeal dismissed 30 July 2010. Compliance due 30 March 2011. Works in default carried out August 2011, site cleared of all buildings/shelters/animals. Occupier repopulated the site. High Court action instigated to secure an Injunction. Voluntary undertaking secured which required site clearance. Failed to comply, Committal proceedings instigated in High Court. Further agreement reached which required submission of Certificate of Lawful Use (CLUED). CLUED submitted. Appeal against non-determination of CLUED lodged. Council's statement submitted. Appeal withdrawn November 2014. Conference with Counsel to be heard to establish next course of action.

APPENDIX 1: Status Report On Cases Where Formal Enforcement Action Has Been Taken – 30th September 2014

28 Kendal Court, Congleton	CONGLETON WEST	Untidy Land	S.215 Notice requiring proper maintenance of land	Untidy Land Notice issued several years ago. Notice not complied with. Owner then prosecuted. Condition of property further deteriorated. Second Untidy Land Notice issued. Notice due to be complied with in October 2014. Notice not complied with. Report to be prepared seeking authority to carry out works in default.
The Steamboat, Mountbatton Way, Congleton	CONGLETON WEST	Untidy Land	S.215 Notice requiring Proper Maintenance of Land	Untidy Land Notice served. Appeal Hearing 21st August 2014 in Crewe Magistrates Court. Appellant agreed to slightly amended Notice and to pay the Council's legal costs. Notice believed to have been complied with, but needs final verification visit.
1A Heathfield Avenue, Crewe	CREWE CENTRAL	Untidy Land	S215 Notice	Untidy Land Notice issued requiring land to be cleared of all rubbish by November 2014. Notice not complied with. Pursuing compliance.
Coppenhall House, Groby Road, Crewe	CREWE EAST	Unauthorised extension and alterations to dwelling	Enforcement Notice	Enforcement Notice issued. Appeal dismissed. Notice not complied with. Prosecution proceedings instigated. Owner accepted a Simple Caution. Majority of remedial works carried out. Outstanding works to be reviewed.
Rear of 91 Hall O'Shaw Street, Crewe	CREWE EAST	Untidy Land	S215 Notice	Compliance due October 2014.. Decision required with regards to further action which could take the form of a prosecution or direct action.
24 Gresty Road, Crewe	CREWE SOUTH	Untidy Land	S215 Notice	Untidy Land Notice issued. Compliance due January 2015.
20 Gresty Road, Crewe	CREWE SOUTH	Untidy Land	S215 Notice	Untidy Land Notice issued. Compliance due January 2015.
267B Alton Street, Crewe	CREWE WEST	Failure to comply with a condition limiting use of first floor to one flat only	Breach of Condition Enforcement Notice	Enforcement Notice issued. Compliance Due February 2015
4 Model Cottages, Crangan	DANE VALLEY	unauthorised change of use of residential premises to a mixed residential and commercial use	Enforcement Notice	Enforcement Notice served. Appeal dismissed. Notice not complied with. Owners and occupier of property prosecuted. Authority given to apply for an injunction. New evidence needs to be obtained to support application for Injunction.
Silver Birches New Platt Lane, Crangan	DANE VALLEY	Unauthorised felling of protected trees	Prosecution	Prosecution proceedings instigated. Conviction secured, fined. Property changed hands and new owner has replaced the lost trees. CASE CLOSED.

APPENDIX 1: Status Report On Cases Where Formal Enforcement Action Has Been Taken – 30th September 2014

Oakton Stud Farm, Thisilldous, Macclesfield Road, North Rode	GAWSWORTH	Unauthorised erection of a dwellinghouse	Enforcement Notice	Notice served. Compliance due 30/12/14
Land west of Bramhall Hill North Rode	GAWSWORTH	Unauthorised Stables	Enforcement Notice	Notice served 15/7/14. Appeal Lodged. Appeal to be heard in May 2015
Mere End Cottage, Mereside Road, Mere, Knutsford	HIGH LEGH	Unauthorised erection of dwellinghouse and detached garage	Enforcement Notice	Enforcement Notice served. Appeal lodged.. Appeal part allowed part dismissed. Dwelling incomplete and unoccupied. Pursuing compliance with Notice. Considering direct action.
Land at Spinks Lane, Pickmere	HIGH LEGH	Unauthorised Change of use of land for agricultural use to the siting of residential and touring caravans etc	Enforcement Notice	Subject of an Enforcement Notice and an appeal, two planning applications and two appeals, two injunctions and one prosecution. Consent Order agreed 21 July 2014. Further court hearing in December 2014
34 Thorn Tree Drive, Crewe	LEIGHTON	Unauthorised erection of wall in excess of one metre in height	Enforcement Notice	Enforcement Notice issued. No Appeal. Notice complied with. CASE CLOSED.
Oakleigh, Childs Lane, Brownlow	ODD RODE	Unauthorised construction of an outbuilding	Enforcement Notice	Notice issued. Appeal lodged. Requirements of Notice amended at appeal. to require the reduction in height of the building. Bat mitigation measures to be implemented before remedial works can be carried out. Mitigation measures to be completed by 9 November 2014 and reduction in height by 9 January 2015. Awaiting site visit to check for compliance with mitigation measures
Land to the Rear of Rose Cottage, Chells Hill, Church Lawton	ODD RODE, BRERETON RURAL	Unauthorised erection of a building	Enforcement Notice	Enforcement Notice issued. Appeal dismissed. Building partially demolished. Planning application submitted for smaller building. (retaining approximately one third of original. Planning application refused. Appeal lodged against refusal of planning application. Planning appeal allowed subject to a condition that building must be demolished within 6 months if specific events do not occur before specified dates. Case remaining open to ensure condition is complied with or building demolished
Land at Cresswell Farm, Chells Hill, Church Lawton	ODD RODE, BRERETON RURAL	Unauthorised erection of a dwelling	Enforcement Notice	Enforcement Notice issued. Appeal lodged against refusal of planning permission and enforcement notice. Appeal allowed and Notice quashed. CASE CLOSED

APPENDIX 1: Status Report On Cases Where Formal Enforcement Action Has Been Taken – 30th September 2014

Elm Beds Caravan Park, Poynton	POYNTON EAST AND POTT SHRIGLEY	Unauthorised residential caravan	Enforcement Notice	Notice served 27/1/11. Appeal Lodged 25/2/11. Appeal Dismissed 13/06/11. Resolution from SPB in October 2012 to apply to Court for Injunction. Following legal advice, the injunction is not being pursued at the present time.
Four Oaks, The Coppice, Poynton	POYNTON EAST AND POTT SHRIGLEY	Unauthorised fence	Enforcement Notice	Notice served 3/2/14. Appeal Lodged 01/04/2014. Appeal dismissed. Notice due to be complied with by 5/2/15
PSS Nurseries, 9 Lees Lane, Newton, MSA	PRESTBURY	Unauthorised erection of timber building, glasshouse and conservatory	Enforcement Notice	Notice served 12/07/12. Appeal Lodged 11/08/12. Appeal Dismissed. Notice partially complied with. Planning permission granted on alternative site and so business relocated and site closed. Pursuing full compliance
PSS Nurseries, 9 Lees Lane, Newton, MSA	PRESTBURY	Unauthorised use for storage and sale of non horticultural items. Formation of hardstanding and erection of walls	Enforcement Notice	Notice Served 12/07/12. Appeal Lodged 11/08/12. Appeal Dismissed. Notice substantially complied with. Planning permission granted on alternative site and so business relocated and site closed. Pursuing full compliance
28 Packsaddle Park, Prestbury	PRESTBURY	Untidy land	S.215 Notice requiring proper maintenance of land	Notice served. Notice complied with. CASE CLOSED.
Budley Barn Mill Lane Prestbury	PRESTBURY	Unauthorised use of Land	Enforcement Notice	Notice served 12/12/14. Appeal lodged. Appeal to be heard at PLI in May 2015
Oakotis Heath Road, Sandbach	SANDBACH HEATH & EAST	Unauthorised stationing of caravans and unauthorised creation of hard standing.	Enforcement Notice	Enforcement Notices issued. Notices not complied with. Owner prosecuted and fined. Site no longer appears to be occupied but hard standing remains. Case being reviewed
Land off Hassall Road, Sandbach	SANDBACH HEATH & EAST	Breach of hours of operation condition	Breach of Condition Notice	Breach of Condition Notice served. Not being complied with. Developer successfully prosecuted and fined. CASE CLOSED
30 Lime Close, Sandbach	SANDBACH TOWN	Unauthorised erection of a front dormer window	Enforcement Notice	Enforcement Notice issued. Appeal dismissed. Notice not complied with. Owners had children with special needs and so legal action held in abeyance. Property has been repossessed. Prospective owners being advised of requirement to remove front dormers. Site visit needed to check compliance status

APPENDIX 1: Status Report On Cases Where Formal Enforcement Action Has Been Taken – 30th September 2014

Styal Moss Nursery, Moss Lane, Styal	WILMSLOW LACEY GREEN	Unauthorised use of land for airport parking	Enforcement Notice	Enforcement Notice served. Appeal lodged. Appeal dismissed. Appellant Successfully challenged appeal decision in High Court. New Appeal held. Appeal Outcome allowed 200 cars to be parked anywhere on the site. New planning application submitted to redevelop the site and allocate a specific area to airport parking (which the Council believes will accommodate far more than 200 cars). Application refused. Appeal lodged. Appeal dismissed. Site needs to be monitored for compliance with Notice i.e. no more than 200 cars
Lode Hill, Altrincham Road, Styal, Wilmslow	WILMSLOW LACEY GREEN	Unauthorised use of land for commercial parking (airport parking)	Enforcement Notice	Enforcement Notice served. Appeal lodged 12/02/08. Appeal part allowed and part dismissed (use allowed to continue, but hardstanding to be removed. Planning Inspectorate made typing error in their formal Decision Letter which may result in the Council being able to pursue the removal of the hard standing. Legal advice being sought.
Land North of Moss Lane, Styal	WILMSLOW LACEY GREEN	Unauthorised airport parking	Enforcement Notice	Notice served 30/10/13. Appeal Lodged 22/10/13. Awaiting appeal decision
Haycroft Farm, Peckforton Hall Lane, Spurstow	WRENBURY	Unauthorised operational development and engineering works	Enforcement Notice	Enforcement Notice issued. Appeal dismissed. Notice substantially complied with, but awaiting painting of roof. Awaiting full compliance.
Wrenbury Industrial Estate, Wrenbury, Nantwich	WRENBURY	Unauthorised change of use	Enforcement Notice	Enforcement Notice issued. Appeal lodged. Public Inquiry to be held on 16th and 17th December 2014.
Six Acres, Wirswall Road, Wirswall	WRENBURY	Material change of use from agriculture to a mixed use of agriculture and the parking of non-incidental vehicles, equipment, materials, children's play equipment and domestic chattels.	Enforcement Notice	Enforcement Notice issued. Appeal lodged. Appeal decision awaited.
Six Acres, Wirswall Road, Wirswall	WRENBURY	Construction of a building and creation of a hard standing	Enforcement Notice	Enforcement Notice issued. Appeal lodged. Appeal decision awaited.

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