

# Strategic Planning Board

## Agenda

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<b>Date:</b>	<b>Wednesday, 18th February, 2015</b>
<b>Time:</b>	<b>10.30 am</b>
<b>Venue:</b>	<b>Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ</b>

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

**Please note that members of the public are requested to check the Council's website the week the Planning/Board meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.**

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

**1. Apologies for Absence**

To receive any apologies for absence.

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

To provide 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 - 12)**

To approve the minutes as a correct record.

**4. Public Speaking**

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

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

A period of 3 minutes is allocated for each of the planning applications for the following 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. **14/3649C-Outline application for development of land to the west of Padgbury Lane, Congleton for up to 120 dwellings, up to 180 sq. m of health related development (Use Class D1), community facilities and associated infrastructure - (Resubmission of application reference 13/4219C), Land West of Padgbury Lane, Congleton, Cheshire for Louise Williams and Kathleen Ford (Pages 13 - 42)**

To consider the above application.

6. **14/3657C-Outline application for development of land to the west of Padgbury Lane, Congleton for up to 150 dwellings, community facilities and associated infrastructure (Resubmission of 13/4216C), Land West of Padgbury Lane, Congleton, Cheshire for Northern Property Company Limited (Pages 43 - 72)**

To consider the above application.

7. **13/4683W-Removal of Condition 11 (Hours of Operation) on Approved Application 7/2006/CCC/19 (Development for the winning and working of sand and peat), White Moss Quarry, Radway Green, Alsager for Land Recovery Ltd (Pages 73 - 82)**

To consider the above application.

8. **13/4685W-Removal of Condition 24 on Approved Application 7/2008/CCC/8 - Aggregate Recycling Operations, to allow flexibility for essential site maintenance of plant. To also allow plant maintenance 07.30 - 18.00 on Sundays, White Moss Quarry, Radway Green, Alsager for Land Recovery Limited (Pages 83 - 92)**

To consider the above application.

9. **14/5338C-Variation of condition 4 and removal of conditions 35 and 36 to planning application 13/2746C - Erection of up to 180 dwellings, public open space, green infrastructure and associated works, Land Between, Black Firs Lane, Chelford Lane, Holmes Chapel Road, Somerford, Congleton for Richborough Estates Partnership LLP (Pages 93 - 104)**

To consider the above application.

10. **14/4296N-Installation of a solar park with an output of approximately 8.28 MW on land associated with Hatherton Lodge Farm, Agricultural land at, Hatherton Lodge Farm, Hunsterson, Road, Hatherton, Nantwich for Mr Markus Wierenga, Green Switch Developments Ltd** (Pages 105 - 124)

To consider the above application.

11. **Land to the west of Goldfinch Close, Congleton** (Pages 125 - 130)

To consider the above report.

12. **Land adjacent to Heath End Farm, Hassall Road, Alsager** (Pages 131 - 136)

To consider the above report.

13. **Cheshire Fresh, Middlewich: Approval sought for delegation to Cheshire West and Chester Council** (Pages 137 - 142)

To consider the above report.

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 21st January, 2015 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

### **PRESENT**

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

Councillors D Brickhill, P Edwards, J Hammond, S Hogben (Substitute),  
D Hough, P Hoyland, B Murphy, D Newton, L Smetham, A Thwaite  
(Substitute), S Wilkinson and J Wray

### **OFFICERS IN ATTENDANCE**

Mr A Barnes (Planning Officer), Mr D Evans (Principal Planning Officer), Ms P  
Evans (Lawyer), Mr B Haywood (Major Applications-Team Leader), Mr D  
Malcolm (Principal Planning Manager), Mr N Jones (Principal Development  
Officer) and Mr N Turpin (Principal Planning Officer)

### **96 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mrs Rachel Bailey,  
D Brown and Mrs J Jackson.

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

In the interest of openness in respect of application 14/4172M, Councillor  
H Davenport declared that he was a Member of Disley Parish Council but  
had made no comments on the application.

In the interest of openness in respect of application 14/4010C, Councillor  
D Hough declared that he was a Member of Alsager Town Council but had  
made no comments on the application.

### **98 MINUTES OF THE PREVIOUS MEETING**

#### **RESOLVED**

That the minutes be approved as a correct record and signed by the  
Chairman subject to the inclusion of the following information relating to  
the informatives with regard to application 14/4212C:-

Informative:- Prior to first development the developer will enter into and  
sign a Section 38 agreement under the Highways Act with regard to the  
formal adoption of highways within the site.

Informative:- Prior to first development the developer will enter into and sign a Section 278 agreement under the Highways Act with regard to the construction of the new junction with the A534.

## 99 PUBLIC SPEAKING

### RESOLVED

That the public speaking procedure be noted.

## 100 14/4172M-RESIDENTIAL DEVELOPMENT FOR THE ERECTION OF 122 DWELLINGS, ACCESS AND ASSOCIATED WORKS (AMENDMENT TO PREVIOUSLY APPROVED APPLICATION 12/0165M), LAND OFF, (FORMER FIBRESTAR LTD), REDHOUSE LANE, DISLEY, CHESHIRE FOR MR NIALL MELLAN, PERSIMMON HOMES NORTH WEST

(During consideration of the application, Councillor B Murphy arrived to the meeting. He did not take part in the debate or vote on the application. During consideration of the application, Councillor P Edwards left the meeting and did not return).

Consideration was given to the above application.

(Parish Councillor David Kidd, representing Disley Parish Council, Angela Gallagher, an objector and Adele Snook, agent for the applicant attended the meeting and spoke in respect of the application).

### RESOLVED

That the application be delegated to the Principal Planning Manger in consultation with the Chairman, Vice Chairman and Parish Council for approval subject to conditions (including a condition, which considers options for the towpath, which will be discharged in consultation with the Chairman, Vice Chairman and Parish Council) and subject to the completion of a Section 106 Agreement securing the following:-

- To provide £300 000 (Indexed) for Highways Works before 50% of the development is provided.
- Payment to be made for undertaking traffic calming and traffic management measures.
- 25% Affordable Housing.
- A commuted sum would be required for offsite provision for use towards play, access, recreation and amenity facilities at Arnold Rhodes open space. The commuted sum total is £119 925.
- A commuted sum would be required for offsite provision for recreation and outdoor sports provision at Arnold Rhodes and Newtown Sports fields. The commuted sum total is £145 000.

- Arrangements for the open space to be maintained in perpetuity will need to be made by the developer, subject to a detailed management maintenance schedule to be agreed with the council.
- A contribution to the Canals and River Trust of £20 000 towards improvement of the canal towpath and associated infrastructure.

And subject to the following conditions:-

1. A01AP - Development in accord with plans
2. A02LS - Notwithstanding the submitted details -Submission of landscaping scheme
3. A02RM - To comply with outline permission
4. A04LS - Landscaping (implementation)
5. A10LS - Additional landscaping details including street furniture, public art and interpretation; vehicular/pedestrian barriers; surfacing material; and secure railway boundary fencing
6. A13HA - Construction of junction/highways
7. A22GR - Protection from noise during construction (hours of construction)
8. A23GR - Pile driving details to be submitted and approved by LPA
9. A01GR - Removal of permitted development rights
10. A15HA - Construction of highways - submission of details
11. A21HA - Submission of details of turning facility
12. A32HA - Submission of construction method statement
13. Further details required for play area scheme shall be submitted to and approved by LPA
14. Notwithstanding the submitted details - within 3 months an updated Landscape and Habitat Management Plan to include management of canal side vegetation to be submitted and approved by LPA
15. Development carried out in accordance with method statement for the protection of the SBI
16. Wheel washing facilities to be carried out in accordance with submitted details
17. Construction Management plan to be carried out in accordance with submitted details.
18. Scheme to minimise dust emissions to be carried out in accordance with submitted details
19. Compliance with individual travel plan
20. Development to be carried out in accordance with Arboricultural Impact Assessment
21. Development in accordance with Invasive Species Management Plan
22. Materials in accordance with submitted schedule
23. Compliance with details of phasing and timing of provision of POS and play area
24. trespass proof fencing
25. Surface water and foul drainage to be directed away from railway line

26. Earthworks and excavations to be carried out in accordance with submitted details
27. Detailed remediation strategy
28. Validation Report
29. Compliance with Noise Impact Assessment details
30. bin storage
31. Traffic Calming scheme to be submitted and approved
32. All parking to be provided prior to occupation of any part of the development
33. Compliance with access road with the Public Highway details
34. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources
35. Lighting
36. Phase II land contamination investigation to be submitted & any remediation work carried out as necessary
37. Prevention of contaminants from entering the watercourse
38. boundary treatment
39. Provision of Public Art shall be submitted
40. Compliance with water vole and bat survey mitigation as required
41. Provision of bat and bird boxes
42. 10 year management plan for the nature conservation area and canal side habitats
43. Sound proofing measures for facades facing the Manchester - Buxton railway line
44. In compliance with Air Quality Impact Assessment report

(The meeting adjourned for lunch from 1.00pm until 1.30pm).

101      **14/4010C-OUTLINE      APPLICATION      FOR      PROPOSED  
RESIDENTIAL DEVELOPMENT OF UP TO 60 DWELLINGS WITH  
ACCESS AND ALL OTHER MATTERS RESERVED, LAND TO THE  
EAST OF HASSALL ROAD, ALSAGER, CHESHIRE FOR GLADMAN  
DEVELOPMENTS LTD**

Consideration was given to the above application.

(Councillor R Fletcher, the Ward Councillor, Town Councillor Derek Longhurst, representing Alsager Town Council, Sue Helliwell, representing Friends of Heath End, Mr J Rowland, an objector and Sue Helliwell, an objector attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be refused for the following reasons:-

1. The proposed residential development is unsustainable because it is located within the Open Countryside partly on Grade 2 Agricultural Land, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local



Plan First Review 2005 and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance.

2. The proposed development would result in a harmful encroachment into the open countryside. The development would adversely impact upon the landscape character and does not respect or enhance the landscape when viewed from the local footpath network and the Salt Line Way. Therefore the proposed development is contrary to Policies GR1 and GR5 of the adopted Congleton Borough Local Plan First Review and guidance contained within the NPPF.

3. The traffic generated by this proposed development together with other committed developments in Alsager would have a severe impact upon the highway network in particular the junctions of Crewe Road/Sandbach Road and Hassall Road/Crewe Road. The proposed development would be contrary to Paragraph 32 of the NPPF and Policy GR9 of the Congleton Borough Local Plan First review 2005.

4. The proposed development when taken cumulatively with other committed developments in Alsager would exceed the spatial distribution of development for Alsager as identified within Policy PG6 (Spatial Distribution of Development) of the Local Plan Strategy Submission Version. This is supported by comments made by the Inspector at Paragraph 75 of the Inspectors Interim views on the legal compliance and soundness of the submitted Local Plan Strategy. As such the proposal would result in an unsustainable form of development.

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chairman (or in his absence the Vice Chairman) 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.

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

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

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

- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 2. Provision of Public Open Space and a LEAP (5 pieces of equipment) to be maintained by a private management company
- 3. Provision of a car-park (minimum of 14 spaces) to serve Borrow Pit Meadows to be maintained by Cheshire East Council
- 4. Primary School Education Contribution of £119,309
- 5. Highways Contribution of £46,154
- 6. PROW Contribution of £16,555

(This decision was contrary to the Officer's recommendation of approval. The meeting adjourned for a short break. Prior to consideration of the following application, Councillor B Murphy left the meeting and did not return).

102      **14/4220N-REMOVAL OF CONDITION 47 (RESTRICTION ON THE PROVISION OF UNITS) OF 12/0831N FOR OUTLINE PLANNING PERMISSION FOR THE ERECTION OF 165 DWELLINGS ON LAND TO THE NORTH AND SOUTH OF MAW GREEN ROAD, ACCESS PROPOSED VIA A NEW ROUNDABOUT OFF MAW GREEN ROAD, LAND SOUTH AND NORTH OF, MAW GREEN ROAD, CREWE FOR PAUL CAMPBELL, RICHBOROUGH ESTATES**

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 completion of a Section 106 Agreement securing the following:-

- 10% affordable housing (20 dwellings), on a tenure split of 75% intermediate tenure and 25% rented, (either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rents)
- Transfer of any rented affordable units to a Housing Association
- Affordable house scheme to be submitted at reserved matters
- Affordable homes to be let or sold to people who are in housing need and have a local connection. (The local connection criteria used in the agreement to match the Councils allocations policy.)
- Provision of play area / five-a-side pitch
- Provision of detailed specification for play area to incorporate :
  - o 8 pieces of play equipment should be provided.
  - o 5 a side pitch (600sqm)
  - o NEAP (2,620sqm)
  - o Durable retaining walls – concrete or brick
  - o porous wet pour safer surfacing.
  - o concrete steps to the bank
  - o the slide to be set in concrete

- o Two bins with one being provided on each level.
- o Metal bow top railings are required; pedestrian access gates in the same style but a contrasting colour to the railings.
- o Gate to be outward opening, with rubber caps on the clapping side and have a mechanical self-closing mechanism.
- o NEAP to provide seating; bicycle parking and appropriate signage.
- Provision for a management company to maintain the on-site amenity space / play area
- 10 year management plan for landscaping
- Education Contribution of £292, 850.
- Commuted sum of £1500 to barn owl group
- Highways Contributions:
  - o Maw Green Road Signage Scheme - £20,000
  - o Crewe Green Roundabout - £60,000
  - o Sydney Road bridge - £ 1,082,000
  - o Public Transport Contribution - £12,000

And subject to the following conditions:-

1. Reserved matters for each phase.
2. Reserved Matters in 18 months.
3. Drawing numbers.
4. No approval of the submitted indicative layout.
5. Nesting birds.
6. Details of bat and bird nest boxes.
7. Open space/nature conservation areas.
8. Ponds.
9. Updated wildlife mitigation/compensation proposals for that phase.
10. Updated protected species survey report for that phase.
11. contamination.
12. Removal of pd rights.
13. Flood Risk Assessment.
14. Surface water run-off.
15. Surface water drainage system.
16. Flood mitigation measures.
17. Overland flow.
18. Houses to face waterfronts and footpaths.
19. Green open spaces adjacent to any watercourses and ponds.
20. Sustainable Urban Drainage Scheme (SUDS).
21. Drained on a total separate system.
22. Only clean surface water soakaway.
23. Scheme to limit the surface water run-off.
24. Scheme to manage the risk of.
25. Hours of construction.
26. Piling.
27. Floor floating.
28. Floor floating operations.
29. External lighting.
30. Noise mitigation scheme.
31. Environmental Management Plan (EMP).

- 32 Archaeological mitigation.
- 33 Energy saving features.
- 34 Boundary treatment.
- 35 Materials.
- 36 Landscaping.
- 37 Planting, seeding or turfing.
- 38 Hedgerows.
- 39 Protection of trees, shrubs.
- 40 Services, storage of materials.
- 41 Provision for replacement hedge planting.
- 42 Bin storage.
- 43 Off-site highways works.
- 44 Reptile mitigation measures.
- 45 Remediation Strategy.
- 46 Importation and placement of material onto the Public Open Space
- 47 Construction Management Plan.
- 48 Bungalows to be located adjacent to the existing properties on Sydney Road.
- 49 (50th house), traffic lights shall be installed at the railway bridge.

103      **14/5675C-OUTLINE PLANNING PERMISSION FOR 70 DWELLINGS AND ASSOCIATED WORKS (RESUBMISSION OF 14/0134C), LAND TO THE SOUTH OF, HOLMES CHAPEL ROAD, CONGLETON FOR HOURIGAN CONNOLLY**

Consideration was given to the above application.

**RESOLVED**

That for the reasons set out in the report and in the written update to Board, the application be delegated to the Principal Planning Manager in consultation with the Chairman, Vice Chairman and Ward Councillor for approval subject to consultation comments being received by 23 January 2015 and subject to the completion of a Section 106 Agreement securing the following:-

- 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 1680m<sup>2</sup>sqm 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 payment in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton of £68,000.
- Highways contribution of £20,000 towards provision of a bus stop.

And subject to the following conditions:-

1. Standard Time limit
2. Standard Outline
3. Submission of Reserved Matters
4. Approved Plans
5. Submission, approval and implementation of details of existing and proposed ground levels
6. Submission, approval and implementation of details of materials
7. Submission, approval and implementation of scheme of surface water drainage
8. Submission, approval and implementation of scheme to manage overland flow
9. Submission, approval and implementation of scheme of foul water drainage
10. Submission, approval and implementation of Phase II contaminated land investigation
11. Submission, approval and implementation of Environmental (Construction) Management Plan
12. Submission, approval and implementation of Travel Plan
13. Submission, approval and implementation of electric vehicle infrastructure
14. Submission, approval and implementation of scheme of noise mitigation
15. Submission, approval and implementation of Noise Validation Test & Attenuation
16. Submission, approval and implementation of 8m buffers zone along waterbodies
17. Submission, approval and implementation of breeding bird survey prior to any works in nesting season, scheme for eradication of Himalyan Balsam.

18. Submission, approval and implementation of features for use by breeding birds
19. Reserved Matters to make provision for hedge replanting
20. Submission, approval and implementation of scheme of tree protection / arboricultural method statement
21. Submission, approval and implementation of open space scheme with first reserved matters
22. Submission, approval and implementation of maintenance plan for open space in perpetuity
23. Submission, approval and implementation of scheme of bin storage
24. Submission, approval and implementation of details of boundary treatment

Furthermore, amend Section 106 Heads of Terms included in previous resolution made on the 17th September 2014, in respect of application 14/0134C to reflect those listed above and resolve to enter into a Section 106 in respect of the Appeal scheme on this basis.

104      **14/2479C-VARIATION OF THREE PLANNING CONDITIONS 2, 16 AND 18 ON APPROVED APPLICATION 13/0402C TO ALLOW THE CURRENT APPROVED LOCATION OF THE MARINA ROAD ACCESS TO BE REMOVED AND RELOCATED FROM THE B5078 (CHELLS HILL) ONTO THE A533 (CAPPERS LANE), CHELLS HILL FARM, CHELLS HILL, CHURCH LAWTON FOR ED NIELD**

Consideration was given to the above application.

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

**RESOLVED**

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

1. Commencement of development – time frame as originally approved
2. Revised Plans
3. Materials -buildings and all hard surfaces
4. Tree survey
5. Notwithstanding the submitted landscaping details, prior to the commencement of development, full details of structural landscape planting/additional screen planting to be introduced on the site shall be submitted to and agreed in writing by the local planning authority
6. Full details of the works to deposit the excavated material on the site and finished site levels shall be submitted to and agreed in writing by the local planning authority.
7. Amended landscaping scheme including details of any boundary treatment inc replacement hedge/ all fencing to segregate marina from farmers field/ landscape management plans to be submitted

8. Implementation and maintenance of landscaping
9. Submission of 10 year habitat management plan
10. Detailed designs of new ponds
11. Provision of bat and bird boxes
12. Safeguarding breeding birds
13. Implementation of great crested newt mitigation, subject to Natural England licence.
14. Scheme to limit the surface water runoff generated by the proposed development, to be submitted to and approved
15. temporary protective metal fencing to be erected 5 metres from the Trent and Mersey Canal
16. Prior to first development the developer will provide a detailed highway access design from the revised access point on Betchton Lane, based on a topographical survey, which will show standard junction geometry and be tracked to demonstrate safe turning movements and to the satisfaction of the LPA.
17. Prior to first development the developer will provide an amended plan showing intervisible passing places along the internal access road to the marina to the satisfaction of the LPA.
18. Workshop/ maintenance /repairs of canal boats only
19. Archaeology
20. Narrow boats within dry dock to be stored at ground level only and not stacked
21. No moorings to be used as sole or main residence and the site operator shall maintain an up-to-date register of the names and addresses of all owners and occupiers, and shall make this record available to the local planning authority at all reasonable times, upon request
22. Scheme to allow pedestrian access across the Trent & Mersey Canal at Pierpoints Bottom Lock (Lock 56) to be submitted
23. Bin store details
24. Amended lighting scheme – inc Full details, including design, position and lux levels of all lighting
- 25 Submission of amended tree protection plan required to reflect amendments to spoil disposition. Implementation.
26. Updated badger survey

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

**105        14/1579N - LAND NORTH OF CHOLMONDLEY ROAD,  
WRENBURY FRITH-WITHDRAWAL OF REASON FOR REFUSAL**

Consideration was given to the above report.

**RESOLVED**

That for the reasons set out in the report the reason for refusal in respect of insufficient information in respect of flood risk (reason no 1 attached to decision 14/1579N) be withdrawn and the Principal Planning Manager be instructed not to contest the issue at the forthcoming Informal Hearing.

The meeting commenced at 10.30 am and concluded at 4.15 pm

Councillor H Davenport (Chairman)



Application No: 14/3649C

Location: Land West of Padgbury Lane, Congleton, Cheshire, CW12 4LR

Proposal: Outline application for development of land to the west of Padgbury Lane, Congleton for up to 120 dwellings, up to 180 sq. m of health related development (Use Class D1), community facilities and associated infrastructure - (Resubmission of application reference 13/4219C).

Applicant: Louise Williams and Kathleen Ford

Expiry Date: 19-Dec-2014

## SUMMARY

An identical application (13/4219C) is currently at appeal which is due to take place in April 2015. Since the identical application was determined on this site the Council has stated that it is unable to robustly demonstrate a five-year housing land supply and that, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing developments that can demonstrate that they meet the definition of sustainable development within the National Planning Policy Framework.

This application is assessed in the light of this material change in circumstances.

There is an environmental impact in the locality due to the loss of open countryside and agricultural land. However, due to the physical layout and characteristics of the landform around the site, particularly the residential characteristic on the other side of Padgbury Lane, the proposal will not have a significant impact on the landscape character of the area and will represent a rounding off of the settlement without resulting in an unacceptable visual intrusion into the open countryside.

The proposal would satisfy the economic and social sustainability roles by providing policy compliant levels of social housing and market housing adjoining an existing settlement where there is existing infrastructure, jobs and amenities to support those houses. Contributions to education and local health care are also recommended to be imposed which are considered to be in compliance with the Community Infrastructure Regulations. In addition it would also provide appropriate levels of public open space both for existing and future residents.

The environmental role is satisfied by the ecological mitigation which is considered to be accepted by the Councils ecologist. The proposed areas of open space within the site also satisfy the environmental role.

The boost to housing supply is an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release on the edge of the existing residential built form of Congleton.

Local concerns of residents are noted, particularly in respect of highway matters but, subject to the mitigation required by the Strategic Highways Manager being attained, when taken together with its sister application is considered to be acceptable. This application also contains sufficient information concerning speed surveys on Padgbury Lane to satisfactorily address the previous highways reason for refusal.

An appropriate quality of design can be secure at reserved matter stage as can any impacts on the visual amenity. Subject to conditions and S106 matters, the proposal is considered to be acceptable in terms of its impact upon visual amenity and neighbours, flood risk, drainage, trees and landscape and ecology, education, health related matters.

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 with all matters reserved except for access for up to 120 dwellings and a healthcare facility indicated close to the Padgbury Lane frontage (Class D1 comprising 2 consulting rooms and a pharmacy within 180 sq metre building) with a LEAP and open space. This is a re-submission of application 13/4219C, which is currently due to be heard by way of Public Inquiry in April 2015 with its sister appeal 13/4216C. The application has been submitted to overcome those previous reasons for refusal.

An Illustrative Parameters Plan has been submitted in support of the application showing two new accesses onto Padgbury Lane a Play Area set within Public Open Space, habitat areas and pedestrian and cycle links

The density is indicated at 33 dwellings per hectare in a mix of types of dwellings from 2-5 bedrooms. 30% affordable housing provision is proposed. The scheme as described allows for a mix of 2 and 2.5 storey properties (with a maximum ridge height of 10m).

**SITE DESCRIPTION**

The site comprises 5.45ha of gently undulating grassland in agricultural use.

The eastern boundary of the site extends to Padgbury Lane and the rear boundary of existing dwellings which front on to Padgbury Lane.

The southern/eastern boundary of the site comprises the Heath Farm Public house, a grade II listed building associated out buildings and four dwellings, one of which is the grade II listed. To the rear of the southern boundary lies the hedgerow and tree belt which forms the boundary with the application site 13/4216C.

Loach Brook forms the rear, south western boundary of the site, beyond which lies further agricultural fields. A public right of way (PROW) bisects the site. Congleton FP18 enters the site from Padgbury Lane between Brooklands House and Heath Farm Public House and runs

eastwards over Loach Brook bisecting into Newbold Astbury FP10 and FP40 south of Old Barn Farm.

A number of existing trees within the application site can be viewed as public amenity features from various vantage points along the footpaths.

## RELEVANT HISTORY

**13/4219C** - Outline Planning for the Development of Land to the West of Padgbury Lane, Congleton, for up to 120 dwellings, up to 180 sq. m of health related development (Use Class D1), community facilities and associated infrastructure was refused on 30 April 2014 for the following reasons -

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the 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 Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.*
- 3. Insufficient information concerning the provision of an appropriate visibility splay, cycleway and footways to the access on Padgbury Lane has been submitted to demonstrate that the scheme would provide for the safe operation of the public highway for all users contrary to Policies GR9 of the adopted Congleton Borough Local Plan First Review 2005*

This is subject to an appeal which will proceed by way of Public Inquiry in April 2015

## POLICIES

### Local Plan Policy

PS3	Settlement Hierarchy
PS6	Settlements in Open Countryside
PS8	Open Countryside

GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
GR23	Provision of Services and Facilities
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
H13	Affordable Housing and Low-cost Housing
RC1	Recreation and Community Facilities – General
RC4	Countryside Recreational Facilities

## **National Policy**

National Planning Policy Framework (NPPF)

### **Cheshire East Local Plan Strategy – Submission Version**

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  
SE1 - Design  
SE2 - Efficient Use of Land  
SE3 – Biodiversity and Geodiversity  
SE4 - The Landscape  
SE5 – Trees, Hedgerows and Woodland  
SE13 – Flood Risk and Water Management  
IN1 - Infrastructure  
IN2 – Developer Contributions

## **Other Material Planning Considerations**

- SPG2 - Provision of Private Amenity Space in New Residential Development
- The EC Habitats Directive 1992
- Conservation of Habitat & Species Regulations 2010

- Interim Affordable Housing Statement: Affordable Housing
- Cheshire East SHLAA

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

**Strategic Highways Manager** – No objection subject conditions and mitigation in the form of a financial contribution of £390,600 (based on 120 dwellings), the provision of £10,000 for the provision of one quality bus stop on Padgbury Lane to serve this development and provision of footway. A Travel Plan monitoring contribution of £5000 is also sought.

**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 a construction phase Environmental Management Plan, the prior submission of a Travel Plan, the inclusion of Electric Vehicle Infrastructure, the prior submission of a dust mitigation scheme and a contaminated land condition and informative and an hours of construction informative.

**United Utilities:** No objections, subject to a conditions concerning foul and surface water drainage and informative.

**Greenspace (Cheshire East Council):** No objection subject to the provision of on site amenity greenspace of 2880m<sup>2</sup> and a LEAP (minimum 5 pieces of equipment – comprising a minimum of 4,000m<sup>2</sup>) – all of which to be maintained by private management company in future

**Jodrell Bank:** No objection subject to the incorporation of features for the purposes of electro-magnetic shielding

**Natural England:** No objection. Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. With regard to protected species the Planning Authority should refer to Standing Advise

**Strategic Housing Manager:** No objection subject to the provision of 30% affordable housing with a full mix of units, not just 2 and 3 bed units

**Public Rights of Way:** The proposal has the potential to affect Public Footpath Congleton No. 18, as recorded on the Definitive Map of Public Rights of Way held at this office .If the development will permanently affect the right of way, then the developer must apply for a diversion of the route under the TCPA 90 as part of the planning application. 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).

**Education:** The development of 120 dwellings will generate 22 primary & 16 secondary school places. The Education Department is forecasting that there is sufficient capacity within the secondary school sector but that the primary schools within the catchment will be oversubscribed. Therefore 22 primary school places will require contribution of £75,491 based on current commitments.

**Sustrans** - make the following comments

Any specific internal site provision for walking/cycling should be useful for everyday journeys. Connections away from traffic for pedestrians/cyclists to adjacent developments should be included in the design

The most direct route to the town centre is via Padgbury Lane and Fox Hollow involving a crossing of the A34. Can this development make a contribution to improving this route? The Cheshire Cycleway follows Padgbury Lane where traffic levels will increase if planning permissions are granted. Contribution to traffic management measures on this lane.

The design of the estate should restrict vehicle speeds to less than 20 mph and there should be cycle parking for properties without garages.

**Environment Agency** – No objections, subject to a number of conditions including; minimum floor levels, a scheme to limit the surface water runoff; the prior submission of a surface water drainage scheme, contaminated land report and a. scheme for the provision and management of at least an 8 metre wide buffer zone alongside the watercourse

**NHS England:** No comments received on this application but on the previous application due to the unallocated nature of the proposals it was considered that there would be a minimum cost of additional health infrastructure solely for the application site requiring a minimum developer contribution towards such costs of £139,000.

#### **VIEWS OF THE PARISH COUNCIL:**

**Congleton Town Council:** Objection on grounds of loss of open countryside and contrary to Local Plan housing policy. Consider the infrastructure statements within the submission to be implausible and access and egress from Padgbury Lane to Newcastle Road to be difficult

#### **OTHER REPRESENTATIONS**

Circa 238 Letters/pro-forma of objection have been received raising the following points:

##### Principle of development

- Re-affirmation of all previous objections raised to application under appeal
- The site is outside the settlement boundary
- The site is not identified for development in the Congleton Town Strategy
- The proposed development would not result in sustainable development
- Loss of Greenfield land
- Impact upon the rural landscape
- Housing would not blend in with the existing residential environment
- There is a greater than 5 year housing land supply
- Allowing the development would conflict with the localism agenda
- The proposal is contrary to the Congleton Local Plan
- The proposal is contrary to the emerging Plan
- There is a lack of employment in the area
- The development of the site will jeopardise brownfield sites from being brought forward
- The proposal would harm the rural character of the site
- Loss of countryside
- Adverse impact on landscape character and appearance

- There are numerous properties for sale in area
- Priority should be given to brownfield sites
- The development would result in urban sprawl
- The proposal is contrary to the NPPF
- Car reliant site, distances from facilities impractical for walking/cycling and public transport is poor
- Cumulative impact

#### Highways

- Road infrastructure is already congested, morning rush can take 40 mins to get to Congleton
- Padgbury Lane is a rat run
- Increased traffic congestion
- Impact upon highway safety
- Previous applications have been refused on highway grounds
- Future residents would be dependent on the car
- Pedestrian safety
- Poor public transport service to site
- Buses get stuck in the congestion already proposal will worsen

#### Green Issues

- Loss of green land
- Southern part of the site abuts the green belt
- The tree report is not adequate
- Increased flood risk
- Increased water run-off
- Increased flooding
- Impact upon wildlife
- Impact upon protected species
- Impact upon local ecology
- The FRA is inadequate
- Loss of trees
- Loss of agricultural land (grade 2 and 3a)
- Impact upon Great Crested Newts, badgers bats and other protected species
- Loss of Hedgerows/ trees as an ecological issue
- Access will require removal of trees to Padgbury Lane which are part of the defining character of the street
- Flooding into Loachbrook together with the cumulative impact of Loachbrook Farm development and subsequent adverse impact upon River Dane SSSI which Loachbrook links into

#### Infrastructure

- Increased pressure on local schools
- Padgbury Lane is a safe walking to school zone, but only has pavement to one side. Road safety for school children from site needing to cross busy road
- The local schools are full
- Doctors are full
- The recreational spaces are at capacity
- The sewage system is overstretched

- There is little in terms of leisure facilities
- Adverse impact upon local drainage infrastructure

#### Amenity Issues

- Impact upon air quality
- Cumulative impact upon air quality with other developments
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Increased light pollution
- The site is very close to a working silica sand quarry and sand drying plant but this is not mentioned in the air quality survey and there is no assessment of fugitive dust pollution on the fields from this source
- The air quality report concerning traffic pollution is inadequate
- The effects of the approved development on Loachbrook Farm are not included in the predicted pollution levels submitted

#### Other issues

- Insufficient information into geology in the area
- Lack of consultation
- Weight of opposition against the proposal is a material consideration
- Adverse impact upon the village of Astbury by virtue of proximity
- Preservation of distance is important to the regional economy
- Impact upon archaeology – finds on site suggest that site should be left

An objection has been received from West Heath Action Group which raises many of the same issues as outlined above and considers the proposal to be premature, and economically, environmentally and socially unsustainable. They have also submitted a further objection in the form of a separate ecology report. The full content of the objections are available to view on the Councils Website.

#### **SUPPORTING INFORMATION:**

Environmental Impact Assessment and individual reports covering the following:

- Transport Assessment including updated information
- Planning Statement
- Statement of Community Involvement
- Landscape and Visual Assessment
- Land Contamination Assessment
- Flood Risk Assessment
- Ecological Appraisal - including updated information
- Desk based Archaeological Assessment
- Design and Access Statement
- Arboriculture Assessment
- Air Quality Assessment- including updated information
- Agricultural land Assessment
- Archaeological Assessment
- Acoustic Report
- Socio-Economic Report



- Utilities Report
- S106 Heads of Terms

## **APPRAISAL**

### **Principle of Development**

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

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

The issue in question is whether the development represents sustainable development in terms of the NPPF definition of sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection to the loss of open countryside.

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.

## **SOCIAL SUSTAINABILITY**

### **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, the Council is unable to robustly demonstrate a five year supply of housing land. Accordingly recommendations on planning applications will now reflect this position. This is a material change in the circumstance of this application since it was previously determined

### **Affordable Housing**

Planning policy requires that of 30% of the total dwellings as affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate. This is the preferred tenure split identified in the SHMA 2010 and highlighted in the Interim Planning Statement on Affordable Housing (IPS). This equates to a requirement for 36 affordable dwellings on this site, with 23 provided as social or affordable rent and 13 provided as intermediate tenure.

The application confirms that 30% affordable housing will be provided on this site. As this is an outline application the information about the affordable housing offer by the applicant is limited, if the application was approved details in an affordable housing scheme (including type of intermediate tenure to be provided) to be submitted at reserved matters stage and the scheme to meet the affordable housing requirements detailed above. The Affordable Housing Statement highlights that the affordable housing will be provided as a mix of 2 and 3 bed houses, however the Strategic Housing Manager would like to see a broader range of types of and sizes of affordable housing discussed at reserved matters stage. The scheme should also provide 30%

of the total dwellings as affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate.

### **Public Open Space and Children's Play Space**

This proposal would result in a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new on site Amenity Greenspace to meet the future needs arising from the development. The Public Open space indicatively provided in the Masterplan is not quantified. In accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements the amount of New Amenity Greenspace required based on the 120 units would be 2880m<sup>2</sup>. It is noted that the proposed children's play area in the form of a LEAP is sited in 0.4Ha (4,000m<sup>2</sup>) which would need to be a formally maintained to qualify as Amenity Greenspace.

The area with public open space is located on a low point of the site, in an area which retains an existing pond for attenuation purposes. The Council's policy is not to accept transfer of areas of POS that have water bodies located in, around or running through them. Therefore it is recommended these areas of POS be transferred to a management company.

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

Accordingly, there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. The submission includes an equipped children's play area in the form of a LEAP. This should include at least 5 items of equipment, using play companies approved by the Council. The final layout and choice of play equipment should be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site. As with the Amenity Greenspace it is recommended that future maintenance and management of the play area be transferred to a management company

### **Infrastructure**

Health Related Development – on site

A 180 sq m medical facility is indicated as providing 2 doctors consulting rooms and pharmacy. The size, location and configuration of new health infrastructure will be determined by the National Health Service England (NHSE) taking into account national strategic agendas, NHS guidance and regulations relating to the provision of primary and community care facilities and local strategic priorities. Delivery will be subject the availability of funding and developer contributions. The provision of pharmacy facilities is governed by the pharmaceutical regulations applicable at the time.

The proposal is not supported by NHSE for the following further reasons:

- health services must be maintained at key locations where patients access a range of health services and are integral to the strategic health infrastructure planning;

- health services and health infrastructure strategies involve working in partnership with key stakeholders to deliver integrated care, not piecemeal unplanned development;
- Pharmaceutical Regulations apply to the approval of locations of pharmacy premises;
- developer contributions will be required to support appropriate health infrastructure for
- the provision of health services to residents of those developments. Any sites allocated by developers must, if they are required by NHSE, be of appropriate capacity to deliver determined health infrastructure within the emerging strategic health delivery plan for the locality.
- developer allocated £0.22m is an insufficient sum to provide 180 sq m to NHS standards.

On this basis, the health related development indicatively provided within this layout is unnecessary and unlikely to be fit for purpose of delivery of the NHS's Health Delivery Plan. This however, could be a private medical facility not utilised by National Health Service patients. There is no information contained within the application which comments upon the rational behind this facility and no evidence that the Applicant has sought the views of NHSE before the submission of the application.

#### Health Impact of the Development

Policy GR19 of the Local Plan advises that the Local Planning Authority may impose conditions and/or seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It is advised that such provision may include on site facilities, off site facilities or the payment of a commuted sum.

Policy IN1 of the emerging Cheshire East Local Plan Strategy – Submission Version, advises that the Local Planning Authority should work in a co-ordinated manner to secure funding and delivery of physical, social, community, environmental and any other infrastructure required to support development and regeneration.

NHS England advises that existing health infrastructure in Congleton is already operating above capacity and cannot absorb the planned developments in the Emerging Strategy. This site, together with its sister site, are not one of the planned sites. The NHS requires a commuted sum of £139,000 to mitigate for this development. The on site medical provision would be in addition to this requirement.

A recent appeal in Audlem was allowed without any contributions to health on the grounds that there was no evidence from the NHS to support the contribution. The applicants have also questioned the need for such contributions on this application following the recent Inquiry at Holmes Chapel Road, Congleton where the need for such contributions was again challenged. The Council contends that this is different to Audlem because NHS England maintains that there is scope for additional provision within the Congleton area and as such the contributions are justified. Given the pertinent issues it is considered that the payment should be made to offset the need and is CIL compliant but should the Inspector at the Holmes Chapel Road appeal conclude that it is not, then the Council would not seek to pursue the contribution.

#### Education

The development of 120 dwellings will generate 22 primary & 16 secondary school places. The Education Department is forecasting that there is sufficient capacity within the secondary school

sector but that the primary schools within the catchment will be oversubscribed. Therefore 22 primary school places will require contribution of £75,491 based on current commitments

Subject to commuted sums calculated to address this impact, the proposal is considered to be acceptable.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Open Countryside Policy**

In the absence of a demonstrable 5 year housing land supply the Council 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.

The NPPF clearly states at paragraph 49 that:

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

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

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

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

The proposal is an area where the settlement boundary is currently being “flexed” in order to accommodate additional housing growth (the development of Loachbrook Farm refers), and it is immediately adjacent to existing residential development on the edge of Congleton. As such it is considered that whilst 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 within the context of Paragraphs 14/49 of the NPPF.

As the Council cannot demonstrate a 5 year housing land and the NPPF carries a presumption in favour of sustainable development. It is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

### **Agricultural Land**

A survey has been provided to by the applicant who indicates that 4.5 ha of the site is Grade 2 (82%) and the remainder is Grade 4 land quality. Clearly, the site comprises majority Best and Most Versatile (BMV) agricultural land. The loss of such land is contrary to policy and would be seen as a negative of the development – albeit to be weighed in the planning balance.

### **Landscape Impact**

The Councils Landscape Architect has considered the detail of the submitted Landscape and Visual Character Assessment and concurs with the views of the applicant with regard to the sensitivity of views in the landscape of this site.

The proposed development site is in agricultural use and is currently mown grassland. Housing development would obviously change the character of the site itself but would not have any significant impacts on the character of the wider landscape or have any significant visual impacts.

There would be some views of the proposed housing development from Padgbury Lane, the adjacent residential properties and the A534 Sandbach Road. Views from public footpath (Congleton FP 18) which crosses the site would obviously change significantly but the Parameters Plan indicates that that this path would be retained within a green corridor. The most sensitive receptors would be the users of the Dane Valley Way long distance footpath and bridleway which runs parallel to Loach Brook approximately 400 metres to the west. The residential developments on the edge of Congleton are already visible from this path and although the proposed development would bring the urban edge closer, it would not significantly impair the views experienced from this route. Trees along the banks of the brook and other intervening hedges and trees would partially screen or filter views of the development. The parameters plan includes additional tree planting along the brook which would increase screening in the longer term.

An open space area including tree planting, wetland habitats, ponds / SUDS and a footpath/cycleway would be formed along the edge of Loach Brook. The width of this open space area should not be restricted to the immediate (currently fenced off) valley area. The optimum width of the area and the location of the proposed footpath/cycleway could be resolved as part of a reserved matters application. The proposed cycleway should connect to the southern development area and to Padgbury lane to improve connectivity.

As the landscaping of the site is a reserved matter, full details would have to be provided as part of a future proposal. If the outline application is approved a number of conditions including a landscape management plan via an s106 agreement in order to secure appropriate on-going management and public access in perpetuity could be attached to protect/enhance the landscape on this site. On this basis, the Landscape Architect does not consider that an objection on landscape or rural character impact grounds can be substantiated.

### **Trees and Hedgerows**

The supporting arboricultural information is the same information as submitted with the previous application as are the proposed tree losses (four unprotected trees - an Ash, Oak and 2 Sycamore) for the proposed access of Padgbury Lane. Such losses are considered to present only a slight adverse impact upon visual amenity and that given there is adequate scope for compensatory planting within the site, there are no objections to the position of the proposed access as indicated

The Congleton Borough Council (Congleton – Padgbury Lane) Tree Preservation Order 1976 protects individual, groups and areas of trees located offsite around the Heath Farm Public House to the south east corner of the application site.

A public right of way (PROW) bisects the site. Congleton FP18 enters the site from Padgbury Lane

between Brooklands House and Heath Farm Public House and runs eastwards over Loach Brook bisecting into Newbold Astbury FP10 and FP40 south of Old Barn Farm. A number of existing trees within the application site can be viewed as public amenity features from various vantage points along the footpaths.

The application is supported by an appropriate Arboricultural Impact Assessment.

Eleven individual trees, eleven groups and two hedgerows have been identified by the assessment. Four individual trees and four groups have been identified as High (A) category trees, of which one group (G1 of the survey) located offsite within Heath Farm Public House is protected by the TPO. Five individual trees and six groups have been identified as Moderate category trees and are not TPO'd. The remaining trees have been categorised as Low (C) category.

The majority of high and moderate category trees are shown for retention outside the residential development envelope identified on the Parameters Plan either within public open space, proposed LEAP or propose areas of landscaping.

A High (A) category Oak located within the centre of the site and shown for retention within the proposed residential area as shown on the Parameters Plan. The tree is not protected by the existing TPO, but is a significant visual amenity feature when viewed from the PROW. Its successful retention within the residential envelope will require addressing to avoid potential conflict with Root Protection Areas (RPAs) and the relationship/ social proximity of residential properties and subsequent future pressure for removal in accordance with the approach set out in BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

The proposed access to the site off Padgbury Lane will require the potential loss of four unprotected early mature individual trees (An B category Ash, A category Oak and 2 Sycamore, one a B and one a C category tree). The option of retaining the Oak within the car park of the proposed medical facility as suggested is unlikely to be a realistic proposition, given the site constraints. However, given that National Health Service England do not support the provision of on site medical facilities on this site, it is recommended that the medical facility be omitted as part of any reserved matters.

From an arboricultural perspective the loss of these four trees would only present a slightly adverse impact upon visual amenity in the immediate area. Their wider contribution is not considered to be significant and could be adequately compensated by replacement planting. In this regard therefore there is no objections to the position of the site access.

Para 4.5 of the submitted Design and Access Statement refers to the provision of open space and the retention of existing trees within. It is noted that the group of visually prominent protected mature Pine located offsite within the Public House and outstanding group of Beech located offsite within Brooklands House are retained adjacent to the proposed LEAP and will not therefore be subject to development pressures. As previously stated, the retention of existing trees both within the residential envelope and public open space provision must be subject to the design requirements of BS5837:2012. In this regard I can see no reason why this cannot be achieved subject to be a suitable layout being agreed in accordance with that standard.

Should the outline application be approved, an Arboricultural Implication Assessment and Tree Protection Plan will be required as part of any future reserved matters submission once a

definitive site layout is known.

### **Amenity**

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties in terms of loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking. Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

Having regard to this proposal, the residential amenity space minimum standard stated within SPG2 is 65 square metres. The space provided for all of the proposed new dwellings on the indicative layout plan would adhere to this standard.

In terms of the separation distances, no definitive details regarding the position of openings are detailed as this application seeks outline permission only.

However, the dwellings will need to conform to the separation standards listed in Supplementary Planning Note2: Provision of Private Open Space in New Residential Developments. These standards include a 21.3 metre gap between main windows of directly facing dwellings across both the front and rear gardens and a 13.8 metre gap between the main windows of dwellings directly facing the flank walls of an adjacent dwelling. It is considered that these standards can be achieved within and outside this site.

The Council's Environmental Health team have advised that they have no objections to the proposed development subject to the provision of a number of conditions and informatives. These suggested conditions include; hours of piling, the prior submission of a piling method statement, the prior submission of a construction phase environmental management plan, hours of construction and a contaminated land condition and informative.

As such, subject to the above conditions, it is considered that the proposed development would adhere with Policy GR6 of the Local Plan.

### **Air Quality**

The proposed development is considered significant in that it is highly likely to change traffic patterns and congestion in the area. An Impact Assessment has been submitted with the application to assess whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to local traffic flows. This also takes account of the recent Loachbrook Farm development.

The report predicts that there will be negligible increases in PM<sub>10</sub> concentrations at all receptors modelled. The impacts of NO<sub>2</sub> at existing receptors highlighted that there will be increased exposure at all receptors modelled. A number of receptors are within the AQMA and it is considered that it is appropriate therefore that mitigation should be suggested from the developers in the form of direct measures to reduce the impact of traffic associated with the development and its impact upon the AQMA and within Congleton.

Mitigation to reduce the impact of the traffic pollution can range from hard measures to softer measures such as the provision of infrastructure designed to support low carbon (and polluting)



vehicles. Conditions in respect of a robust travel plan for all properties and electric charging points infrastructure are therefore requested on any approval. Dust Mitigation conditions are also needed during construction.

### **Ecology**

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

The Directive is then implemented in England and Wales: The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

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

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

In this case the Council's Ecologist has examined the application and made the following comments.

#### *Bats*

Bats have been recorded as being active on this site. The level of bat activity is as would be expected for a site of this size and nature. The Ecologist's expert opinion is that the proposed development is unlikely to have a significant impact upon foraging or commuting bats. It also appears that all trees identified as having significant potential to support roosting bats would be retained under the submitted illustrative layout.

#### *Great Crested Newts*

A small population of great crested newts has been recorded within a pond on land adjacent to this proposed development. In the absence of the mitigation the proposed development would pose the risk of killing or injuring any animals present on site during the construction phase and also result in the loss of a significant area of terrestrial habitat which for the most part is of relatively low value for amphibians. Higher quality amphibian habitat is shown as retained on the illustrative layout.

The applicant has submitted a great crested newt mitigation strategy to address the potential impacts of the proposed development. The ecologist is of the view that if planning consent is granted the submitted great crested newt mitigation strategy would be acceptable to mitigate/compensate for the adverse impacts of the development upon this species and is likely to maintain the favourable conservation status of the local great crested newt population

#### *Grassland Habitats*

The majority of this site is occupied by arable fields of limited nature conservation value. The grassland habitats located adjacent to the brook are however of significant ecological value. These habitats are retained for the most on the illustrative master plan. However, ponds, a footpath/cycle and some trees/buffer planting are proposed in this area. The addition of these features would put pressure on the retained grassland habitats and it is advised that this part of the site would need to be treated sensitively at the detailed design stage to ensure the ecological value of these habitats would be retained. If outline planning permission is granted a condition should be attached requiring the submission of a management plan for the enhancement of the retained areas of grassland habitats.

#### *Reptiles*

Slow worm, a protected species and local Biodiversity Action Plan priority species has been recorded on land immediately adjacent to the south of this application site. It is advised that it is likely that this species also occurs on the site subject to this application. The majority of habitat suitable for this species will be retained as part of the proposed development and an acceptable mitigation strategy has been submitted in support of the application. The successful implementation of the mitigation strategy would however be dependent upon the careful design of the retained area of habitat/open space at the detailed design stage.

#### *Common Toad*

Common Toad a UK BAP priority species was recorded on this site. It is advised that the mitigation strategy submitted in respect of great crested newts would also be adequate to mitigate the potential impacts of the proposed development upon this species.

#### *Badgers*

A number of badger setts have been recorded within the site. The location of the setts means that it is feasible for the setts to be retained within the open space areas associated with the development. The submitted badger survey report recommends the timing of works in the vicinity of the setts to reduce the risk of disturbance and the marking off of exclusion fencing around the setts during the construction phase. The incorporation of fruit trees into the landscaping scheme for the site is also proposed to provide an additional seasonal food source for badgers. The submitted badger mitigation is acceptable to mitigate/compensate for the adverse impacts of the proposed development upon this species.

#### *Breeding Birds*

The application site is likely to support a number of breeding bird species, possible including two more widespread Biodiversity Action Plan priority species which are a material consideration for planning. Potential impacts on the two priority species recorded would be at least partially mitigated for through the implementation of a robust habitat creation scheme for the site. If planning consent is granted it is recommended that conditions be attached to safeguard breeding birds and to update the protected species information and mitigation strategy to take into account detailed design changes.

#### *Hedgerows*

Hedgerows are a Biodiversity Action Plan Priority habitat and hence a material consideration. Based upon the submitted indicative layout it appears feasible that some of the existing hedgerows on site can be retained as part of the development. There are however likely to be losses of hedgerows from the interior of the site. It is advised that any losses of hedgerow must be compensated for through additional hedgerow planting as part of any detailed landscaping scheme produced for the site. Based on the submitted illustrative master plan it appears feasible that this could be achieved.

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

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

In this case the submitted great crested newt mitigation and bat mitigation would be acceptable and is likely to maintain the favourable conservation status of the local great crested newt population.

As such, subject to the above conditions, it is considered that the development would adhere with Policy NR2 of the Local Plan and Policy SE.3 of the emerging Cheshire East Local Plan Strategy – Submission Version, which seeks to replace Policy NR2.

#### **Urban Design**

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

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

The site is a rural edge to Congleton and there is a necessity to create a townscape/landscape transition between urban and rural. The character of the housing to the East of Padgbury Lane should not be seen as a precedent in either layout or built character terms. It is of its time, before urban design became formally recognised as a positive influence on housing and place design

and has to be acknowledged as not being a positive townscape legacy for the town, effectively creating a very 'blunt' and uncharacterful edge alongside Padgbury Lane.

There are also established landscape features that are extremely important to the character of the site, not least the strong tree and hedge lined frontage to Padgbury Lane and the fringe landscape along the west of the site, that in proximity to the listed building and dividing the two sites. Whilst peripheral hedging is indicated for retention some hedging subdividing the sites is being lost.

The application is for 'up to 120' units at an average net density of 33 per hectare with a mix of dwelling types of 2-5 bedroom units, which are indicated as being mainly 2 storey but with focal point buildings within the street scene that are 2.5 storeys (up to a max of 10m high) In this case there are no testing layout submitted in support of this application and a sizeable area of the site which is indicated as being part of the residential layout is also indicated within the ecological appraisal as being mitigation grassland. This raises the potential that the numbers of units that this site could achieve, whilst also being in keeping with the prevailing residential density in the locality.

- **Street design and movement** – This is a simple hierarchy with a main street and then lanes feeding off that. This is a little too simplistic and that in reality a third street type will also be necessary. Shared surfaces are also discussed and this is positive, as are the use of varying street widths, frequency of street connections, buildings narrowing streets, pinch points etc. to create slower vehicle movements. There is no street connection between the 2 sites, especially as this was the approach early in the design process that was consulted upon with the community. It is assumed that this is as a consequence of highway liaison. If vehicular connection is not achievable then strong pedestrian movement needs to be secured.
- **Height of buildings** – it is noted that the parameters include buildings up to 2.5 storey (10m) but that these carefully considered and that they will be used occasionally for place making purposes at key focal points. It is important that the surrounding development does not compete for dominance with the adjacent listed building and that 2.5 storey is used infrequently. There is a danger that if this is not controlled, any permitted scheme could be out of context with its countryside edge location and the prevailing scale within the area;

Given that this is an outline application it is suggested that a design coding condition should be attached requiring the design detail to be developed in conjunction with the Reserved Matters stage (i.e. not relying on the Reserved Matters alone) should permission be granted. The Urban Designer does not object to the use of 2.5 storeys as a design mechanism within a layout as a mechanism for place shaping, however, this should be the exception rather than the rule.

### **Setting of the listed buildings**

The setting of the listed buildings is an important consideration. Their origins are as an isolated, relatively substantial, country property that was either a farm or a home for someone of reasonable means situated some distance away from the town. The proposed development has the potential to adversely impact upon the asset's setting, notwithstanding that land to the rear of the listed buildings has been developed upon in more recent times.

A Heritage Assessment of the proposals implications for the adjacent listed buildings has been provided. It is recognised that areas of green space are provided to the north and south of the listed building, accommodating the existing trees, this may not sufficiently mitigate the impact of the proposed development upon the building's more immediate setting, particularly as national guidance advises local authorities not to consider setting too narrowly. This would need to be carefully considered within reserved matters.

Overall, it is considered that an acceptable design/layout that would comply with Policies GR 1,2 and 3 of the Local Plan, Policies SE1 and SD2 of the emerging Cheshire East Local Plan Strategy – Submission Version and the NPPF could be achieved at the reserved matters stage.

### **Flood Risk and Drainage**

The Councils Flood Risk Manager has previously advised that as a Lead Local Flood Authority would recognise that this development site has significant implications for an important statutory Main River (Loach Brook) situated in immediate proximity to the site.

The Flood Risk Manager is aware of existing local off site flooding problems associated with non main river (ordinary) watercourse tributary systems of Loach Brook, surface water runoff and/or potential ground water flooding in the locality and is currently investigating and considering options on how these risks can be addressed. In view of the significant flood attenuation measures identified in the Opus International Consultants (UK) Ltd report (Reference JD-D1112-R01 dated September 2013) the authority would require details of how the large volumes of water (4,215m<sup>3</sup>) can effectively be managed on the site and in ground conditions with potential for elevated ground water levels, clearly demonstrating no adverse impacts off site. It is recommended that detailed site investigation be carried out to identify the extent of any local ground water/water table fluctuations which may have significant implications for the design of onsite storage systems.

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

### **Access to Facilities**

Accessibility is a key factor of sustainability that can be physically measured. One methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the locational sustainability of different development site options.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and

issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

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

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

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

- post box – site entrance on Padgbury Lane
- amenity open space (on site)
- public park / village green (1320m) - Quinta Park
- public open space - on site
- public house ( adjoining site)
- primary school (480m) (Quinta School Ullswater Road, CW12 4LX)
- child care facility (480m) (Somerford Kindergarten, Quinta School Grounds, Ullswater Road, CW12 4LX)
- bank / cash point (1150m), Martin McColl West Heath Shopping Centre
- bus stop (Hail and Ride Padgbury Lane)
- a local shop selling food or fresh groceries (360m), Londis Texaco Filling Station

A failure to meet minimum standard (with a significant failure being greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m) exists in respect of the following:

- post office (1150m), Martin McColl West Heath Shopping Centre
- leisure facilities (3300m), Congleton Library
- Medical centre. Readesmoor Group Practice, West Street, CW12 1JN. (2900m)
- Pharmacy (1150m) – West Heath Shopping Centre
- Railway Station (4700m) (Park Lane Station)
- local meeting place / community centre - 2240m (Danesford Community Centre, West Road, CW12 4EY.

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However as stated previously, these are guidelines and are not part of the development plan.

Owing to its position on the edge of Congleton, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Nevertheless this is not untypical for suburban dwellings and will be the same distances for the residential development in the vicinity of the application site. However, the majority of the services and amenities listed are accommodated within Congleton and are accessible to the proposed development on foot or via a short bus journey. Accordingly, it is considered that this is a locationally sustainable site.

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

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

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

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

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

The Strategic Highways Manager (SHM) had been critical of the information submitted in support of the previous application, now at appeal. The SHM considered that insufficient information had been obtained in the form of speed surveys on Padgbury Lane and, in the light of this information, Members resolved to refuse the previous application on grounds of insufficient information.

This application is supported by an updated Transport Assessment. The Speed survey information submitted in support of this application were recorded at 37mph (85%), which confirms that the use of Manual for Streets geometry is appropriate. The visibility provided by the site entrance falls within the standards set by this criteria; looking to the south this is in excess of 120m, to the north 52m. The SHM is satisfied that the site entrance now obtains adequate and safe visibility. This is a significant change from the previous application.

The SHM has also done further work on the modelling of the off site highways works that this proposal, together with its sister application would create and has revised his comments from the previous application. By introducing the traffic generation figures from these proposed developments as a cumulative total – and by adjusting the distribution pattern to a more realistic level the highway authority can demonstrate that the developments would have a severe impact on a number of identified junctions along the A34 corridor without mitigation.

Junction improvements are proposed at Rode Hill Junction, West Street Roundabout, Barn Road roundabout and the Waggon and Horses Roundabout along with the links between the junctions. This scheme is set out in the Council's Infrastructure Plan.

The greatest impact from the development would be at the Waggon and Horses roundabout, due to that junction's proximity of the site, and it is therefore considered appropriate that the developer should contribute the full cost of a minor improvement identified at this location, however the scope of works will need to extend to the improvement of the whole corridor so as to avoid just transferring delay from one junction to another.

The total estimate for the A34 corridor improvement scheme has been estimated at £8,040,000. As a proportion of those costs this scale of development should contribute £390,600. This is less than previously calculated based upon the further modelling work undertaken by the SHM.

The SHM considers that the evidence that he has used to model the impact of this development (with its sister application) clearly supports the view that the improvement of the identified junctions is CIL compliant as the improvements will mitigate for the identified development traffic impact and on a proportionate basis given the whole corridor impact. There is therefore confidence in this level of mitigation, which has been further refined since the last application.

The applicant has now confirmed that they wish to take a pragmatic view and for the purposes of this application agree to accept the off-site highway contributions as indicated above and on the sister application.

## **ECONOMIC SUSTAINABILITY**

The Framework includes a strong presumption in favour of economic growth. Paragraph 19 states that:

'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'

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.

## **Comments on Objections**

Local residents and the West Heath Action Group raise various issues in respect of the application. Individual concerns over the principle of the development, infrastructure, air quality, ecological impact and amenity issues are addressed above. There are particular concerns identified over highway and traffic impacts in the locality and the accessibility of the site. These have been the subject of much discussion between the applicants and highway colleagues in terms of the mitigation needed to overcome the harm caused by the development. As indicated above the applicants have agreed to pay the required sum which will provide a contribution to the A34 corridor improvements or a contribution to the Congleton Link Road which would achieve the same benefit.



## **Levy (CIL) Regulations**

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

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

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

It is considered that a strategic transport contribution of £390,600 would adequately mitigate the impact of this development on the Strategic Highways network and is justified on this basis.

As explained within the main report, the amount of traffic added to the local network will add cumulatively to junctions and areas that are already congested and operating at capacity and the required mitigation is directly related to the development and is fair and reasonable. The contribution to quality bus service will be to cater for the additional residents in the area who will have an impact upon public transport. The contribution for the monitoring of the travel plan is fair and reasonable.

Similarly, at this time it is considered that a contribution to health provision is required and meets the appropriate tests. However, as indicated if the Inspector at the Holmes Chapel Road, Congleton does not agree with the assessment then the contribution will not be pursued by the Council.

On this basis, the S106 requirements are compliant with the CIL Regulations 2010.

## **PLANNING BALANCE AND CONCLUSIONS**

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.

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 outweigh the negative in order to reach an eventual judgment on the sustainability of the development proposal.

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. Social benefits would accrue via the patronage of local schools and the provision of affordable housing.

Whilst the proposal will result in the loss of some grade 2 agricultural land, this is considered to carry neutral weight in the locality when the Council is unable to demonstrate a 5 year deliverable housing supply, who have opined that the benefits of the delivering agricultural sites for housing would outweigh this loss, particularly given the weight attached to the loss of agricultural land by the Loachbrook Farm Inspector. Many sites identified within the SHLAA would also result in the loss of the better grades of agricultural land and open countryside.

In a negative sense, the housing will be built on open countryside contrary to the provisions of Policy PS8 of the Local Plan. However, the proposal will not have a significant impact on the landscape character of the area given the impact upon the area of the existing housing development will to some extent be screened by the existing topography of the site and the rather than a large scale intrusion into the open countryside, this remains an important adverse impact to which neutral weight is attached given the topography of the site and adjoining land and the housing land supply position.

The boost to housing supply is considered to be an very important benefit – and this application achieves this in the context of a non strategic land release on the opposite side of Padgbury Lane to an existing residential housing estate.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide adequate public open space, the necessary affordable housing requirements. The applicant has now accepted the commuted sum requirements for highways mitigation.

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

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan Countryside policy and the loss of agricultural land are outweighed by the benefits of the proposal in terms of residential provision and the provision of 30% of the units as affordable housing. Given the scale and location of the development, its relationship to the urban area and its proximity to other services, it is not considered that these adverse impacts *significantly and demonstrably* outweigh the benefits – and so accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

## **RECOMMENDATION**

**Approve subject to a S106 Agreement comprising the following**

- **Affordable housing:**
  - **30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)**
  - **A mix of 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.
- Contribution of £75,491 towards primary education. This contribution will be required to be paid on 1<sup>st</sup> occupation of the site
  - Provision of minimum of 4320 sqm 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 of £10,000 towards the delivery of quality bus stop infrastructure
  - Provision of £5,000 over five years annual monitoring (£1000 per annum) of the Travel Plan and its annual statements
  - Commuted Sum of £390,600 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
  - Commuted Sum payment of £139,000 in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton (subject to acceptance of Inspector at Holmes Chapel Road Appeal)

And the following conditions

- 1 Standard Outline
2. Submission of reserved matters – all except access
3. Plans
4. Development to be in accordance with Parameters Plan (with exception of need to amend in accordance with condition 26)
5. Submission of design and construction plans for the internal road infrastructure of the development. The plans will inform the Section 38 agreement for formal adoption
- 6 Scheme to be submitted and approved demonstrating that finished floor levels of all buildings are to be set at a minimum of 600 mm above the 1% AEP modelled flood level for Loach Brook
- 7 25 year habitat management plan
- 8 updated protected species assessment and mitigation strategy to be submitted in support of all future reserved matters applications
- 9 Scheme to be submitted and approved demonstrating no built development or alteration of ground levels within the 1% AEP flood outline
10. All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. All piling operations

shall be restricted to: Monday – Friday 09:00 – 17:30 hrs; Saturday 09:00 – 13:00 hrs; Sunday and Public Holidays Nil

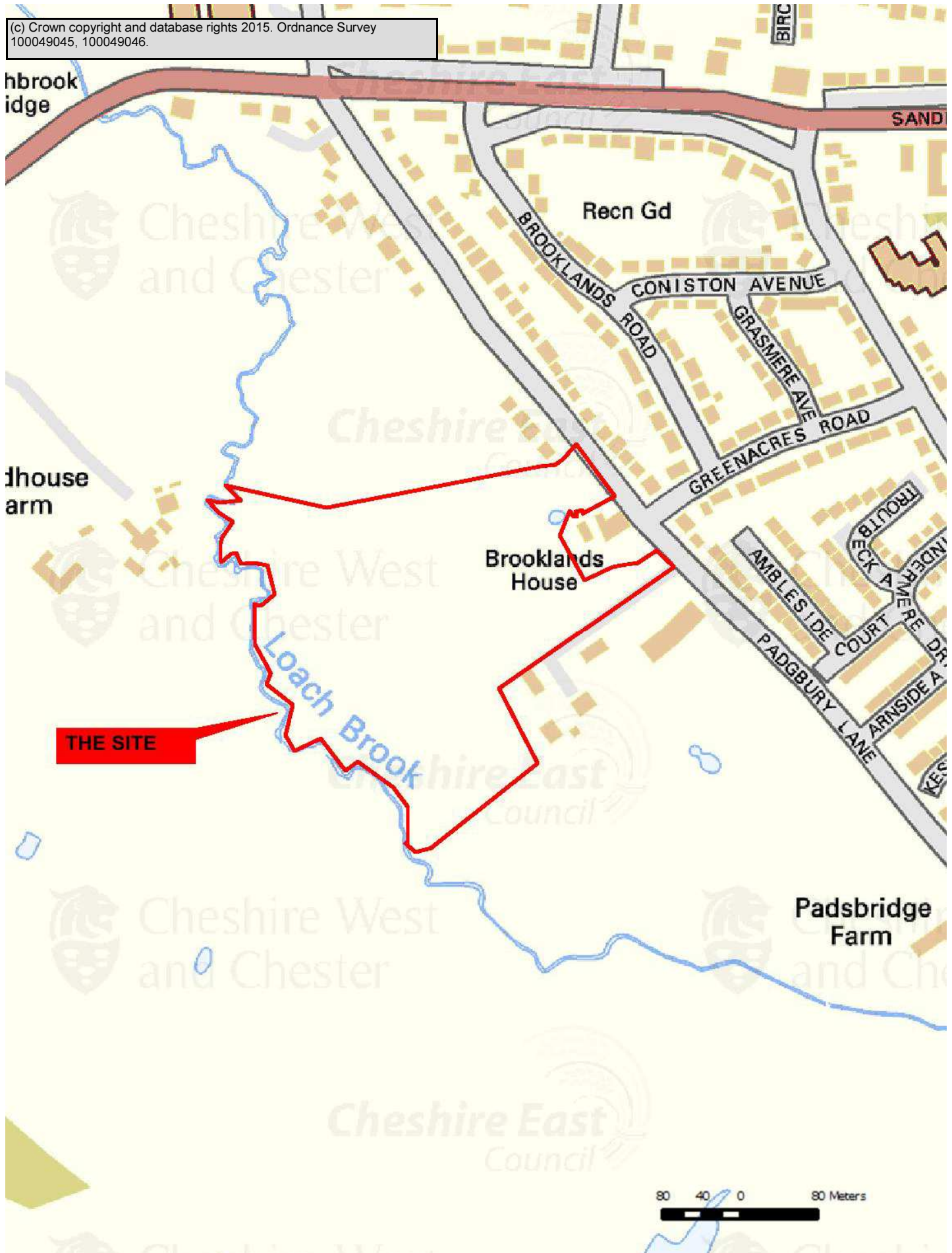
- 11 Submission of a Contaminated Land Phase II investigation.
- 12 Submission of Construction and Environmental Management Plan
- 13 Reserved Matters to include details of bin storage.
- 14 Reserved matters to include 10% renewable provision
- 15 details of car parking for medical facility to be submitted
- 16 Detailed design of ponds to be submitted with reserved matter application
- 17 Archaeological programme of works
- 18 Details of all street lighting
- 19 Car charging point for each residential unit
- 20 Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction -Recommendations, Constraints and Tree Protection Plan and Arboricultural Method Statement
21. Habitat management plan to be submitted as part of the 1<sup>st</sup> reserved matters
22. Submission / approval and implementation of boundary treatment
23. Submission / approval of landscaping of entire site as part of 1<sup>st</sup> reserved matters application
24. Implementation of landscaping
25. Submission of tree protection measures and method statement
- 26 Reserved matters to include details of
  - Exclusion of SUDS ponds, cycleway/footpath and LEAP from the retained grassland habitat area.
  - Retained areas of grassland are safeguarded during the construction phase
  - Scheme for management of retained areas of grassland to maintain and enhance their nature conservation value.
27. Provision of 8 metre wide buffer zone around the watercourse.
28. Reserved Matters to include details of bin storage.
29. Breeding Bird Survey for works in nesting season
30. Provision of bird/bat boxes throughout site in accordance with scheme to be submitted and approved
31. Submission / approval and implementation of Construction management plan
32. Scheme to limit surface water runoff and overland flow
33. Provision and implementation of Travel Plan
34. Electromagnetic insulation scheme to be submitted and approved
- 35 Buffer zone of 20m between houses and on site childrens play space
- 36 All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings
37. Development to be in accordance with principles set out in Design and Access Statement
38. Submission of Statement of Design principles to take into account, the Master Plan and the Parameters Plan and to include the principles for:
  - determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
  - determining the hierarchy for roads and public spaces;
  - determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;

- the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
- the design and layout of street furniture and level of external illumination;
- the laying out of the green infrastructure including the access, location and general arrangements of the children's play areas, open space within the site
- sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
- ensuring that there is appropriate access to buildings and public spaces for the disabled and physically impaired.
- scale parameters for 2.5 storey buildings on key parts of the site
- SUDS details to be submitted
- provision of locally relevant boundaries in hedging and stone

**40. Maximum no of units to be 120**

In order to give proper effect to the 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.

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Application No: 14/3657C

Location: Land West of Padgbury Lane, Congleton, Cheshire, CW12 4LR

Proposal: Outline application for development of land to the west of Padgbury Lane, Congleton for up to 150 dwellings, community facilities and associated infrastructure (Resubmission of 13/4216C)

Applicant: Northern Property Company Limited

Expiry Date: 19-Dec-2014

**SUMMARY:**

An identical application (13/4216C) is currently at appeal which is due to take place in April 2015. Since the identical application was determined on this site the Council has stated that it is unable to robustly demonstrate a five-year housing land supply and that, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing developments that can demonstrate that they meet the definition of sustainable development within the National Planning Policy Framework.

This application is assessed in the light of this material change in circumstances.

There is an environmental impact in the locality due to the loss of open countryside and agricultural land. However, due to the physical layout and characteristics of the landform around the site, particularly the residential characteristic on the other side of Padgbury Lane, the proposal will not have a significant impact on the landscape character of the area and will represent a rounding off of the settlement without resulting in an unacceptable visual intrusion into the open countryside.

The proposal would satisfy the economic and social sustainability roles by providing policy compliant levels of social housing and market housing adjoining an existing settlement where there is existing infrastructure and amenities to support those houses. Contributions to education and local health care are also recommended to be imposed which are considered to be in compliance with the Community Infrastructure Regulations. In addition it would also provide appropriate levels of public open space both for existing and future residents.

The environmental role is satisfied by the ecological mitigation which is considered to be accepted by the Council's ecologist, sufficient information has been received which allows for the retention of important trees to the satisfaction of the Council's Arborist. The proposed areas of open space within the site also satisfy the environmental role.

The boost to housing supply is an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release on the edge of the existing residential built form of Congleton.

Local concerns of residents are noted, particularly in respect of highway matters but, subject to the mitigation required by the Strategic Highways Manager being attained, when taken together with its sister application is considered to be acceptable.

An appropriate quality of design can be secure at reserved matter stage as can any impacts on the visual amenity. Subject to conditions and S106 matters, the proposal is considered to be acceptable in terms of its impact upon visual amenity and neighbours, flood risk, drainage, trees and landscape and ecology, education, health related matters.

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 with all matters reserved except access for up to 150 dwellings, with associated areas of open space. It is a re-submission of application 13/4216C which is currently under appeal and has been submitted to address those previous reasons.

An Illustrative Parameters Plan has been submitted in support of the application showing two new accesses onto Padgbury Lane, a play area set within Public Open Space, pedestrian and cycle links. A balancing pond is located to the north east of the site within the proposed public open space.

The Planning Statement submitted with the application states that the majority of trees and hedgerows are shown for retention, with 19 individual trees and two small lengths of hedgerow to be removed to facilitate development.

The density is indicated at 33 dwellings per hectare in a mix of types of dwellings from 2-5 bedrooms. 30% affordable housing provision is proposed.

The application is supported by an Environmental Impact Assessment.

**SITE DESCRIPTION**

This site is located to the south west side of Padgbury Lane which links the A34 and the A534 approx 1 mile to the south west of Congleton town centre. The site is roughly triangular in shape. The site is bordered to the north east by Padgbury Lane which has a modern housing estate on the other side.

A Texaco petrol filling station and a separate dwelling on Padgbury Lane abuts the southern end of the site, which has a overgrown appearance. The south west boundary of the site abuts Loach brook which ultimately feeds into the River Dane down stream.



The north west boundary is marked by a mature hedgerow with the Heath Farm public house/wacky warehouse and a small number of dwellings to the rear of the public house.

The land is generally level with a gentle fall towards Loach Brook. A row of mature trees / mature hedgerow fronts the Padgbury Lane frontage, some of which are covered by Tree Preservation Order and the mature hedgerow is regarded as being a historic hedgerow.

## RELEVANT HISTORY

**13/4216C** Outline planning permission (with means of access) for the development of land for up to 150 dwellings, community facilities and associated infrastructure was refused on 30 April 2014 for the following reasons -

*1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the 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 Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.*

*3. Insufficient information concerning levels and the provision of footways has been submitted to demonstrate that the scheme, in providing footways to an adoptable standard; would provide for the retention and protection of existing trees of amenity value contrary to Policies GR1 and NR1 of the adopted Congleton Borough Local Plan First Review 2005 and policy SE3 and SE5 of the Cheshire East Local Plan Strategy Submission Version and the provisions of the National Planning Policy Framework.*

This is subject to an appeal which will proceed by way of Public Inquiry in April 2015.

## POLICIES

### Local Plan Policy

PS3	Settlement Hierarchy
PS6	Settlements in Open Countryside
PS8	Open Countryside

GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
GR23	Provision of Services and Facilities
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
H13	Affordable Housing and Low-cost Housing
RC1	Recreation and Community Facilities – General
RC4	Countryside Recreational Facilities

### **National Policy**

National Planning Policy Framework (NPPF)

### **Cheshire East Local Plan Strategy – Submission Version**

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
SE1	Design
SE2	Efficient Use of Land
SE3	Biodiversity and Geodiversity
SE4	The Landscape
SE5	Trees, Hedgerows and Woodland
SE13	Flood Risk and Water Management
IN1	Infrastructure
IN2	Developer Contributions

### **Other Material Planning Considerations**

- SPG2 - Provision of Private Amenity Space in New Residential Development
- The EC Habitats Directive 1992

- Conservation of Habitat & Species Regulations 2010
- Interim Affordable Housing Statement: Affordable Housing
- Cheshire East SHLAA

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

**Strategic Highways Manager** – No objection subject conditions and mitigation in the form of a financial contribution of £488.250 (based on 150 dwellings), the provision of £10,000 for the provision of one quality bus stop on Padgbury Lane to serve this development and provision of a footway. A Travel Plan monitoring contribution of £5000 is also sought.

**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 a construction phase Environmental Management Plan, the prior submission of a Travel Plan, the inclusion of Electric Vehicle Infrastructure, the prior submission of a dust mitigation scheme and a contaminated land condition and informative and an hours of construction informative.

**United Utilities:** No objections, subject to a conditions concerning foul and surface water drainage and informative.

**Greenspace (Cheshire East Council)** : No objection subject to the provision of on site amenity greenspace and a NEAP (minimum 8 pieces of equipment). The area recommended with a NEAP is 1000m<sup>2</sup> so this would be an additional requirement on top of the 3,600m<sup>2</sup> proposed – all of which to be maintained by private management company in future. The Children's play area needs to be increased in size by 320m<sup>2</sup>.

**Public Rights of Way (Countryside Improvement Team):** No objections. It is noted that to be of value the 'Proposed Footpath/Cycleway' and 'Proposed Footpath' along the western boundary of the development site would need to connect into existing estate roads/links.

**Sustrans:** make the following comments

Any specific internal site provision for walking/cycling should be useful for everyday journeys. Connections away from traffic for pedestrians/cyclists to adjacent developments should be included in the design

The most direct route to the town centre is via Padgbury Lane and Fox Hollow involving a crossing of the A34. Can this development make a contribution to improving this route? The Cheshire Cycleway follows Padgbury Lane where traffic levels will increase if planning permissions are granted. Contribution to traffic management measures on this lane.

The design of the estate should restrict vehicle speeds to less than 20 mph and there should be cycle parking for properties without garages.

**Jodrell Bank:** No objection subject to the incorporation of features for the purposes of electro-magnetic shielding

**Housing (Cheshire East Council):** No objections, subject to the provision of the relevant affordable housing. Advice that 30% of the dwellings proposed would need to be affordable.

**Education (Cheshire East Council):** The development of 150 dwellings will generate 27 primary & 20 secondary school places. The Education Department is forecasting that the primary schools will be oversubscribed but that there will be sufficient capacity in the secondary sector. Taking into account committed developments and the Goldfinch Close appeal, the Education Department has calculated that 27 primary school places will require £97,508.

**Environment Agency:** No objections, subject to a number of conditions including; minimum floor levels, a scheme to limit the surface water runoff; the prior submission of a surface water drainage scheme, contaminated land report and a scheme for the provision and management of at least an 8 metre wide buffer zone alongside the watercourse.

**Natural England:** No objection. The proposal is unlikely to affect any statutorily protected sites or landscapes. With regard to protected species the Planning Authority should refer to Standing Advice.

**NHS England:** No comments received on this application but on the previous application due to the unallocated nature of the proposals it was considered that there would be a minimum cost of additional health infrastructure solely for the application site requiring a minimum developer contribution towards such costs of £174,000.

#### **VIEWS OF THE PARISH COUNCIL:**

**Congleton Town Council:** Objection on grounds of loss of open countryside and contrary to Local Plan housing policy. Consider the infrastructure statements within the submission to be implausible and access and egress from Padbury Lane to Newcastle Road to be difficult.

#### **REPRESENTATIONS**

Circa 160 Letters of objection have been received raising the following points:

##### Principal of development

- Re-affirmation of previous objections raised to application under appeal
- The site is outside the settlement boundary
- The site is not identified for development in the Congleton Town Strategy
- The proposed development would not result in sustainable development
- Loss of Greenfield land
- Impact upon the rural landscape
- Housing would not blend in with the existing residential environment
- There is a greater than 5 year housing land supply
- Allowing the development would conflict with the localism agenda
- The proposal is contrary to the Congleton Local Plan
- The proposal is contrary to the emerging Plan
- There is a lack of employment in the area
- The development of the site will jeopardise brownfield sites from being brought forward
- The proposal would harm the rural character of the site
- Loss of countryside
- Adverse impact on landscape character and appearance

- There are numerous properties for sale in area
- Priority should be given to brownfield sites
- The development would result in urban sprawl
- The proposal is contrary to the NPPF
- Car reliant site, distances from facilities impractical for walking/cycling and public transport is poor
- Cumulative impact

#### Highways

- Road infrastructure is already congested, morning rush can take 40 mins to get to Congleton
- Padgbury Lane is a rat run
- Increased traffic congestion
- Impact upon highway safety
- Previous applications have been refused on highway grounds
- Future residents would be dependent on the car
- Pedestrian safety
- Poor public transport service to site
- Buses get stuck in the congestion already proposal will worsen

#### Green Issues

- Loss of green land
- Southern part of the site abuts the green belt
- The tree report is not adequate
- Increased flood risk
- Increased water run-off
- Increased flooding
- Impact upon wildlife
- Impact upon protected species
- Impact upon local ecology
- The FRA is inadequate
- Loss of trees
- Loss of agricultural land (grade 2 and 3a)
- Impact upon Great Crested Newts, badgers bats and other protected species
- Loss of Hedgerows/ trees as an ecological issue
- Access will require removal of trees to Padgbury Lane which are part of the defining character of the street
- Flooding into Loachbrook together with the cumulative impact of Loachbrook Farm development and subsequent adverse impact upon River Dane SSSI which Loachbrook links into

#### Infrastructure

- Increased pressure on local schools
  - Padgbury Lane is a safe walking to school zone, but only has pavement to one side.
- Road safety for school children from site needing to cross busy road
- The local schools are full
  - Doctors are full
  - The recreational spaces are at capacity
  - The sewage system is overstretched

- There is little in terms of leisure facilities
- Adverse impact upon local drainage infrastructure

#### Amenity Issues

- Impact upon air quality
- Cumulative impact upon air quality with other developments
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Increased light pollution
- The site is very close to a working silica sand quarry and sand drying plant but this is not mentioned in the air quality survey and there is no assessment of fugitive dust pollution on the fields from this source
- The air quality report concerning traffic pollution is inadequate
- The effects of the approved development on Loachbrook Farm are not included in the predicted pollution levels submitted

#### Other issues

- Insufficient information into geology in the area
- Lack of consultation
- Weight of opposition against the proposal is a material consideration
- Adverse impact upon the village of Astbury by virtue of proximity
- Preservation of distance is important to the regional economy
- Impact upon archaeology – finds on site suggest that site should be left

An objection has been received from West Heath Action Group which raises many of the same issues as outlined above and considers the proposal to be premature, and economically, environmentally and socially unsustainable. They have also submitted a further objection in the form of a separate ecology report. The full content of the objections are available to view on the Councils Website.

#### **SUPPORTING INFORMATION:**

Environmental Impact Assessment and individual reports covering the following:

- Transport Assessment
- Planning Statement
- Statement of Community Involvement
- Landscape and Visual Assessment
- Land Contamination Assessment
- Flood Risk Assessment
- Ecological Appraisal
- Desk based Archaeological Assessment
- Design and Access Statement
- Arboriculture Assessment
- Air Quality Assessment
- Agricultural land Assessment
- Archaeological Assessment
- Acoustic Report
- Socio-Economic Report

- Utilities Report
- S106 Heads of Terms

## **APPRAISAL**

### **Principle of Development**

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

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

The issue in question is whether the development represents sustainable development in terms of the NPPF definition of sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection to the loss of open countryside.

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.

## **SOCIAL SUSTAINABILITY**

### **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, the Council is unable to robustly demonstrate a five year supply of housing land. Accordingly recommendations on planning applications will now reflect this position. This is a material change in the circumstance of this application since it was previously determined.

### **Affordable Housing**

Planning policy requires that 30% of the total dwellings be affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate. This is the preferred tenure split identified in the SHMA 2010 and highlighted in the Interim Planning Statement on Affordable Housing (IPS). This equates to a requirement for 36 affordable dwellings on this site, with 23 provided as social or affordable rent and 13 provided as intermediate tenure.

The application confirms that 30% affordable housing will be provided on this site. As this is an outline application the information about the affordable housing offer by the applicant is limited, if the application was approved details in an affordable housing scheme (including type of intermediate tenure to be provided) to be submitted at reserved matters stage and the scheme to meet the affordable housing requirements detailed above. The Affordable Housing Statement highlights that the affordable housing will be provided as a mix of 2 and 3 bed houses, however the Strategic Housing Manager would like to see a broader range of types of and sizes of affordable housing discussed at reserved matters stage. The scheme should



also provide 30% of the total dwellings as affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate.

It is the Strategic Housing Manager's preferred option that the developer undertakes to provide the social or affordable rented affordable units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.

### **Public Open Space (Amenity Greenspace)**

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

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. In accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements the amount of New Amenity Greenspace required would be 4320m<sup>2</sup>.

The proposed equipped children's play area is set in 0.4 Ha (4,000m<sup>2</sup>) which therefore has a shortfall of the requirement by 320m<sup>2</sup>. This would need to be a formally maintained to qualify as Amenity Greenspace.

An area with Public open space is proposed on a low point of the site, the area also represents an suitable location for an attenuation pond in the Applicant opinion.

Whilst this promotes biodiversity it has never been the Council's policy to take transfer of areas of POS that have water bodies located within, around or running through. Therefore it is recommended these areas of POS be transferred to a management company in perpetuity.

It is however considered that the shortfall of amenity greenspace could be addressed by the imposition of a planning condition.

### **Public Open Space Children and Young Persons Provision**

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

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. Information submitted in support of the application shows an equipped play area in the form of a LEAP. However given the size of the proposed development and the level of the deficiency in the area this should be upgraded to a NEAP with a minimum of 8 pieces of equipment, using play companies approved by the Council. Greenspaces would request that the final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the Amenity Greenspace it is recommended that future maintenance and management of the play area be transferred to a management company. However, subject to these conditions, that could form part of reserved matters no objection is raised to the provision of the public open space.

### **Infrastructure**

Policy GR19 of the Local Plan advises that the Local Planning Authority may impose conditions and/or seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It is advised that such provision may include on site facilities, off site facilities or the payment of a commuted sum.

Policy IN1 of the emerging Cheshire East Local Plan Strategy – Submission Version, advises that the Local Planning Authority should work in a co-ordinated manner to secure funding and delivery of physical, social, community, environmental and any other infrastructure required to support development and regeneration.

#### Health Impact of the Development

Policy GR19 of the Local Plan advises that the Local Planning Authority may impose conditions and/or seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It is advised that such provision may include on site facilities, off site facilities or the payment of a commuted sum.

Policy IN1 of the emerging Cheshire East Local Plan Strategy – Submission Version, advises that the Local Planning Authority should work in a co-ordinated manner to secure funding and delivery of physical, social, community, environmental and any other infrastructure required to support development and regeneration.

NHS England advises that existing health infrastructure in Congleton is already operating above capacity and cannot absorb the planned developments in the Emerging Strategy. This site, together with its sister site, are not one of the planned sites. The NHS requires a commuted sum of £174,000 to mitigate for this development. The on site medical provision would be in addition to this requirement.

A recent appeal in Audlem was allowed without any contributions to health on the grounds that there was no evidence from the NHS to support the contribution. The applicants have also questioned the need for such contributions on this application following the recent Inquiry at Holmes Chapel Road, Congleton where the need for such contributions was again challenged. The Council contends that this is different to Audlem because NHS England maintains that there is scope for additional provision within the Congleton area and as such the contributions are justified. Given the pertinent issues it is considered that the payment should be made to offset the need and is CIL compliant but should the Inspector at the Holmes Chapel Road appeal conclude that it is not, then the Council would not seek to pursue the contribution.

#### Education

The development will generate 22 primary & 16 secondary school places. The Education Department is forecasting that there is sufficient capacity within the secondary school sector but that the primary schools within the catchment will be oversubscribed. Therefore based upon normal criteria, 22 primary school places will require contribution of £75,491 based on current commitments.

Subject to commuted sums calculated to address this impact, the proposal is considered to be acceptable.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Open Countryside Policy**

In the absence of a demonstrable 5 year housing land supply the Council 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.

The proposal is an area where the settlement boundary is currently being “flexed” in order to accommodate additional housing growth (the development of Loachbrook Farm refers); it is immediately adjacent to existing residential development on the edge of Congleton. As such it is considered that whilst 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 within the context of Paragraphs 14 and 49 of the NPPF.

As the Council cannot presently demonstrate a 5 year housing land and the NPPF carries a presumption in favour of sustainable development. It is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

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

### **Agricultural Land**

The area of high quality farmable land measures 5.2 ha (of site total 8.2 h), which equates to 32% being Grade 2 and 42% being Grade 3a. The loss of Best and Most Versatile (BMV) agricultural land is contrary to policy. The loss of agricultural land is a negative of the proposed development.

### **Landscape Impact**

The application site occupies an area of approximately 8.2 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.

The application site is currently rough grassland, bounded to the south by the wider agricultural landscape to the north of which lies PROW Congleton FP18 and Newbold Astbury FP10.

The proposed development site has been unmanaged for some years and is currently overgrown with long grass and regenerating trees and scrub. There are some mature trees along banks of the brook and mature hedgerows and trees on the northern and eastern boundaries.

Housing development on this site would obviously change the landscape character of the site itself but would not have any significant impacts on the character of the wider landscape or have any significant visual impacts.

There would be some views of the proposed housing development from Padgbury Lane and nearby residential properties. The most sensitive receptors would be the users of the Dane Valley Way long distance footpath and bridleway which runs to the south of the site and then parallel to Loach Brook which runs immediately adjacent to the rear of the site.

However, the residential developments on the edge of Congleton are already visible from the on site public footpath and the Dane Valley Way, although the proposed development of this site would bring the urban edge closer to the Dane Valley Way, it would not significantly diminish the views experienced from this sensitive route given what users of this route already experience.

Trees along the banks of the brook and other intervening hedges and trees would partially screen or filter views of the development. The parameters plan includes additional tree planting along the brook which would increase screening in the longer term.

As the landscaping of the site is a reserved matter, full details would have to be provided as part of a future proposal. If the outline application is approved a number of conditions including a landscape management plan via a s106 agreement in order to secure appropriate on-going management and public access in perpetuity could be attached to protect/enhance the landscape on this site. On this basis, the Landscape Architect does not consider that an objection on landscape impact grounds can be substantiated.

## **Amenity**

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties in terms of loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking. Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

Having regard to this proposal, the residential amenity space minimum standard stated within SPG2 is 65 square metres. The space provided for all of the proposed new dwellings on the indicative layout plan would adhere to this standard.

In terms of the separation distances, no definitive details regarding the position of openings are detailed as this application seeks outline permission only.

However, the dwellings will need to conform with the separation standards listed in Supplementary Planning Note 2: Provision of Private Open Space in New Residential Developments. These standards include a 21.3 metre gap between main windows of directly facing dwellings across both the front and rear gardens and a 13.8 metre gap between the main windows of dwellings directly facing the flank walls of an adjacent dwelling. It is considered that these standards can be achieved within and outside this site.

The Council's Environmental Health team have advised that they have no objections to the proposed development subject to the provision of a number of conditions and informatives. These suggested conditions include; hours of piling, the prior submission of a piling method statement, the prior submission of a construction phase environmental management plan, hours of construction, and a contaminated land condition and informative.

As such, subject to the above conditions, it is considered that the proposed development would adhere with Policy GR6 of the Local Plan.

### **Air Quality**

The proposed development is considered significant in that it is highly likely to change traffic patterns and congestion in the area. An Impact Assessment has been submitted with the application to assess whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to local traffic flows. This also takes account of the recent Loachbrook Farm development.

The report predicts that there will be negligible increases in PM<sub>10</sub> concentrations at all receptors modelled. The impacts of NO<sub>2</sub> at existing receptors highlighted that there will be increased exposure at all receptors modelled. A number of receptors are within the AQMA and it is considered that it is appropriate therefore that mitigation should be suggested from the developers in the form of direct measures to reduce the impact of traffic associated with the development and its impact upon the AQMA and within Congleton.

Mitigation to reduce the impact of the traffic pollution can range from hard measures to softer measures such as the provision of infrastructure designed to support low carbon (and polluting) vehicles. Conditions in respect of a robust travel plan for all properties and electric charging points infrastructure are therefore requested on any approval. Dust Mitigation conditions are also needed during construction.

### **Ecology**

#### Grasslands

Three areas of the application site have been identified which would be likely to qualify as Local Wildlife Sites (LWS) due to them supporting grassland habitats which meet the relevant selection criteria and thresholds. These habitats are of sufficient quality to be considered UK Biodiversity Action plan priority habitat (lowland meadows) and Habitats of Principal Importance for the conservation of Biodiversity in England under section 41 of the Natural Environment and Rural Communities Act 2006. As such these habitats are a material consideration in the determination of this planning application.

In addition the location of the proposed footpath/cycleway has been relocated since the previous application to reduce the pressure placed upon the retained area of grassland.

The current indicative plan shows a LEAP located within an area of valuable grassland habitat. This is not acceptable, however, a condition can be attached requiring the LEAP to be relocated as part of the reserved matters which would satisfactorily address this.

A small population of Slow Worm (a protected and Local Biodiversity Action plan priority species) has been recorded onsite. The area of the site where the species was recorded will

be retained as part of the development proposals. The proposed development in the absence of mitigation would however pose the risk of killing or injuring any animals present on site when works commenced and would also result in the loss of a significant area of suitable habitat.

To mitigate the impacts of the proposed development, in this application, the applicant has submitted a method statement detailing the removal and exclusion of reptiles from the footprint of the proposed housing and also the retention of suitable habitat on the sites north-eastern boundary.

The Ecologist advises that the submitted method statement is acceptable to limit the impacts of the proposed development upon slow worm. The successful implementation of the mitigation strategy would however be dependent upon the careful design of the retained area of habitat/open space between the proposed housing and the brook. This is particularly important considering that a footpath/cycleway, ponds and tree planting are proposed for this area.

#### Hedgerows

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. Based upon the submitted indicative layout it appears feasible that some of the existing hedgerows on site can be retained as part of the development. There are however likely to be losses of hedgerows from the interior of the site and to facilitate the site entrance. This potentially includes a partial loss of hedgerow 7 which has been assessed as being Important under the Hedgerow Regulations.

The Ecologist advises that any losses of hedgerow must be compensated for through additional hedgerow planting as part of any detailed landscaping scheme produced for the site. Based on the submitted illustrative master plan it appears feasible that this could be achieved by planning condition.

#### Badgers

An updated badger survey has been submitted in support of this application.

Three outlying badger setts have been recorded on site with additional setts including the main sett being located to the north of this application site. The proposed development would potentially result in the loss of the three setts located on site and would also result in the loss of badger foraging habitat. To avoid any risk of badgers being killed or disturbed during the works the submitted badger report recommends the exclusion of badgers from the setts on site and the closure of the setts prior to the commencement of development. This would be done under the terms of a Natural England license and an acceptable outline method statement has been provided.

#### Great Crested Newts

A small population of great crested newts was recorded at a pond on site. The ponds on site appear to be of relatively low quality in terms of their suitability for breeding great crested newts and so this may potentially be limiting the size of the population.

The applicant has submitted a great crested newt mitigation strategy to address the potential impacts of the proposed development. This is acceptable to the Council's ecologist.

### Common Toad

Common toad (a Biodiversity Action Plan priority species) is present in this locality. The implementation of a robust great crested newt mitigation strategy would ensure that the proposed development would be unlikely to have a significant adverse impact upon this species.

### Bats

A bat survey has been submitted in support of this application.

Bats have been recorded as being active on this site. The level of bat activity is as would be expected for a site of this size and nature. The proposed development is unlikely to have a significant impact upon foraging or commuting bats. It also appears that all trees identified as having significant potential to support roosting bats would be retained under the submitted illustrative layout.

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

(a) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, and provided that there is

(b) no satisfactory alternative and

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

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

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

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

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

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

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

In this case the Council's Ecologist has advised that the submitted great crested newt mitigation would be acceptable and is likely to maintain the favourable conservation status of the local great crested newt population.

As such, subject to the above conditions, it is considered that the development would adhere with Policy NR2 of the Local Plan and Policy SE.3 of the emerging Cheshire East Local Plan Strategy – Submission Version, which seeks to replace Policy NR2.

### **Trees and Hedgerows**

An Illustrative Parameters Plan has been submitted in support of the application showing two new accesses onto Padgbury Lane a Play Area, Public Open Space, pedestrian and cycle links. The Planning Statement submitted with the application states that the majority of trees and hedgerows are shown for retention on the plan, with 19 individual trees and two small lengths of hedgerow to be removed to facilitate development.

#### Tree Preservation Order

The Congleton Borough Council (Congleton – Padgbury Lane) Tree Preservation Order 1976 protects individual groups and areas of trees around the Heath Farm Public House and along Padgbury Lane frontage. These are scheduled as individual specimens of Lime Oak, Sycamore, Elm and Beech and four groups comprising of Lime, Sycamore and Elm. The two Area designations located around the 'Fayre and Square' Public House comprise of Pine, Sycamore, Larch, Lime, False Acacia and Beech, present a significant focal point on Padgbury Lane. All mature Elm have since disappeared due to Dutch Elm Disease and remain only as young regeneration from cut stumps or root suckers.

A second TPO, the Congleton Borough Council (Padgbury Lane No.2) Tree Preservation Order affords protection to one individual Oak tree at the entrance to the petrol station.

This application is supported by a tree report and tree location plan. The previous application (13/4216c) was refused on grounds of an adverse impact on trees; due to the lack of information pertaining to levels around important trees near the southern access point submitted in support of application 13/4216C. This lack of information has now been addressed in this application and the Arborist has considered the information and raises no objection to this application on basis of the impact upon trees. This is a further change from the original refusal.

Subject to conditions, it is now considered that the development would not have a significant detrimental impact upon trees, nor would there be a detrimental impact upon hedges. As such the proposal would adhere with Policy NR1 of the Local Plan and Policy SE5 of the emerging Cheshire East Local Plan Strategy – Submission Version.

### **Urban Design**



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

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

The site is a rural edge to Congleton and there is a necessity to create a townscape/landscape transition between urban and rural. The character of the housing to the east of Padgbury Lane should not be seen as a precedent in either layout or built character terms. That estate is of its time, before urban design became formally recognised as a positive influence on housing and place design and has to be acknowledged as not being a positive townscape legacy for the town, effectively creating a very ‘blunt’ and uncharacterful edge alongside Padgbury Lane.

There are also established landscape features that are extremely important to the character of the site, not least the strong tree and hedge lined frontage to Padgbury Lane and the fringe landscape along the west of the site, that in proximity to the listed building and dividing the two sites. Whilst peripheral hedging is indicated for retention some hedging subdividing the sites is being lost.

The application is for ‘up to 150’ units at an average net density of 33 per hectare with a mix of dwelling types of 2-5 bedroom units, which are indicated as being mainly 2 storey but with focal point buildings within the street scene that are 2.5 storeys (up to a max of 10m high) In this case there are no testing layout submitted in support of this application and a sizeable area of the site which is indicated as being part of the residential layout is also indicated within the ecological appraisal as being mitigation grassland. This raises the potential that the numbers of units that this site could achieve, whilst also being in keeping with the prevailing residential density in the locality.

- *Street design and movement* – This is a simple hierarchy with a main street and then lanes feeding off that. This is a little too simplistic and that in reality a third street type will also be necessary. Shared surfaces are also discussed and this is positive, as are the use of varying street widths, frequency of street connections, buildings narrowing streets, pinch points etc. to create slower vehicle movements. There is no street connection between the 2 sites, especially as this was the approach early in the design process that was consulted upon with the community. It is assumed that this is as a consequence of highway liaison. If vehicular connection is not achievable then strong pedestrian movement needs to be secured.
- *Height of buildings* – it is noted that the parameters include buildings up to 2.5 storey (10m) but that these carefully considered and that they will be used occasionally for place making purposes at key focal points. It is important that the surrounding development does not compete for dominance with the adjacent listed building and that 2.5 storey is used infrequently. There is a danger that if this is not controlled, any permitted scheme could be out of context with its countryside edge location and the prevailing scale within the area;

Given that this is an outline application it is suggested that a design coding condition should be attached to any outline permission requiring the design detail to be developed in conjunction with the Reserved Matters stage (i.e. not relying on the Reserved Matters alone) should permission be granted. There is no objection to the use of 2.5 storeys as a design mechanism within a layout as a mechanism for place shaping, however, this should be the exception rather than the rule.

### **Setting of the listed buildings**

As discussed above, the setting of the listed buildings is an important consideration. Their origins are as an isolated, relatively substantial, country property that was either a farm or a home for someone of reasonable means situated some distance away from the town. The proposed development has the potential to adversely impact upon the asset's setting, notwithstanding that land to the rear of the listed buildings has been developed upon in more recent times.

A Heritage Assessment of the proposals implications for the adjacent listed buildings has been provided. It is recognised that areas of green space are provided to the north and south of the listed building, accommodating the existing trees, this may not sufficiently mitigate the impact of the proposed development upon the building's more immediate setting, particularly as national guidance advises local authorities not to consider setting too narrowly. This would need to be carefully considered within reserved matters.

Overall, it is considered that an acceptable design/layout that would comply with Policies GR 1, 2 and 3 of the Local Plan, Policies SE1 and SD2 of the emerging Cheshire East Local Plan Strategy – Submission Version and the NPPF could be achieved at the reserved matters stage.

### **Flood Risk and Drainage**

United Utilities were consulted with regards to drainage. UU have previously advised that they have no objections to the scheme, subject to a condition requiring the prior submission of a scheme for the disposal of foul and surface waters for the entire site.

In addition, it is recommended that separate water metres to each unit should be provided at the applicant's expense. All pipework must comply with current water supply (water fittings) regulations 1999. Should the application be approved, the applicant should contact UU regarding connection to the water mains.

As such, subject to the implementation of this condition and informatives, it is considered that the proposed development would adhere with Policy GR20 of the Local Plan.

### **Access to Facilities**

Accessibility is a key factor of sustainability that can be physically measured. One methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can

also use it to assess a planning application and, through forward planning, compare the locational sustainability of different development site options.

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

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

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

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

- post box – site entrance on Padgbury Lane
- amenity open space (on site)
- public park / village green (1320m) - Quinta Park
- public open space - on site
- public house ( adjoining site)
- primary school (480m) ( Quinta School Ullswater Road, CW12 4LX
- child care facility (480m) (Somerford Kindergarten,Quinta School Grounds, Ullswater Road, CW12 4LX
- bank / cash point (1150m), Martin McColl West Heath Shopping Centre
- bus stop (Hail and Ride Padgbury Lane)
- a local shop selling food or fresh groceries (360m), Londis Texaco Filling Station

A failure to meet minimum standard (with a significant failure being greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m) exists in respect of the following:

- post office (1150m), Martin McColl West Heath Shopping Centre
- leisure facilities (3300m), Congleton Library

- medical centre. Readesmoor Group Practice, West Street, CW12 1JN. (2900m) .
- Pharmacy (1150m) – West Heath Shopping Centre
- Railway Station (4700m) (Park Lane Station)
- local meeting place / community centre - 2240m (Danesford Community Centre, West Road, CW12 4EY).

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Congleton, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Nevertheless this is not untypical for suburban dwellings and will be the same distances for the residential development in the vicinity of the application site. However, the majority of the services and amenities listed are accommodated within Congleton and are accessible to the proposed development on foot or via a short bus journey. Accordingly, it is considered that this is a locationally sustainable site.

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

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

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

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

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

This application is supported by an updated Transport Assessment.

By introducing the traffic generation figures from these proposed developments as a cumulative total – and by adjusting the distribution pattern to a more realistic level the highway authority can demonstrate that the developments would have a severe impact on a number of identified junctions along the A34 corridor without mitigation.

The SHM has done further work on the modelling of the off site highways works since this application was previously refused (although not on highways grounds), The SHM advises that by introducing the traffic generation figures from both the proposed developments on Padgbury Lane as a cumulative total – and by adjusting the distribution pattern to a more realistic level the highway authority can demonstrate that the developments would have a severe impact on a number of identified junctions along the A34 corridor without mitigation.

Junction improvements are proposed at Rode Hill Junction, West Street Roundabout, Barn Road roundabout and the Waggon and Horses Roundabout along with the links between the junctions. This scheme is set out in the Council's Infrastructure Plan.

The greatest impact from the development would be at the Waggon and Horses roundabout, due to that junction's proximity of the site, and it is therefore considered appropriate that the developer should contribute the full cost of a minor improvement identified at this location, however the scope of works will need to extend to the improvement of the whole corridor so as to avoid just transferring delay from one junction to another.

The total estimate for the A34 corridor improvement scheme has been estimated at £8,040,000. As a proportion of those costs this scale of development should contribute £488,250. This is less than previously calculated based upon the further modelling work undertaken by the SHM.

The Strategic Highways Manager considers that the evidence that he has used to model the impact of this development (with its sister application) clearly supports the view that the improvement of the identified junctions is CIL compliant as the improvements will mitigate for the identified development traffic impact and on a proportionate basis given the whole corridor impact.

The applicant has now confirmed that they wish to take a pragmatic view and for the purposes of this application agree to accept the off-site highway contributions as indicated above and on the sister application.

### **ECONOMIC SUSTAINABILITY**

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

Paragraph 19 states that:

'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'

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.

### **Comments on Objections**

Local residents and the West Heath Action Group raise various issues in respect of the application. Individual concerns over the principle of the development, infrastructure, air quality, ecological impact and amenity issues are addressed above. There are particular concerns identified over highway and traffic impacts in the locality and the accessibility of the site. These have been the subject of much discussion between the applicants and highway colleagues in terms of the mitigation needed to overcome the harm caused by the development. As indicated above the applicants have agreed to pay the required sum which will provide a contribution to the A34 corridor improvements or a contribution to the Congleton Link Road which would achieve the same benefit.

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

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

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

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

It is considered that a strategic transport contribution of would adequately mitigate the impact of the development on the Strategic Highways network and is justified on this basis

As explained within the main report, the amount of traffic added to the local network will add cumulatively to junctions and areas that are already congested and operating at capacity and the required mitigation is directly related to the development and is fair and reasonable. The contribution to quality bus service will be to cater for the additional residents in the area who will have an impact upon public transport. The contribution for the monitoring of the travel plan is fair and reasonable.

On this basis, the S106 requirements are compliant with the CIL Regulations 2010.

## **PLANNING BALANCE AND CONCLUSIONS**

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.

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 outweigh the negative in order to reach an eventual judgment on the sustainability of the development proposal.

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. Social benefits would accrue via the patronage of local schools and the provision of affordable housing.

It is also necessary to consider the negative effects of this incursion into Open Countryside by built development and the loss of higher grade agricultural land. These are considered to carry neutral weight in the planning balance given the similarities of edge of settlement sites in this area.

Whilst the proposal will result in the loss of some grade 2 and 3a agricultural land, this is considered to carry neutral weight. It is considered that the benefits of the delivering the site for housing would outweigh this loss, particularly given the weight attached to the loss of agricultural land by the Loachbrook Farm Inspector. Much of the sites identified within the SHLAA would also result in the loss of the better grades of agricultural land and open countryside.

In a negative sense, the housing will be built on open countryside contrary to the provisions of Policy PS8 of the Local Plan. However, the proposal will not have a significant impact on the landscape character of the area given the impact upon the area of the existing housing development will to some extent be screened by the existing topography of the site and the rather than a large scale intrusion into the open countryside, this remains an important adverse impact to which neutral weight is attached given the topography of the site and adjoining land.

The boost to housing supply is considered to be an very important benefit – and this application achieves this in the context of a non strategic land release on the opposite side of Padgbury Lane to an existing residential housing estate.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide adequate public open space, the necessary affordable housing requirements. The Applicant has accepted the commuted sum requirements for highways mitigation, however, the Council's position is that the commuted sum for highways works (together with its sister applcaiton) is fairly and reasonably related to the development and is CIL compliant.

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

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan Countryside policy and the loss of agricultural land are outweighed by the benefits of the proposal in terms of residential provision and the provision of 30% of the units as affordable housing. Given the scale and location of the development, its relationship to the urban area and its proximity to other services, it is not considered that these adverse impacts significantly and demonstrably outweigh the benefits – and so accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

## **RECOMMENDATION**

**Approve subject to a S106 Agreement comprising the following**

- **Affordable housing:**
  - **30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)**
  - **A mix of 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.
- Contribution of £97,508 towards primary education. This contribution will be required to be paid on 1<sup>st</sup> occupation of the site
  - Provision of minimum of 4320 sqm and of shared recreational open space and children's play space to include a NEAP with 8 pieces of equipment
  - Private residents management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity
  - Commuted Sum of £10,000 towards the delivery of quality bus stop infrastructure
  - Provision of £5,000 over five years annual monitoring (£1000 per annum) of the Travel Plan and its annual statements
  - Commuted Sum of £488,250 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
  - Commuted Sum payment of £174,000 in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton

**And the following conditions**

- 1 Standard Outline**
- 2 Submission of reserved matters – all except access**
- 3 Plans**
- 4 Development to be in accordance with Parameters Plan**
- 5 Submission of design and construction plans for the internal road infrastructure of the development. The plans will inform the Section 38 agreement for formal adoption**
- 6 Scheme to be submitted and approved demonstrating that finished floor levels of all buildings are to be set at a minimum of 600 mm above the 1% AEP modelled flood level for Loach Brook**
- 7 25 year habitat management plan**
- 8 Updated protected species assessment and mitigation strategy to be submitted in support of all future reserved matters applications**
- 9 Scheme to be submitted and approved demonstrating no built development or alteration of ground levels within the 1% AEP flood outline**



**10 All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. All piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs; Saturday 09:00 – 13:00 hrs; Sunday and Public Holidays Nil**

**11 Submission of a Contaminated Land Phase II investigation.**

**12 Submission of Construction and Environmental Management Plan**

**13 Reserved Matters to include details of bin storage.**

**14 Reserved matters to include 10% renewable provision**

**15 Detailed design of ponds to be submitted with reserved matter application**

**16 Archaeological programme of works**

**17 Details of all street lighting**

**18 Car charging point for each residential unit**

**19 Each Phase of development to include travel plan**

**20 Reserved Matters to include Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction -Recommendations , Constraints and Tree Protection Plan and Arboricultural Method Statement**

**21 Submission / approval and implementation of boundary treatment**

**22 Submission / approval of landscaping of entire site as part of 1<sup>st</sup> reserved matters application**

**23 Implementation of landscaping**

**24 Submission of tree protection measures and method statement**

**25 Reserved matters to include details of**

- **Scheme for relocation of the LEAP**
- **Exclusion of SUDS ponds, cycleway/footpath and LEAP from the retained grassland habitat area.**
- **Retained areas of grassland are safeguarded during the construction phase**
- **Scheme for management of retained areas of grassland to maintain and enhance their nature conservation value.**

**26 Provision of 8 metre wide buffer zone around the watercourse.**

**27 Reserved Matters to include details of bin storage.**

**28 Breeding Bird Survey for works in nesting season**

**29 Provision of bird/bat boxes throughout site in accordance with scheme to be submitted and approved**

**30 Submission / approval and implementation of Construction management plan**

**31 Scheme to limit surface water runoff and overland flow**

**32 Provision and implementation of Travel Plan**

**33 Electromagnetic insulation scheme to be submitted and approved**

**34 Buffer zone of 20m between houses and on site children's play space**

**35 All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings or in phasing to be agreed in writing**

**36 Development to be in accordance with principles set out in Design and Access Statement**

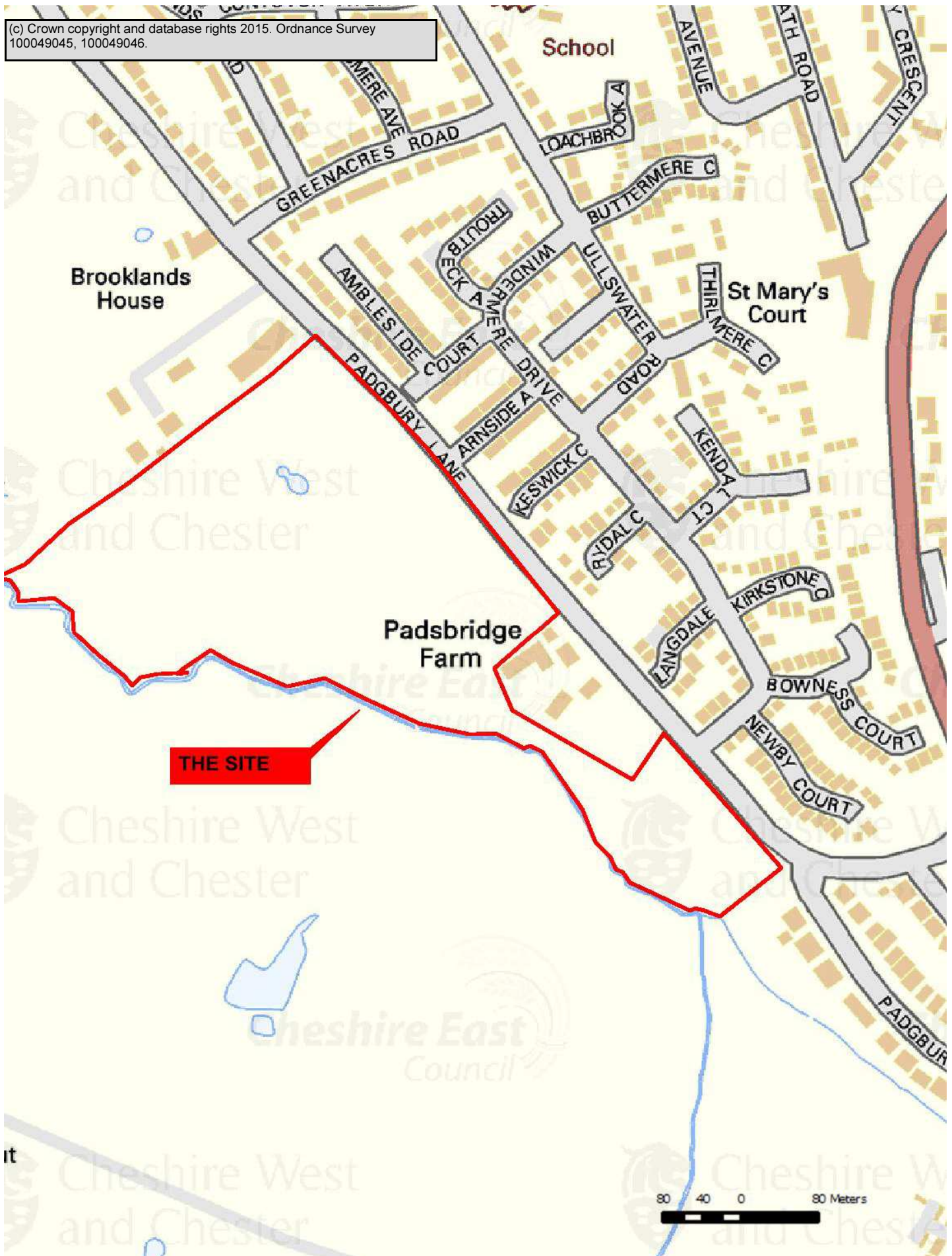
**37 Submission of Statement Design principles to take into account, the Master Plan and the Parameters Plan and to include the principles for:**

- determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
- determining the hierarchy for roads and public spaces;
- determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
- the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
- the design and layout of street furniture and level of external illumination;
- the laying out of the green infrastructure including the access, location and general arrangements of the children's play areas, open space within the site
- sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
- ensuring that there is appropriate access to buildings and public spaces for the disabled and physically impaired.
- scale parameters for 2.5 storey buildings on key parts of the site
- SUDS details to be submitted
- provision of locally relevant boundaries in hedging and stone

**38 Maximum no of units to be 150**

In order to give proper effect to the 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.

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Application No: 13/4683W

Location: White Moss Quarry Radway Green Alsager Crewe Cheshire CW1 1UJ

Proposal: Removal of Condition 11 (Hours of Operation) on Approved Application 7/2006/CCC/19 (Development for the winning and working of sand and peat). To allow plant maintenance 07.30 - 18.00 on Sundays.

Applicant: Land Recovery Ltd

Expiry Date: 30-Dec-2013

**SUMMARY:**

The NPPF states that in assessing development proposals, local planning authorities should apply the presumption in favour of sustainable development.

In terms of sustainability, the proposal would satisfy the economic sustainability role by helping to support the operation of the existing quarry business which provides both direct and indirect benefits to the local economy. However these considerations would not outweigh the harm to the local environmental and social sustainability considerations having regard to the impacts on residential amenity.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. The hours proposed do not conform with those stipulated in Policy 37 of CRMLP and no information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours nor any mitigation identified to address any associated impacts as required by this condition. The proposal therefore conflicts with policies 9, 26 and 37 of the CRMLP, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 144 of the NPPF.

**RECOMMENDATION: Refuse****PROPOSAL**

This is an application for the variation of condition 11 of planning permission 7/2006/CCC/19 at White Moss Quarry. The condition currently stipulates:

*'Operations authorised with this consent shall not be carried out other than between the hours of:*

*0730 – 1800 hours Monday to Fridays*

*0730 – 1230 hours Saturdays*

*Plant maintenance shall not be carried out other than between the hours of:*

*0730 – 1800 hours Monday to Saturday*

*On Saturdays moveable plant and vehicle maintenance will only be carried out within the designated buildings in the processing plant and stockpile area shown on plan 8/115/1A, except in emergencies. All emergencies will be notified to the Mineral Planning Authority on the next working day. Only plant and vehicles which are solely used within White Moss Quarry can be maintained on site.*

*No working shall take place on Sundays or Public Holidays’.*

The application seeks to vary this condition to allow plant maintenance on Sundays from 0730 – 1800 hours in addition to the hours currently stipulated by this condition.

## **SITE DESCRIPTION**

White Moss Quarry is located on Crewe Road (B5077), between the western extent of Alsager and the M6 motorway. Land to the north beyond Nursery Road comprises a number of residential properties, farms and agricultural land. To the east are fields beyond which are a number of properties on Close Lane and further properties forming the western edge of Alsager. To the south lies a garden centre and Crewe Road beyond which is the extensive development of Radway Green BAE Plant; whilst the M6 lies to the west beyond open fields.

The closest residential properties lie adjacent to the northern and western site boundary, and on Crewe Road, with further properties lying along Close Lane the closest of which is approximately 100m from the site. A public footpath runs along the southern and western site boundary. The site is within Open Countryside, as defined in the local plan, albeit the quarry boundary adjoins the settlement boundary of Alsager.

## **RELEVANT HISTORY**

Long planning history on the wider quarry site. Most relevant of which are:

7/2006/CCC/19	Variation of conditions of permission 7/P04/1054 granted February 2007
7/P04/1054	Extension of time until 2028 granted December 2004
13/4132N	Outline application for residential development – approved at SPB August 2014

## **NATIONAL & LOCAL POLICY**

### **National Policy:**

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

Of particular relevance are paragraphs 14, 143 and 144.

### **Development Plan:**

The Development Plan for this area is the Cheshire Replacement Minerals Local Plan 1999 and Crewe and Nantwich Local Plan 2011.

The relevant Saved Policies are: -

Cheshire Replacement Minerals Local Plan

Policy 9 – Planning Applications

Policy 12 – Conditions

Policy 26 – Noise

Policy 27 – Noise

Policy 37 – Hours of operation

Crewe and Nantwich Local Plan

NE.17 – Pollution Control

BE.1 – Amenity

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:

SE12 – Pollution, Land Contamination and Land Instability

SD 1 Sustainable Development in Cheshire East

SE10 – Sustainable Provision of Minerals

**Other Considerations:**

National Planning Practice Guidance

Noise Policy Statement for England

**CONSULTATIONS**

**Environmental Protection:**

The current permission allows for maintenance during normal operating hours and in addition from 1230 to 1800 hours on Saturday. There is little information submitted for the requirement outside of these hours for further allowance for maintenance activities.

Plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The extant permission already allows for additional hours for this activity. This section considers that in order to safeguard residential quality of life, a period of respite for local residents from the potential of adverse noise impacts should remain.

Given the above reasons the section recommends that this planning application is refused.

**Alsager Town Council:** strongly object as it would cause serious harm to the well being of the residents within that area. The quarry already has extensive operating hours from Monday

through to Saturday, residents within the vicinity of the Quarry should be allowed one day a week free from the very noisy and dusty operations of the Quarry.

**Haslington Parish Council:** concerned at the requirement for plant maintenance covering 7 days a week, needing to balance the requirements of neighbours with one of the few remaining employment sites within Haslington. If absolutely essential then a compromise of restricted hours between 09:00 and 12:00 on Sundays would provide some quiet time for neighbours on Sunday afternoons.

#### **REPRESENTATIONS:**

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

At the time of report writing in excess of 49 representations have been received which can be viewed on the Council website. They express a number of concerns which include:

- Impact on residential amenity arising from noise and disruption
- Increased dust
- Need for respite
- Sunday is a religious day
- Potential for vibration
- Impact on quiet rural area
- Need for proposal not demonstrated and activities can be scheduled into normal operating hours
- Existing provisions in the conditions are adequate
- Non compliance with existing conditions and ability to effectively monitor any amended conditions
- Adequacy of monitoring and enforcement on the site
- Impact on health and wellbeing of residents and local people
- Impact on users of the footpaths
- Detrimental to public enjoyment of open countryside
- Health and safety issues particularity for footpath users
- Other quarries/businesses are not permitted such allowances
- Disturbance to wildlife
- Potential for additional traffic and impacts on highway network and highway safety.
- Impacts on condition of roads

One letter of support has been received which states that the proposal would support job opportunities and bring financial benefits to the area.

#### **APPRAISAL**

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

##### Principle of development

The principle of mineral extraction has already been accepted by virtue of the long history of quarrying on this site. This application is to consider the variation of planning condition 11 attached to the current 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.

### **Sustainability.**

The proposed development should be considered against the NPPF. The NPPF 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:

***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. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.*

### **Social sustainability**

#### **Impact on amenity**

The applicant wishes to increase the hours permitted for plant maintenance to allow activity on Sundays from 0730 to 1800 hours. The application form states that this is required 'to allow flexibility for essential site maintenance of plant'. No other supporting justification has been provided.

The Cheshire Replacement Minerals Local Plan (CRMLP) policy 9 requires there to be an evaluation of all direct, indirect and cumulative impacts of the development. Policy 26 states that proposals will not be permitted where it would give rise to unacceptable levels of noise pollution, whilst policy 27 makes provision for controlling the hours of operation as a means of controlling noise emissions from the site.

The NPPF states that new and existing development should not contribute to unacceptable levels of noise pollution, nor give rise to '*significant adverse impacts on health and quality of life*' (paragraph 123). It should also be appropriate for its location, and the potential sensitivity of the area to adverse effects from pollution should be taken into account. With regard to mineral development, the NPPF advises that any unavoidable noise emissions from mineral development should be controlled and mitigated, and due consideration should be given to the cumulative effects of multiple impacts from individual sites and/or from a number of sites in the locality (paragraph 144).

The Environmental Health Officer notes that plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The effect of this proposal would result in additional noise generating activities on Sundays which is one of the few days that local residents are not exposed to noise and disruption associated with the quarry and aggregate business. During weekend hours the background noise levels are lower and residents are more sensitive to adverse noise impacts. It is considered that a period of respite from any potential adverse noise impacts should remain in place in order to safeguard the quality of life for local residents.

There is a history of noise complaints associated with operations at White Moss Quarry, including noise complaints related to weekend working; although the source of noise generation is not always clear. It would be remiss of the Council not to consider the background of complaints received from local residents in relation to noise from current operations at the site; which provides an indication that further prolonged activities could lead to increased noise disturbance at the properties and increased loss of amenity.

The potential impacts of any noise and disruption on neighbour properties has not been quantified or assessed through an appropriate noise survey and as such there is insufficient information to determine whether there would be significant adverse impacts and whether these could be sufficiently mitigated. This does not accord with the approach of policies 9 and 26 of CRMLP, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan. As stated in paragraph 8 of NPPF, the three dimensions to sustainable development should not be undertaken in isolation and the impact of additional, potentially unacceptable levels of noise would not satisfy either the environmental or social roles of sustainable development.

#### Compliance with policy 37

Policy 37 of the Cheshire Replacement Mineral Local Plan states that plant maintenance activities will normally be permitted until 1800 on Saturdays and no workings will be permitted at any time on Sundays or Public Holidays. The existing condition already makes provision for plant maintenance in accordance with this policy, with such activities restricted to being undertaken within buildings or certain areas of the site to protect against adverse impacts on residential amenity. The supporting text to this policy explains that where economic or technical reasons require operations outside of the normally permitted hours, applicants would need to demonstrate special circumstances and the mitigation methods to be used to

minimise any adverse impacts. The application does not detail any information to demonstrate that such exceptional circumstances exist nor does it identify suitable mitigation, therefore the proposal does not accord with Policy 37 of CRMLP.

### **Environmental Sustainability**

The proposal has the potential to pose determinant impacts on the environment by means of increasing noise pollution in the local area. Such impacts have been considered in the above section.

### **Economic sustainability**

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

Paragraph 19 states that: *'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'*. Paragraph 143 also states that minerals are essential to support sustainable economic growth and our quality of life and it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs.

Any economic benefits of the development need to be balanced against the impact on residential amenity arising from this scheme. With regard to the economic role of sustainable development, the proposed development will enable the applicant to carry out maintenance of essential plant and machinery on Sundays, which in turn would help support mineral extraction at the site, and in particular the top dressing products created at the site which serves the golf course market. This provides both direct and indirect economic benefits to the local economy.

### **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, particularly around additional noise disturbance, are addressed within the individual sections of the report

### **Conclusion – The Planning Balance**

Taking account of Paragraph 14 and 143 of the NPPF there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The proposal is contrary to development plan policies 9, 26 and 37 of the Cheshire Replacement Minerals Local Plan, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The development would provide additional provision for plant maintenance, thereby supporting an existing business which provides both direct and indirect benefits to the local economy. However this should be balanced against the conflict with policies of the Cheshire

Replacement Mineral Local Plan and Crewe and Nantwich Local Plan, and potential harm to the amenity of nearby residential properties arising from noise and disruption caused. These matters are considered sufficient to outweigh the benefits derived from this proposal.

The restrictions imposed by the condition as currently worded are considered to satisfy the six tests in paragraph 206 of the NPPF in that they are relevant, necessary, precise and reasonable as they enable any adverse impacts on residential amenity associated with noise and disruption arising from this activity to be controlled. In particular the existing condition is both 'reasonable' and 'necessary' as it would not present unjustifiable or disproportionate burden on the applicant (NPPG paragraph 004) given that there are existing provisions in the condition for plant maintenance outside of the normal hours of operation for the quarry and it complies with the hours stipulated in policy 37; furthermore no evidence has been provided to demonstrate why existing permitted hours are not adequate. Equally its retention is necessary to ensure the amenity of local residents is protected.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. No information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours as required by Policy 37, nor any mitigation identified to address any associated impacts. The proposal therefore conflicts with policies 9, 26 and 37 of the CRMLP, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 144 of the NPPF.

## **RECOMMENDATION**

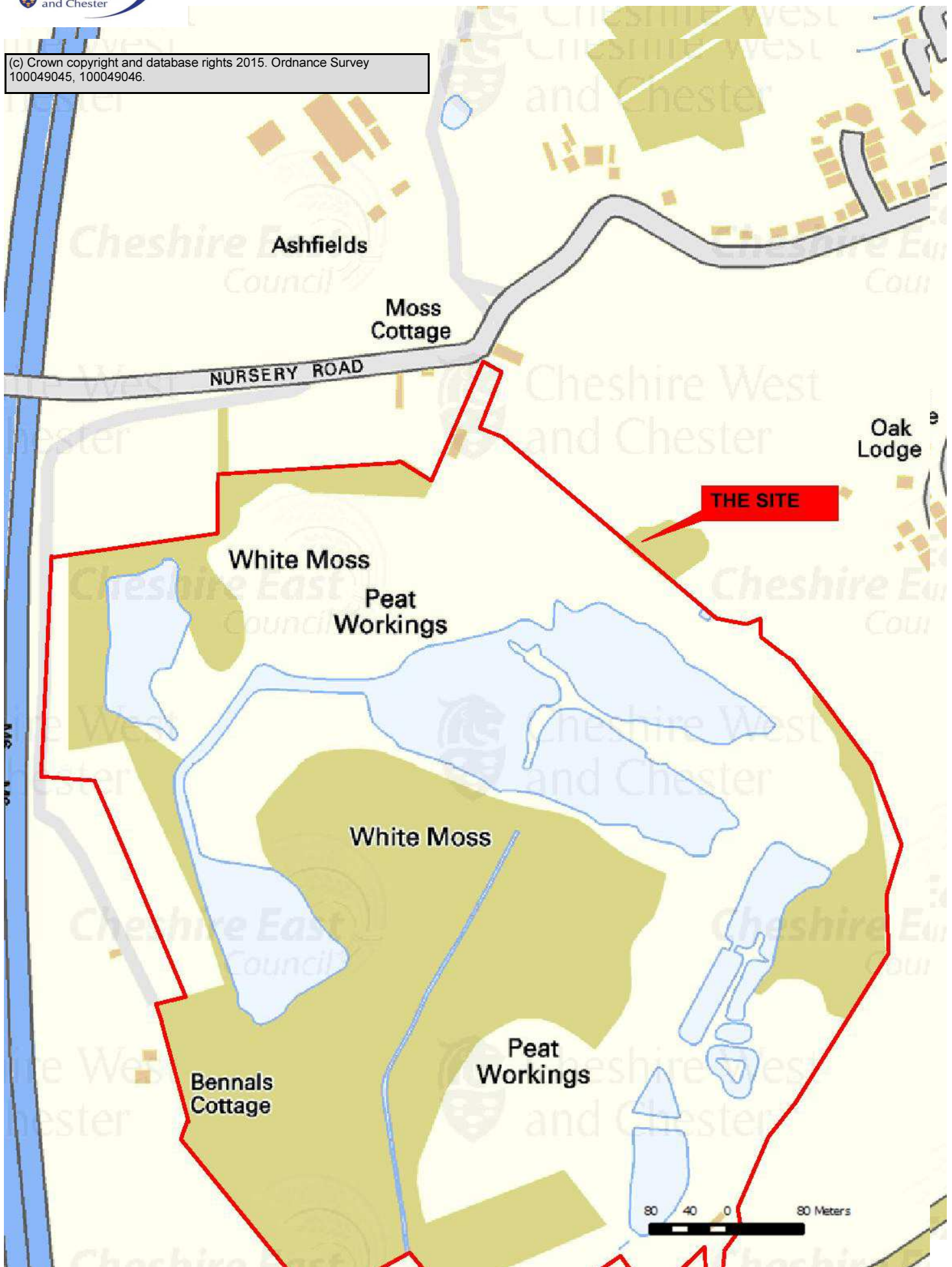
**Refuse for the following reasons:**

- 1. The proposed hours of plant maintenance do not conform with those stipulated in the development plan and special circumstances have not been demonstrated to justify any deviation from the policy. As such the proposal conflicts with the provisions of policy 37 of the Cheshire Replacement Minerals Local Plan;**
- 2. Insufficient information has been provided to demonstrate that the proposed variation would not have an adverse impact upon the amenity of nearby residential properties which is contrary to policies 9 and 26 of Cheshire Replacement Minerals Local Plan, and policies and NE. 17 and BE.1 of Crewe and Nantwich Local Plan and guidance within the NPPF.**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, 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 Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.**

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Application No: 13/4685W

Location: White Moss Quarry, Radway Green, Alsager, Crewe, CW1 5UJ

Proposal: Removal of Condition 24 on Approved Application 7/2008/CCC/8 - Aggregate Recycling Operations, to allow flexibility for essential site maintenance of plant. To also allow plant maintenance 07.30 - 18.00 on Sundays.

Applicant: Land Recovery Limited

Expiry Date: 30-Dec-2013

#### **SUMMARY:**

The NPPF states that in assessing development proposals, local planning authorities should apply the presumption in favour of sustainable development.

In terms of sustainability, the proposal would satisfy the economic sustainability role by helping to support the operation of the existing quarry business which provides both direct and indirect benefits to the local economy. However these considerations would not outweigh the harm to the local environmental and social sustainability considerations having regard to the impacts on residential amenity.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. The hours proposed do not conform with those stipulated in Policy of CRMLP and no information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours nor any mitigation identified to address any associated impacts as required by this condition. The proposal therefore conflicts with policies 12, 23 and 29 of the CRMLP, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 144 of the NPPF.

**RECOMMENDATION: Refuse**

#### **PROPOSAL**

This is an application for the variation of condition 24 of planning permission 7/2008/CCC/8 which granted approval for aggregate recycling operations at White Moss Quarry. The condition currently stipulates:

*'Operations authorised with this consent shall not be carried out other than between the hours of:*

*0730 – 1800 hours Monday to Fridays*

*0730 – 1230 hours Saturdays*

*Plant maintenance shall not be carried out other than between the hours of:*

*0730 – 1800 hours Monday to Saturday*

*No working shall take place on Sundays or Public Holidays’.*

The application seeks to vary this condition to allow plant maintenance on Sundays from 0730 – 1800 hours, in addition to the hours currently stipulated this condition.

## **SITE DESCRIPTION**

The aggregate recycling operations are undertaken within the boundary of White Moss Quarry which is located on Crewe Road (B5077), between the western extent of Alsager and the M6 motorway. The permitted aggregate recycling area lies on the southern boundary of the quarry adjacent to the processing plant, reception building and quarry entrance.

To the north lies the quarry site beyond which is Nursery Road, a number of residential properties, farms and agricultural land. To the east of the site are a number of properties on Close Lane and further properties forming the western edge of Alsager. To the south of the site is a garden centre, beyond which is the extensive development of Radway Green BAE Plant; whilst the M6 lies to the west beyond open fields.

The closest residential properties lie approximately 136m from the site to the south on Crewe Road. A public footpath runs along the southern boundary of the quarry and cuts across the southern boundary of the aggregate planning permission boundary. The site is within Open Countryside, as defined in the local plan, albeit approximately 260m from Alsager settlement boundary.

## **RELEVANT HISTORY**

Long planning history on the wider quarry site. Most relevant of which are:

7/2008/CCC/8	Aggregate recycling operations granted January 2009
7/2006/CCC/19	Variation of conditions of permission 7/P04/1054 granted February 2007
13/4132N	Outline application for residential development – approved at Strategic Planning Board August 2014

## **NATIONAL & LOCAL POLICY**

### **National Policy:**

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

Of particular relevance are paragraphs 14 and 47.



National Planning Policy for Waste (NPPW) sets out detailed waste planning policies. Paragraph 7 provides detailed considerations in respect of determining waste planning applications.

**Development Plan:**

The Development Plan for this area is the Cheshire Replacement Waste Local Plan 2007 and Crewe and Nantwich Local Plan 2011.

The relevant Saved Policies are: -

Cheshire Replacement Waste Local Plan

12 – Impact of Development Proposals  
23 – Noise  
29 – Hours of Operation

Crewe and Nantwich Local Plan

NE.17 – Pollution Control  
BE.1 – Amenity

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:

SE12 – Pollution, Land Contamination and Land Instability  
SD 1 Sustainable Development in Cheshire East

**Other Considerations:**

National Planning Practice Guidance  
Noise Policy Statement for England

**CONSULTATIONS**

**Environmental Protection:**

The current permission allows for maintenance during normal operating hours and in addition from 1230 to 1800 hours on Saturday. There is little information submitted for the requirement outside of these hours for further allowance for maintenance activities.

Plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The extant permission already allows for additional hours for this activity. This section considers that in order to safeguard residential quality of life, a period of respite for local residents from the potential of adverse noise impacts should remain.

Given the above reasons the section recommends that this planning application is refused.

**Alsager Town Council:** strongly object as it would cause serious harm to the well being of the residents within that area. The quarry already has extensive operating hours from Monday through to Saturday, residents within the vicinity of the Quarry should be allowed one day a week free from the very noisy and dusty operations of the Quarry.

Haslington Parish Council: are concerned at the requirement for plant maintenance covering 7 days a week, needing to balance the requirements of neighbours with one of the few remaining employment sites within Haslington. If absolutely essential then a compromise of restricted hours between 09:00 and 12:00 on Sundays would provide some quiet time for neighbours on Sunday afternoons.

### **REPRESENTATIONS:**

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

At the time of report writing approximately 44 representations have been received which can be viewed on the Council website. They express a number of concerns which include:

- Impact on residential amenity arising from noise and disruption
- Increased dust
- Need for respite
- Sunday is a religious day
- Potential for vibration
- Impact on quiet rural area
- Need for proposal not demonstrated and activities can be scheduled into normal operating hours
- Existing provisions in the conditions are adequate
- Non compliance with existing conditions and ability to effectively monitor any amended conditions
- Health and safety issues particularly for footpath users
- Other quarries/businesses are not permitted such allowances
- Disturbance to wildlife
- Potential for additional traffic and impacts on highway network and highway safety.
- Impacts on condition of roads
- Impact on health and wellbeing of residents and local people
- Impact on users of the footpaths
- Reduction in quality of lives of local residents
- Does not conform with planning policy
- Adequacy of monitoring and enforcement on the site

### **APPRAISAL**

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

#### Principle of development

The principle of the aggregate recycling operations has already been accepted following the approval of the permission 7/2008/CCC/8. This application is to consider the variation of planning condition 24 attached to that 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.

### **Sustainability.**

The proposed development should be considered against the NPPF and National planning policy on waste. The NPPF 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:

***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. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.*

### **Social sustainability**

#### **Impact on amenity**

The applicant wishes to increase the hours permitted for plant maintenance to allow activity on Sundays from 0730 to 1800 hours. The application form states that this is required 'to allow flexibility for essential site maintenance of plant'. No other supporting justification has been provided.

The Cheshire Replacement Waste Local Plan (CRWLP) policy 12 requires there to be an evaluation of all direct, indirect and cumulative impacts of the development. Policy 23 states that proposals will not be permitted where it would give rise to unacceptable levels of noise pollution, and suggests controlling the hours of operation as a means of controlling noise emissions from the site.

The National Planning Policy for Waste (NPPW) requires consideration of the likely impact of proposals on the local environment and on amenity of new development. Equally one of the core planning principles in the NPPF is to secure a good standard of amenity for all existing and future occupants of land and buildings. New and existing development should not contribute to unacceptable levels of noise pollution, nor give rise to '*significant adverse impacts on health and quality of life*' (paragraph 123). It should also be appropriate for its location, and the potential sensitivity of the area to adverse effects from pollution should be taken into account.

The Environmental Health Officer notes that plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The effect of this proposal would result in additional noise generating activities on Sundays which is one of the few days that local residents are not exposed to noise and disruption associated with the quarry and aggregate business. During weekend hours the background noise levels are lower and residents are more sensitive to adverse noise impacts. It is considered that a period of respite from any potential adverse noise impacts should remain in place in order to safeguard the quality of life for local residents.

There is a history of noise complaints associated with operations at White Moss Quarry, including noise complaints related to weekend working; although it is not clear if this is related specifically to the aggregate operations. It would be remiss of the Council not to consider the background of complaints received from local residents in relation to noise from current operations at the site; which provides an indication that further prolonged activities could lead to increased noise disturbance at the properties and increased loss of amenity.

The potential impacts of any noise and disruption on neighbour properties has not been quantified or assessed through an appropriate noise survey and as such there is insufficient information to determine whether there would be significant adverse impacts and whether these could be sufficiently mitigated. This does not accord with the approach of policies 12 and 23 of CRWLP, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan. As stated in paragraph 8 of NPPF, the three dimensions to sustainable development should not be undertaken in isolation and the impact of additional, potentially unacceptable levels of noise would not satisfy either the environmental or social roles of sustainable development.

#### Compliance with policy 29

Policy 29 of the Cheshire Replacement Waste Local Plan stipulates the 'normally permitted hours of operation' for waste management facilities, with no working permitted at any time on Sundays. The existing condition already makes additional provision for plant maintenance in excess of the hours normally permitted under this policy. Whilst longer working may in some cases be permitted, this is on the proviso that there are no consequent unacceptable impacts. The supporting text explains that in such cases, the applicant would need to demonstrate the exceptional circumstances pertaining to their application and the mitigation methods to be used to minimise any impacts arising from longer working hours. The application does not

detail any information to demonstrate such exceptional circumstances nor identify suitable mitigation. It is considered that the proposal does not accord with this policy and has not been sufficiently justified given that additional flexibility has already been provided for within the existing wording of the condition.

### **Environmental Sustainability**

The proposal has the potential to pose determinant impacts on the environment by means of increasing noise pollution in the local area. Such impacts have been considered in the above section.

### **Economic sustainability**

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

Paragraph 19 states that: *'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'*. The NPPW also states that 'positive planning plays a pivotal role in delivering this country's waste ambitions through seeking to ensure that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities'.

Any economic benefits of the development need to be balanced against the impact on residential amenity arising from this scheme. With regard to the economic role of sustainable development, the proposed development will enable the applicant to carry out maintenance of essential plant and machinery on Sundays, which in turn would help support an existing business which provides an outlet for inert wastes from construction projects and allows them to maintain a supply of secondary aggregates for the construction industry. This provides both direct and indirect economic benefits to the local economy and in particular to the construction industry supply chain.

### **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.

### **Conclusion – The Planning Balance**

Taking account of Paragraph 14 of the NPPF and paragraph 1 of the NPPW there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The proposal is contrary to development plan policies 23 and 29 of the Cheshire Replacement Waste Local Plan, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The development would provide additional provision for plant maintenance, thereby supporting an existing business which provides both direct and indirect benefits to the local economy and in particular to the construction industry supply chain. However this should be balanced against the conflict with policy 29 of the Cheshire Replacement Waste Local Plan and potential harm to the amenity of nearby residential properties arising from noise and disruption caused. These impacts are considered sufficient to outweigh the benefits derived from this proposal.

The restrictions imposed by the condition as currently worded are considered to satisfy the six tests as identified at paragraph 206 of the NPPF in that they are relevant, necessary, precise and reasonable as they enable the impacts on amenity from noise and disruption associated with this activity to be controlled. In particular the existing condition is both 'reasonable' and 'necessary' as it would not present unjustifiable or disproportionate burden on the applicant (NPPG paragraph 004) given that there are already additional provisions for plant maintenance permitted under the current wording of the condition which goes beyond the 'normally permitted' hours stipulated in the policy, and no evidence has been provided by the applicant to demonstrate why existing permitted hours are not adequate. Equally its retention is necessary to ensure the amenity of local residents is protected.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. No information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours as required by Policy 23, nor any mitigation identified to address any associated impacts. The proposal therefore conflicts with policies 12, 23 and 29 of the Waste Local Plan, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 123 of the NPPF.

## **RECOMMENDATION**

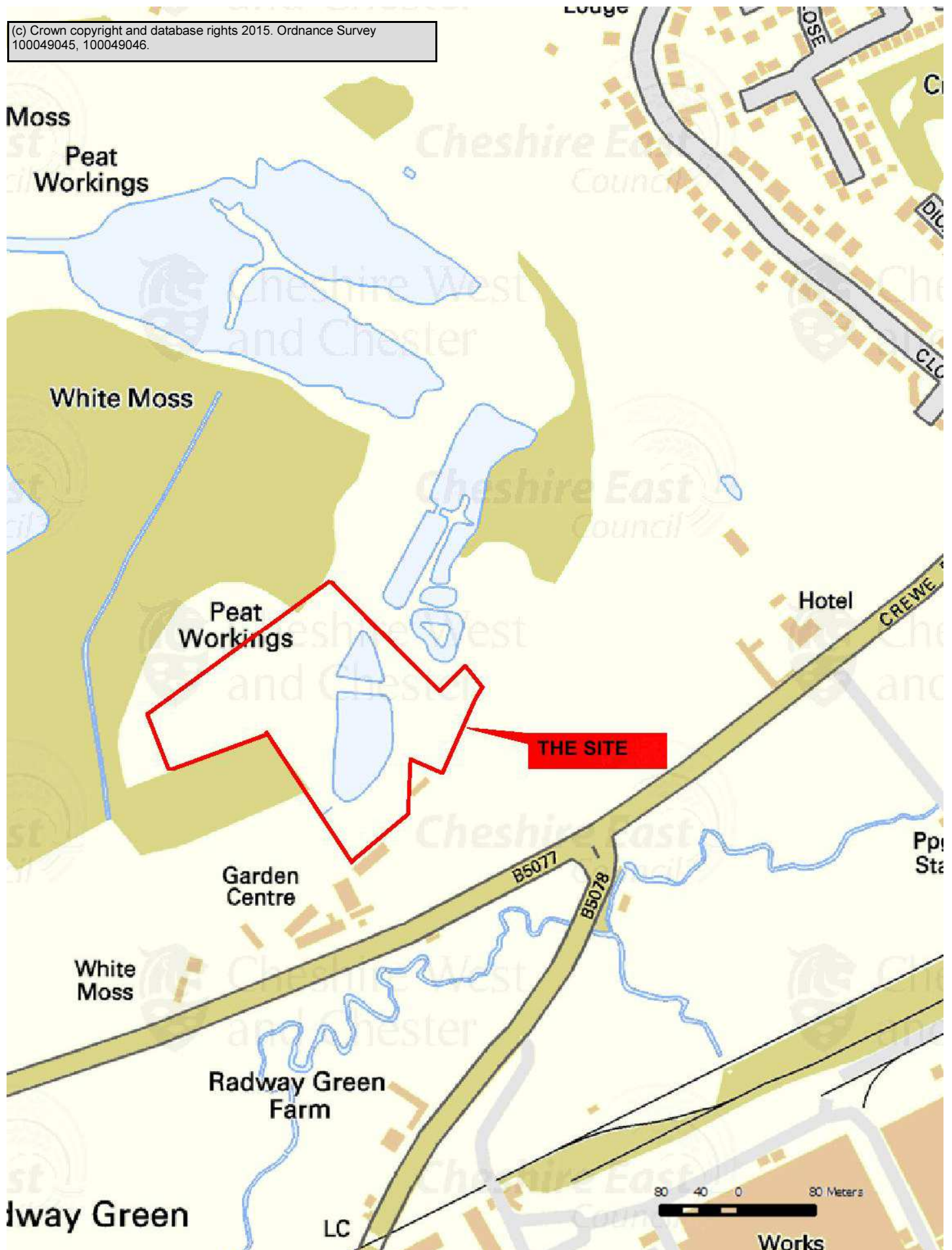
**Refuse for the following reasons:**

- 1. The proposed hours of plant maintenance do not conform with those stipulated in the development plan and no exceptional circumstances have been demonstrated to justify any deviation from the policy. As such the proposal conflicts with the provisions of policy 29 of the Cheshire Replacement Waste Local Plan;**
- 2. Insufficient information has been provided to demonstrate that the proposed variation would not have an adverse impact upon the amenity of nearby residential properties which is contrary to policies 12 and 23 of Cheshire Replacement Waste Local Plan, and policies and NE. 17 and BE.1 of Crewe and Nantwich Local Plan and guidance within the NPPF and NPPW.**

**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 Southern Planning Committee, 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 Southern Planning Committee 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: 14/5338C

Location: Land Between, Black Firs Lane, Chelford Lane, Holmes Chapel Road, Somerford, Congleton, Cheshire

Proposal: Variation of condition 4 and removal of conditions 35 and 36 to planning application 13/2746C - Erection of up to 180 dwellings, public open space, green infrastructure and associated works

Applicant: Richborough Estates Partnership LLP

Expiry Date: 12-Feb-2015

**SUMMARY:**

The principle of development has already been accepted as part of the outline approval 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.

An appropriate quality of design can be achieved at reserved matters stage, as can the amenity of neighbours and the locality be safeguarded.

**RECOMMENDATION:**

**APPROVE** subject to the completion of deed of variation to the S106 attached to 13/2746C to secure the same Heads of Terms as application 13/2746C

**PROPOSAL:**

This application seeks to vary condition 4 and remove conditions 35 and 36 attached to application 13/2746C. Collectively these conditions relate to the imposition of restrictions that the future housing development shall be no more than two storeys in height and that bungalows should be built adjacent to existing bungalows. These are considered in detail below.

**Condition 4**

*This permission shall refer to the general parameters on the following drawings (with the exception of changes required to be in compliance with other conditions):*

*A-01-L-110 – Proposed Parameters Plan with the exception that all development shall contain no more than 2 storeys.*

*Reason: This is an outline planning permission and compliance with the parameters is required to provide certainty and ensure the impact of the development on planning interests is acceptable and to comply with other conditions. This is in accordance with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.*

This application seeks the following wording for condition 4:

*This permission shall refer to the general parameters A-01-L-110*

*Reason: This is an outline planning permission and compliance with the parameters is required to provide and ensure the impact of the development on planning interests is acceptable and to comply with the other conditions. This is in accordance with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.*

In the light of this variation, the application seeks the removal of conditions 35 and 36 as they are unnecessary and therefore contrary to guidance within Planning Policy Guidance once condition 4 is varied.

#### **Condition 35**

*Notwithstanding any plans or reports submitted with this application, the dwellings hereby approved shall be a maximum of 2 storeys*

*Reason In the interests of achieving a high quality design and layout and to comply with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review*

#### **Condition 36**

*Notwithstanding any plan or supporting statement submitted, the reserved matters shall make provision for bungalows to back onto existing bungalows, where they adjoin the site, unless it has been demonstrated as part of the submission that it is not feasible or viable to do so.*

*Reason To safeguard amenity of adjoining residents in accordance with Policies GR1 of the adopted Congleton Borough Local Plan First Review.*

#### **SITE DESCRIPTION:**

The application site comprises approx 10.42 hectares in a roughly triangular shape is located within an area of ribbon development along Chelford Road, Black Firs Lane and Holmes Chapel Road. Opposite the site along Chelford Road there are a mix of detached houses and bungalows. Black Firs Lane marks the western edge of the Congleton Settlement. Adjoining the south-west part of the site is former farmstead of Green Tree Farm and to its south Goodwin's Pool, which is used by Congleton Anglers Society for fishing. The frontages of the site have wide grass verges, with many trees of differing levels of maturity, quality and height. The western side of Chelford Road is characterised by an existing ribbon of development, part of the southern boundary has ribbon development facing onto Holmes Chapel road and there is a section of ribbon development along southern part of the eastern, Black Firs Lane boundary. Ribbon development also extends further up the eastern side of Black Firs Lane.

The application is best and most versatile agricultural land and apart from the areas adjacent to existing dwellings, much of the boundary is characterised by hedgerows, wide grassed verges and mature trees to the Street frontages.

Black Firs nature reserve (SBI) sits along the southern part of the site and an area of woodland outside the site boundary on the junction of Holmes Chapel Road and Chelford Road.

#### **RELEVANT HISTORY:**

13/2746C Erection of up to 180 dwellings, public open space, green infrastructure and associated works – Outline planning permission granted 19 August 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, 60, 61, 63, 64, 65 and 66

##### **Development Plan:**

The Development Plan for this area is the Congleton Borough Council First Review 2005. 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  
Strategic Site SL6- Radnor Park/Back Lane

**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:** No Objections

**Head of Strategic Infrastructure :** No objection or comment to make

**Strategic Housing Manager :** No comment

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

Somerford Parish Council: Object to the clause that states the development to be 2 storey

**REPRESENTATIONS:**

Five letters of objection has been received raising the following points:

- lack of privacy to my property and the country side
- Site is outside SL6 and the original approval was undemocratically engineered. The Strategic Planning Board seemed quite uncomfortable in approving the original application, They appeared keen to moderate the impact of such a large development in the open countryside by stipulating the conditions now being challenged. As such, there is no justification for a change to the planning permission and the conditions should either stand or the original approval be withdrawn.

- The proposed development of houses is uniform in design and layout with pavements. Houses in the locality are 2 storey or bungalows therefore removal or variation of the conditions would be contrary to local distinctiveness and would spoil the tranquillity of the area. Does not reinforce local distinctiveness contrary to the NPPF, there is a great need for bungalows in an aging population.

Councillor Wray has advised that residents and the clerk of the Parish Council have contacted him and he and the residents have concerns about this application and considers that the conditions should stay as they were originally to protect the amenity and views of residents

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

To support this application the application includes the following documents;

1. Illustrative Masterplan (A-01-L-100)
2. Proposed Parameters Plan (A-01-L-110)
3. Design and Access Statement (June 2013)
4. Removal/Variation of Condition Justification Statement (Nov 2014)

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 13/2746C. 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 an opportunity for the complete re-consideration of the original application. PPG advises that conditions must serve all 6 clauses and that 'It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls'

##### **Variation of Condition 4 and Removal of Condition 35**

The applicant seeks this to allow for 2½ storey development. They consider that the design ethos developed in the design and access statement and accepted in the grant of the original permission was a carefully evolved strategy based on individual character areas within the site, the

preservation of local distinctiveness, landscape with the creation of a high quality of urban design and improving linkages.

This will require a variety of housetypes and the Applicant considers that Policy GR3 of the Local Plan requires a variety of housetypes to be provided. The design evolution recognised the Black Firs and Chelford Road frontages as being sensitive and significant set backs were designed into these frontages, with the existing bungalows on the other side of Chelford Road being circa 40m away from the indicative area of development to that frontage. There are no bungalows immediately adjoining this site

The Masterplan provides for 6 character areas;

1) Black Firs Lane

To this frontage, the indicative proposals show dwellings (which could be 2 and 1/5 storeys) circa 25m back from the street frontage with the dwellings on the other side of the street being between 30 and potentially 40m away from the proposed area of development.

2) Chelford Road

To this frontage, the indicative proposals show dwellings (which could be 2 and 1/5 storeys) circa 25m back from the street frontage with the dwellings on the other side of the street being between 30 and potentially 40m away from the proposed area of development. Retention of the existing tree line and strengthened with further planting behind the site hedgerow to replicate the green screen of planting that fronts the existing properties opposite and soften the view

3) Black Firs Wood

4) Black Firs Park

5) Black Firs Green

This area forms the central portion of the site and is the area where smaller units types are proposed. Not visible from the existing public realm and therefore can be more unique in nature as it need not relate directly to the character of the wider context of Somerford

6) Goodwin's Green

This area is located to the southern portion of the site. In the main the area is concealed by existing ribbon development. It is proposed for a range of family housing. The Indicative proposals show a arrangement of properties with large rear gardens backing onto the site boundary to ensure existing properties are not overlooked.

Areas 1, 2, 5 and 6 contain the majority of the housing. Key design principles were derived for the character areas within the Design and Access Statement, these are

- Retention of the distinctive site features, the tree lined hedges and verges, that provide the setting for the site.
- Creation of a structured landscape layout and green space and lanes, complimentary to the existing area
- Develop distinct character areas to add diversity and interest to the proposals.
- Design in a flexible way that allows the proposals to make positive response to the immediate context.
- Sets out key parameters for the development which will safeguard important features, such as the location of Black Firs Park and the frontages to the existing lanes.

Although it is acknowledged that the general scale of development in the wider area is 2 storey, this in itself can lead to problems of uniformity and a lack of legibility in a modern estate layout.

It should be noted that the wider area is generally a sylvan environment with generally large detached dwellings set in sizeable grounds with a small number of bungalows on the other side of Chelford Road. The large dwellings locally were not developed as part of a masterplanned estate and are tall structures which in modern terms could easily be regarded as being of a comparable height to modern 2½ storey dwellings, as would be the case here.

The Council's Principal Urban Design Officer advises that 2½ storey units at defined, targeted locations and limited in number would help to define corners, articulate roofscapes, better enclose feature spaces and create a scheme that generally has more townscape interest and would contribute to local character. This will aid in the creation of local distinctiveness rather than fail in that regard.

Paragraph 60 of the NPPF advises that decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is proper to seek to promote/reinforce local distinctiveness.

Likewise, in terms of the amenity and privacy of residents, either the limited number of dwellings that share a boundary with the site or those on the opposite side of Chelford Road and Black Firs Road, the indicative interfaces are more than the 21.5m necessary to comply with adopted policy to maintain privacy and amenity. In addition, this matter is part of the reserved matters assessment of any future layout which will be undertaken at that stage.

The comments made in the representations are noted. However the suggested variation of condition 4 is considered to be reasonable within the context of this extensive development site. It then follows that condition 35 is not needed and does not serve a planning purpose.

The exact detail of the design can appropriately be dealt with at the reserved matters stage. This view is supported by the comments from the Council's Principal Urban Designer.

### **Removal of Condition 36**

This seeks the removal of the condition requiring bungalows to back on to bungalows to the southern part of the site. This is within the 'Goodwins Pool' character area. The design of the indicative Masterplan shows properties with large rear gardens backing onto the site boundary to ensure existing properties are not overlooked. The properties indicated within the Masterplan showed the proposed properties to have long gardens, specifically designed into the indicative outline scheme to protect the amenity of the limited number of adjoining properties.

The applicant's design ethos is that this area of the site will respect the wider site context, and like that context, the design has evolved to contain a balanced range of family housing.

The prescription of an imposed architectural style of only bungalows in this area would be contrary to the advice within the NPPF and the PPG which specifically considers the imposition of architectural styles to be unreasonable.

In addition, given the protection of the amenity and privacy of adjoining residents would be fully considered as part of the reserved matters application, when the siting and design of properties will be known will be fully considered as part of that application. In any event the indicative

masterplan shows the properties in this location to have long rear gardens where they adjoin the existing properties, this helps to protect the privacy and amenity of future residents as well.

#### **S106 AGREEMENT:**

The original permission comprises a S106 Agreement. As part of 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 as previously approved.

#### **PLANNING BALANCE:**

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

To maintain the conditions as originally stated would not satisfy the reasonableness test with National Policy Guidance. The variation/removal of the suggested conditions is therefore 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 the outline permission (detailed below)

- **30% of the dwellings to be affordable.**
- **Provision of a LEAP with 5 pieces of equipment specification to be submitted and agreed and in accordance with that set out in the Greenspaces Officer consultation response.**
- **Management plan for all open space in perpetuity (including, inter alia, the LEAP, allotments if provided, woodland, general amenity openspace, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).**
- **Commuted sum of £55, 610 to be used to deliver off-site habitat creation/enhancement**
- **Commuted sum of £165,405 in lieu of primary education**



- **Commuted Sum of £145,000 towards Quality Bus Stop Infrastructure and improvements to service frequency and the provision of additional bus service and frequency to serve this development and the local area.**
- **Commuted Sum of £755,000 -  
for the widening of the West Road/A34 roundabout western arm for design fees associated with the widening of the West Rd roundabout western arm.  
for the upgrade and necessary alterations to the existing signalised pedestrian crossing on the western arm approach to the West Rd roundabout.  
Contribution to the provision of a MOVA system upgrade at the signalised junction at Rood Hill/A34.**

**Or other measures including design fees eg link road that will provide similar or better congestion relief benefits to the A34 corridor through Congleton**

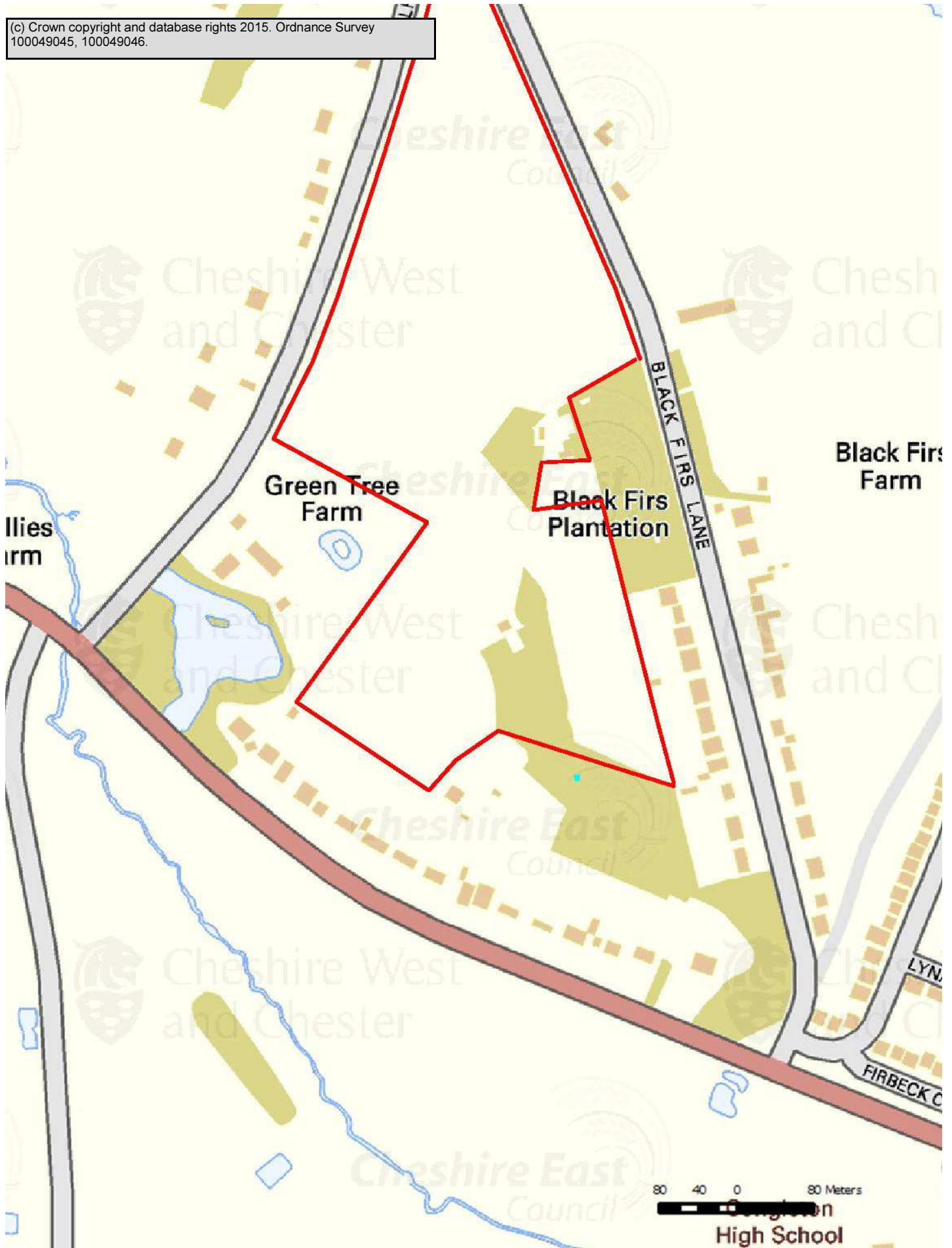
**And the following conditions**

1. Standard Outline
2. Submission of reserved matters – all except access
3. Plans
4. Development to be in accordance with Parameters Plan A-01-L-110
5. Submission of design and construction plans for the internal road infrastructure of the development. The plans will inform the Section 38 agreement for formal adoption
- 6 Submission of design and construction plans for off site highway works.
7. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
8. Submission of construction details for access / roads
9. All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. All piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs; Saturday 09:00 – 13:00 hrs; Sunday and Public Holidays Nil
- 10 Submission of a Contaminated Land Phase II investigation.
- 11 Submission of Construction and Environmental Management Plan
- 12 Reserved Matters to include details of bin storage.
- 13 Reserved matters to include 10% renewable provision
- 14 Updated badger survey and revised ecological mitigation strategy to be submitted with reserved matters application.
- 15 Detailed design of ponds to be submitted with reserved matter application
- 16 Archaeological programme of works
- 17 Details of all street lighting
- 18 Car charging point for each residential unit
- 19 Each Phase of development to include travel plan
- 20 Reserved Matters to include Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction -Recommendations, Constraints and Tree Protection Plan and Arboricultural Method Statement
21. Submission / approval and implementation of boundary treatment
22. Submission / approval of landscaping

23. Implementation of landscaping
24. Important hedgerows and trees, including those outside red edge on Black Firs Lane, to be retained and to be incorporated within reserved matters layout
25. Submission/ implementation of tree/hedgerow protection measures
26. Breeding Bird Survey for works in nesting season
27. Provision of 10 bird/bat boxes throughout site
28. Scheme to limit surface water runoff and overland flow
29. Sewer easement as detailed in United Utilities response
- 30 Buffer zone of 20m between houses and play space
- 31 All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings
- 32 Development to be in accordance with principles set out in Design and Access Statement. First reserved matters for each phase shall provide a statement of Design principles to take into account, the Master Plan and the Parameters Plan and to include the principles for:
  - determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
  - determining the hierarchy for roads and public spaces;
  - determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
  - the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
  - the design and layout of street furniture and level of external illumination;
  - the laying out of the green infrastructure including the access, location and general arrangements of the children's play areas, open space within the site
  - sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
  - ensuring that there is appropriate access to buildings and public spaces for the disabled and physically impaired.
  - scale parameters for 2.5 storey buildings on key parts of the site
  - SUDS details to be submitted
  - provision of locally relevant boundaries in hedging and stone
33. Maximum no of units to be 170
34. Each reserved matters shall provide full details of phasing of the development

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

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Application No: 14/4296N

Location: AGRICULTURAL LAND AT, HATHERTON LODGE FARM,  
HUNTERSON ROAD, HATHERTON, NANTWICH, CW5 7RA

Proposal: Installation of a solar park with an output of approximately 8.28 MW on  
land associated with Hatherton Lodge Farm.

Applicant: Mr Markus Wierenga, Green Switch Developments Ltd

Expiry Date: 11-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 any harm having regard to the impact on open countryside and loss of best and most versatile 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 have an impact on the landscape of the area but not sufficiently harmful in the overall balance. It is acceptable in terms, amenity, flood risk, highway safety and ecology.

The scheme therefore represents a sustainable form of development and the planning balance weighs in favour supporting the development.

#### **RECOMMENDATION:**

Approve subject to conditions.

#### **PROPOSAL**

The development proposal is for a circa 8.25MWp Solar Park laid out across approximately 16 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 28,160 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 panel frames are secured into position through piles driven into the ground, meaning there is no requirement for excavation or concrete laying.

There would be inverters housed in weather proof fibre glass enclosures and a small control building/substation within the site.

Access during the construction period, for maintenance and subsequent decommissioning, would be via a track which leads from Hunterston Road to the north and through Hatherton Lodge Farm.

The operational life of the solar park would be 25 years.

#### **SITE DESCRIPTION:**

The site is located southeast of Nantwich close to the villages of Hatherton and Hunsterson on land at Hatherton Lodge Farm. It consists of four fields with an overall area of 15.98 hectares. The site is located in a shallow basin and is generally flat. There are mature but gappy hedgerows and trees around the site perimeter and on the boundaries between the four fields and a low ridge along the north eastern site boundary. The topography of the surrounding area is broadly undulating.

The land has been assessed as being 82% Grade 4, 4% Grade 3b and 14% Grade 3a.

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

#### **RELEVANT HISTORY:**

An Environmental Impact Assessment screening opinion was requested relating to this site. (13/5090S) This concluded that the development would not constitute EIA development.

#### **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:**

No objection.

### **Environmental Health:**

None received at the time of report writing, however on previous applications of this nature there has been no objection subject to an informative relating to noise generative works.

### **Flood Risk Manager:**

No objection in principle, subject to conditions.

### **Natural England:**

No objection.

### **Archaeology:**

No objection subject to a condition relating to a method statement for new groundworks.

### **Public Rights of Way:**

No objection subject to an informative making the developer aware of their responsibilities having regard to the public footpaths.

### **Civil Aviation Authority:**

Have responded saying that they do not need to be consulted on applications such as this.

### **Manchester Airport:**

No objection.

### **Hatherton and Walgherton Parish Council:**

Object to the proposal on several grounds including agricultural land classification, impact on landscape, contrary to Government guidance, omissions in the information submitted with the application, flood risk, glint and glare, traffic disruption and impact on wildlife.

### **Doddington and District Parish Council:**

Object to the proposal on several grounds including visual impact, insufficient ecological assessment, agricultural land classification, poor drainage and traffic disruption during development

## **REPRESENTATIONS:**

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

At the time of report writing approximately 36 comments have been received relating to this application, expressing the following concerns:



The objections express the following concerns:

- The site is miles from the National Grid and disruption during connection
- Negative impact on the character of the landscape
- Visual impact from neighbouring properties
- Industrial style development
- Loss of agricultural land
- The agricultural land is not of a poor grade
- Impact on views from the South Cheshire Way
- Security fence will be an alien feature
- Impact on wildlife
- Heavy construction traffic
- Will not supply local need but just feed into the grid
- Panels should be sited on the roofs of new and existing buildings
- Scale of the solar park is too large
- Contrary to Policies NE.2 and NE.19
- Will be “an appalling blot on the Cheshire landscape similar to a concentration camp”
- Security issues – solar panels will attract thieves
- Planning Officers are under a professional and moral duty to safeguard our heritage for both the present and future generations
- The use of the countryside for heavily subsidised renewable energy cannot be considered to be ‘green’
- Will set a precedent for further degradation of the countryside
- The site may not be correctly maintained and become insecure and dangerous
- Electricity output will not be cost effective
- May interfere with internet and mobile phone coverage
- Loss of flora may impact on bees
- Several Government Ministers have spoken against solar developments in rural areas
- Contrary to Planning Policy Guidance
- This will be the “thin end of a very large wedge”
- The 10 metre buffer strips are a “half hearted” attempt to rationalize the damage that would be caused
- Inadequate consultation by the developer
- Property devaluation
- Is the northern climate suitable for solar farms?
- No evidence of alternative sites being considered
- Errors in the Transport Statement
- No evidence on the cumulative impact of solar park development

The objectors also have the support of the local MP who has submitted an objection to the application, as has the Ward Councillor.

One of the objectors has submitted a letter that he received from the Department for Food and Rural Affairs, which he received following his request for clarification of the Department’s views on solar power on agricultural land. The letter states the following:

*“As set out in our Solar Strategy, we want to focus on opening up the solar market for the UK’s estimated 250,000 hectares of south facing commercial rooftops. Solar increasingly offers efficient and cost effective onsite generation opportunities to both businesses and domestic consumers, and our strategy makes a step change in our ambition for both as a means to generate renewable energy.*

*Widespread solar will ensure a better deal for hard pressed consumers and help move towards a greener, more local energy sector. Farm subsidies are, however, designed to support agricultural activities and should therefore be allocated to people who primarily use the land for agriculture.*

*We want farmers to prioritise making the best use of their land for food and crops. We therefore do not want to provide subsidies for land where farming is just a secondary activity. CAP money should be focussed on farmers who are committed to agriculture.*

*Farmers will continue to get an income from energy generation. We do want farmers to look for ways of increasing the diversity of their business, and solar installations can be part of that. What we are saying is that farmers should be focussed on using prime agricultural land for crops and food. Solar panels can help if they are installed on farm buildings, for example.”*

## **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, agricultural land, heritage assets, landscape, trees, ecology, flood risk and archaeology.

### **Principle of Development**

The proposed development should be considered against the National Planning Policy Framework (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 considerations 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.

### Alternative Sites

The application makes clear that the applicant is aware of the promotion of brownfield sites. However they maintain that brownfield sites and rooftops are difficult due to issues with

contaminated land and fears of building owners that panels would damage the fabric of their buildings.

Having regard to the appeal site, the applicant considers that it is 'best suited' due to the avoidance of visual impact on local residents and the fact the it does not use any significant amount of best and most versatile agricultural land.

### 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 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. Two applications have been determined by the Council one approved at Land North East of Combermere Abbey (14/2247N) where it was considered that the impacts would not be unacceptable and one refused at Hurst Hall, Marbury (14/4380N) due to severe adverse impact on landscape.

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 detraction 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**

### **Renewable Energy Production**

The development would *'be a solar photovoltaic (PV) power plant of approximately 7.46 Mega Watt peak (MWp).'* This would generate power and reduce carbon.

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.

### **Landscape**

The site is located southeast of Nantwich close to the villages of Hatherton and Hunsterson on land at Hatherton Lodge Farm. It consists of four fields with an overall area of 15.98 hectares. The site is located in a shallow basin and is generally flat varying between 63 and 68 metres AOD. There are mature but gappy hedgerows and trees around the site perimeter and on the boundaries between the four fields and a low ridge along the north eastern site boundary. The topography of the surrounding area is broadly undulating.

The application includes a Landscape and Visual Impact Assessment (LVIA) in accordance with the current Guidelines for Landscape and Visual Impact Assessment. The landscape and visual impacts are considered separately:

#### *Landscape Impacts*

The site lies within National Character Area 61 – the Shropshire, Cheshire and Staffordshire Plain. In the Cheshire Landscape Character Assessment 2008 the site is within the Lower

Farms and Woods character type and the Audlem Character Area. Using these assessments the LVIA has summarised the character of the area as - a broadly undulating landscape with steeper wooded slopes along watercourses. A low density of settlements combined with country roads creates a rural character. Views across the landscape are restricted by hedgerow trees and woodland blocks and a lack of vantage points. However, the removal of hedges in some areas has created a more open landscape, allowing extensive views.

The value of the site and surrounding area is assessed as medium as there are no national or local landscape designations. The sensitivity of the site to the proposed development is also assessed as medium. The assessment concludes that during both the construction and the operational phase the impact on the character of the site would be Substantial Adverse due to the introduction of new elements that would be prominent and uncharacteristic of the landscape. However, these impacts would be limited to the site and the immediate surrounding area due to the screening provided by strong hedgerow trees and woodland blocks and local changes in topography. For the wider landscape, impacts would be Nil-Negligible Adverse due to limited inter-visibility with the site.

These impacts would be long-term but reversible following the removal of the facility after an anticipated 25 year operational period. Residual impacts would be negligible.

#### *Visual Impacts*

The visual impact assessment considers views from residential properties, public footpaths, regional cycle route 70 and highways in the vicinity.

Views of the development would be available from the following properties: Bearcat Fields, Hatherton Lodge Farm, The Laurels, Hunsterson Four Lane End and Manor Farms, Holly Farm and properties in Birchall Moss.

Bearcat Fields is the closest property and is located 50 metres south of the site. Ground and upper floor views from this property would be partially screened by vegetation on the site boundary. The visual impact is assessed as Substantial Adverse during construction and Moderate Adverse during the operational phase.

Hatherton Lodge Farm is located 90 metres north of the site and the visual impact on this property is assessed as Moderate Adverse for both the construction and operational phases. However this is the site landowner's property.

All other properties are more distant and any views would generally be from upper floor windows and the visual impacts are assessed as ranging from Slight Adverse to Nil-Negligible Adverse.

**Highways and Regional Cycle Route 70** The only highway from which the site is visible is a short section of the B5071 Crewe Road located 450 metres to the north-west. This is also the only point on Regional Cycle Route 70 where the site is visible. From this point only a small part of the site is visible and the visual impact is assessed as Negligible Adverse during construction reducing to Nil-Negligible adverse during the operational phase for cyclists and for other highway users.

#### *Public Footpaths*



The South Cheshire Way (SCW) is located 31 metres from the site at its closest point at the south eastern corner of the site.. The visual impact on the sections of the path located to the south of the site and on the adjacent ridge, the visual impact would be Very Substantial Adverse during both the construction and operational phases as there would be open views of the development. Further south near to Bearcat Fields the impact on the SCW would reduce to Substantial Adverse during construction and Moderate Adverse during the operational phase (refer to photo viewpoint 1). To the north of the site the visual impact on the SCW would reduce to Nil as views would be screened by topography.

Hatherton FP 9 extends eastward from the South Cheshire Way. In close proximity to the site the impact would be Very Substantial Adverse. The impact would reduce to Nil further away from the site due to screening by vegetation and topography.

Hatherton FP 8 runs from Hatherton to Hunsterson Road and is located 60 metres to the north of the site at its closest point. Views from most of this footpath are screened by vegetation and topography but the development would be visible from a section near to Hatherton Lodge Farm and the visual impacts would be Substantial Adverse for both the construction and operational phases.

Views from Hatherton FP10 to the south west of the site would generally be screened by vegetation and topography.

The Council's Landscape Architect has visited the site and concludes that the LVIA is fair and reasonable and generally agrees with predicted landscape and visual impacts.

The development would have a Substantial Adverse impact on the landscape character of the site itself but due to limited inter-visibility it would not adversely affect the wider Audlem landscape character area.

Very Substantial to Moderate Adverse visual impacts would be limited to those receptors in close proximity to the site. These are the residents of Bearcat Fields and Hatherton Lodge Farm (the site owners) and people walking the South Cheshire Way and public footpaths Hatherton 8 & 9. All other receptors are located some distance from the site and the visual impacts would be Slight to Negligible Adverse due to distance and partial screening by vegetation and landform.

The proposed landscape scheme includes new hedgerow planting around the site perimeter. When mature, in between 5 to 10 years, these hedges would provide some screening and would to some extent mitigate the visual impacts on Bearcat Fields, Footpath 8 in the vicinity of Hatherton Lodge Farm and the South Cheshire Way (SCW) to the south east of the site. The visual impacts on the short section of the SCW on the ridge near the south eastern corner of the site could not however be mitigated.

The adverse landscape and visual impacts would be long-term but would be reversible. Following the removal of the facility and restoration of the site to agricultural use, the new boundary hedgerows would slightly enhance the area.

The application does not include details for grassland management within the site. On a similar approved development at Combermere Abbey, sheep grazing is proposed. There is also scope to improve biodiversity by establishing some wildflower grassland.

On balance, it is considered that the landscape impact when considered as a whole would not be so severe as to warrant refusal of the application on these grounds subject to conditions to secure adequate landscaping works.

### **Trees and Hedgerows**

There are trees and hedgerows within and on the boundaries of the site and whilst the layout of the solar panels means that these will remain in situ, it will be necessary to have comprehensive conditions for tree and hedgerow protection, tree retention, a pruning/felling specification, an arboricultural method statement, a levels survey and a service/drainage layout.

### **Ecology**

A number of badger surveys have been recorded around site. The submitted ecological assessment recommends that no works take place within close proximity of setts. The submitted layout plan has been revised to ensure a 20m buffer around the setts and a 200mm gap at the base of the security fence to allow the free movement of Badgers around the site

Only a limited Great Crested Newt survey has been undertaken as the survey was significantly constrained by lack of permission to access the majority of the ponds around the application site. The application site is however currently intensively grazed pasture and so is of limited value for Great Crested Newts. Similarly reptiles hedgehogs and polecat activity is likely to be associated more with the site's boundary features.

The application site has the potential to support a number of species of breeding birds including those considered a priority for conservation. The installation of the proposed panels is not likely to have an adverse impact upon nesting birds and the proposed additional hedgerows are likely to be beneficial once they mature.

A number of trees on site have been identified as having potential to support roosting bats. Based upon the submit layout plan it appears feasible for all the existing trees on site to be retained as part of the proposed development and the applicant has confirmed that this is the case.

It is considered that White Clawed Crayfish are unlikely to be present or affected by the proposed works.

### **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**

### **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 3 to 4 months.

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.

### **Public Rights of Way**

The development would be adjacent to Public Footpaths 9 and 12 Hatherton and 2 Hunterson. The development would be unlikely to affect these Public Rights of Way and as such is satisfactory in these terms.

### **Impact upon the setting of the Local Heritage Assets**

There are no designated heritage assets within the site; however there are two Listed Buildings within a 1km radius, the nearest being approximately 0.9km and the other 1km away.

Given the distances involved it is not considered that there would be any substantial harm to the heritage assets. The proposal therefore is in compliance with paragraphs 132 and 133 of the NPPF.

## **Archaeology**

This application is supported by an archaeological desk-based assessment, which has been prepared 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 the possible medieval deer park and the medieval fish pond.

The archaeological potential of the site is not sufficient to sustain an archaeological objection to the development or to justify further pre-determination archaeological work. The report correctly concludes that, in general, the development would potentially have only a slight adverse impact on any archaeological remains present. In this instance, the only area where the impact may be greater is at the location of the fishpond's dam, which is in an area of proposed hedgerow planting and security fencing. Therefore, it is considered that the proposed boundaries are redesigned to avoid ground disturbance on this part of the site. In the event that planning permission is granted, this could be secured by a condition securing a method statement for all new groundworks.

It is expected that this will be a straightforward process, being restricted to the area of concern, and limited to the submission revised details outlining the mitigation to minimise the ground disturbance on this area of the site.

The use of such a condition is in line with the guidance set out in Paragraph 141, Section 12 (Conserving and Enhancing the Historic Environment) of the National Planning Policy Framework (2012), published by the Department for Communities and Local Government and the still current PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide (Department for Communities and Local Government, Department for Culture Media and Sport, English Heritage, 2010).

## **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 outweigh the identified impacts on landscape, ecology and highway safety which, it is considered will not be severe and can be mitigated by the use of conditions

Balanced against the identified benefits must be the loss of an area of 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, especially as the majority of the site consists of poor quality agricultural land.

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 not outweighed by the limited harm to the landscape character of the area.

On the basis of the above, it is considered that the application should be approved subject to the conditions set out in this report.

## **RECOMMENDATION**

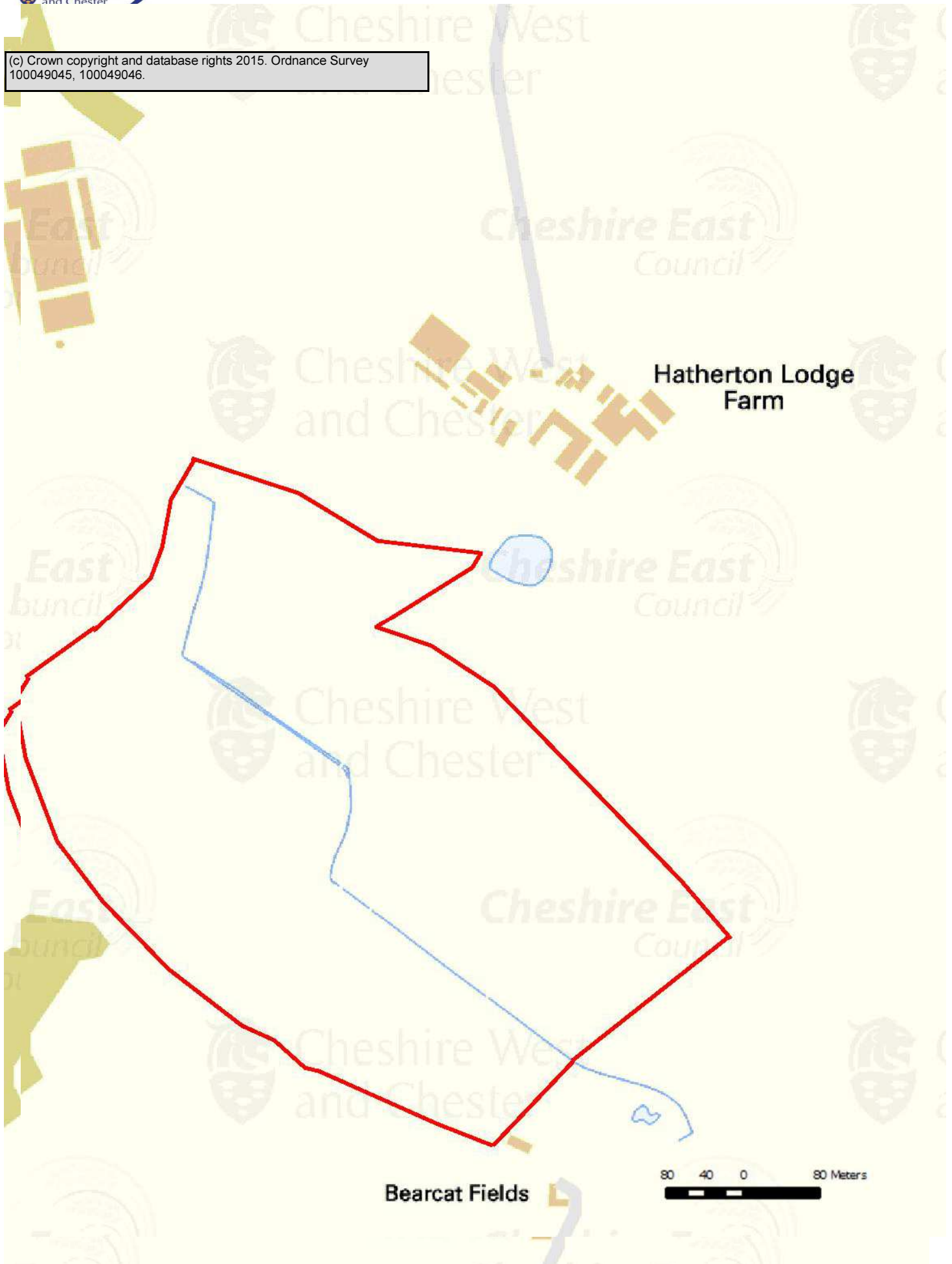
**Approve subject to the following conditions:**

- 1. Time limit**
- 2. Approved plans**
- 3. Submission of landscaping scheme, including habitat creation**
- 4. Implementation and maintenance of landscaping scheme**
- 5. Submission and implementation of Construction Environment Management Plan**
- 6. Tree protection**
- 7. Tree retention**
- 8. Tree pruning specification**

9. Submission and implementation of an arboricultural method statement
10. Submission and implementation of levels survey
11. Submission and implementation of full service/drainage layout
12. Submission and implementation of method statement for groundworks (archaeology)
13. Submission of and implementation of full details of solar arrays, fencing and equipment including colour and finish
14. Submission and implementation of details of facing and roofing materials for sub station, inverters and transformer housing
15. Development completed between 1<sup>st</sup> November and 28<sup>th</sup> February in any year unless a mitigation statement to avoid Great Crested Newts has been submitted and approved

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.

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Bearcat Fields

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## CHESHIRE EAST COUNCIL

### STRATEGIC PLANNING BOARD

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**Date of meeting:** 18 February 2015  
**Report of:** David Malcolm – Principal Planning Manager  
**Title:** Land to the west of Goldfinch Close, Congleton.

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#### **1.0 Purpose of Report**

- 1.1 To consider the withdrawal of two of the reasons for refusal relating to planning application 13/3517C for a proposed development of land for up to 220 dwellings, access, open space and associated landscaping and infrastructure on land to the west of Goldfinch Close , Congleton

#### **2.0 Decision Required**

- 2.1 That the Committee resolve to withdraw the two reasons for refusal in respect of the above and to instruct the Principal Planning Manager not to contest these issues at the forthcoming public inquiry.

#### **3.0 Background**

- 3.1 Members may recall that on the 13 May 2014, Strategic Planning Board considered an application for a proposed residential development of up to 220 dwellings, access, open space and associated landscaping and infrastructure on land to the west of Goldfinch Close , Congleton, (13/3517C refers)

- 3.2 The application was refused on the following grounds:

*1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 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 within a historic finger of countryside close to the town centre and failing to recognise the intrinsic character and beauty of this site 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 *The proposal by virtue of increased activity and traffic would lead to severe highways harm, at the junction of High Street/Lawton Street and Albert Place where no further capacity exists, furthermore insufficient information concerning mitigation for impacts elsewhere upon the network has been submitted. Accordingly the proposal would be detrimental to the safe operation of the public highway contrary to Policies GR9 of the adopted Congleton Borough Local Plan First Review 2005, result in severe harm contrary to Para 32 of the NPPF and contrary to Policy CO1 of the Cheshire East Local Plan Strategy - Submission Version*

- 3.4 An appeal has now been lodged and scheduled for Inquiry later in the year. A duplicate application (14/4938C refers) has also been submitted,
- 3.5 Since determination of the application the Local Plan Inspectors interim report has been received which warrants the reconsideration of reasons for refusal 1 and 2 concerning housing land supply/open countryside policy and loss of agricultural land.

### ***Open Countryside & Housing Land Supply***

- 3.6 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

- 3.7 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.
- 3.8 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
- 3.9 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.
- 3.10 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
- 3.11 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.
- 3.12 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***

- 3.13 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.
- 3.14 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”.*
- 3.15 A survey has been provided to by the applicant which indicates that 3.69 hectares of this 13.72 hectares (27%) site is Grade 3A Best and Most Versatile Agricultural land, with the remainder being Grade 3B. 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.

- 3.16 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.

#### **4.0 Conclusion.**

- 4.1 On the basis of the above, it is considered that the Council should withdraw the first 2 reasons for refusal concerning housing land supply, open countryside and loss of agricultural land and agree with the Appellant not to contest these issues at Appeal.
- 4.2 At this time, the appeal will proceed on the two other grounds that remain in respect of reason 3 (landscape character) and 4 (highways) as highlighted above.

#### **5.0 Recommendation**

- 5.1 That the Committee resolve to withdraw the two reasons for refusal in respect of the above and to instruct the Principal Planning Manager not to contest these issues at the forthcoming public inquiry.

#### **6.0 Risk Assessment and Financial Implications**

- 6.1 There is a risk that if the Council continues to pursue these reasons at Appeal, in the light of the Local Plan Inspectors Interim report, that 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.

#### **7.0 Consultations**

##### ***Borough Solicitor***

- 7.1 The Borough Solicitor has been consulted and recommends 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 13/3517C*

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## CHESHIRE EAST COUNCIL

### STRATEGIC PLANNING BOARD

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**Date of meeting:** 18<sup>th</sup> February 2015  
**Report of:** David Malcolm – Principal Planning Manager  
**Title:** Land adjacent to Heath End Farm, Hassall Road, Alsager

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#### **1.0 Purpose of Report**

- 1.1 To consider the withdrawal of 2 reasons for refusal relating to outline planning application 13/5045C for erection of up to 34 dwellings including access point.

#### **2.0 Decision Required**

- 2.1 To agree to withdraw the reasons for refusal in respect of open countryside/housing land supply and the loss of an important hedgerow and to instruct the Principal Planning Manager not to contest the issues at the forthcoming Appeal.

#### **3.0 Background**

- 1.2 On the 27<sup>th</sup> August 2014, Southern Planning Committee considered an outline application for erection of up to 34 dwellings. This followed an earlier refusal (application 12/3905C) by the Strategic Planning Board at the meeting on 30<sup>th</sup> January 2013.

- 1.3 The application was refused for the following reasons:

1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 (Open Countryside) and H6 (Residential Development in the Open Countryside) of the Congleton Borough Local Plan First Review 2005, 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 proposed development would involve the removal of an “important” hedgerow as defined in the Hedgerow Regulations 1997. Policy NR3 of the adopted Congleton Borough Local Plan First Review,*

*states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development. Therefore the scheme is contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review and guidance contained within the NPPF.*

- 3.4 The application is now the subject of an Appeal. However, since that time the Local Plan Inspectors interim report has been received which warrants the reconsideration of the reasons for refusal.

### ***Open Countryside & Housing Land Supply***

- 3.1 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
- 3.2 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.
- 3.3 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
- 3.4 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.
- 3.5 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
- 3.6 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.
- 3.7 In this case the adjacent site (12/1670C) which is under construction was allowed at appeal following a defence on landscape grounds. As part of this appeal decision the Inspector found that:



*'I find that there are harmful effects on the character and appearance of the area which are moderate, minor or short term and so not overwhelmingly decisive'*

- 3.8 As such the Inspector found that the development would contribute towards meeting the Councils 5 year housing land supply, and meeting local needs including affordable housing provision. These benefits outweighed the limited harm the development would cause.
- 3.9 On the basis of the above, the Council at this time cannot reasonably continue to rely upon the reason for refusal for this appeal.

### ***Loss of Important Hedgerow***

- 3.10 The roadside hedgerow would be impacted by the development. The submitted Extended Phase 1 Habitat Survey and Important Hedgerow Assessment states that none of the hedgerows satisfy the wildlife and landscape criteria for an Important Hedgerow. In relation to the historic data an extract plan from the 1840 Tithe map shows the existing line of Hassall Road and associated field pattern. This suggests that the hedge boundary is part of an integral field pattern pre-dating the Enclosure Acts, and as a result the hedgerow is classed as an Important hedge.
- 3.11 Policy NR3 (Habitats) of the adopted Congleton Borough Local Plan First Review, states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development, and where the likely effects can be mitigated or the habitat successfully recreated on or adjacent to the site and there are no suitable alternatives. In order to comply with the policy, all of these criteria must be met.
- 3.12 In this case, the Council cannot demonstrate a 5-year housing land supply and the benefits of approving this development exist to outweigh the harm caused by the loss of the hedgerow. There would also be hedgerow creation within the site to mitigate the hedgerow loss.
- 3.13 This issue has also been considered as part of an appeal at Hind heath Road, Sandbach where the benefits of this development outweighed the loss of hedgerow.

### **4.0 Planning Balance and Conclusion.**

- 4.1 The proposal is contrary to development plan policies PS8 (Open Countryside) and H6 (Residential Development in the Open Countryside) 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 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.
- 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
- 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 negative effects of this incursion into Open Countryside by built development. However, it is noted that there was no objection on landscape impact grounds from the Council’s Landscape Officer. Furthermore, 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.
- 4.7 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 That the Committee resolve to withdraw the reason for refusal in respect of the above and to instruct the Principal Planning Manager not to contest the issues at the forthcoming Appeal.

## **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, 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**

- 7.1 None.

## **8.0 Reasons for Recommendation**

- 8.1 To ensure that an approved scheme for essential market and affordable housing is delivered and to avoid the costs incurred in pursuing an unsustainable reasons for refusal at Appeal

### ***For further information:***

*Portfolio Holder:* Councillor Don Stockton  
*Officer:* Daniel Evans – Principal Planning Officer  
*Tel No:* 01625 383702  
*Email:* daniel.evans@cheshireeast.gov.uk

### ***Background Documents:***

*Applications 13/5045C*

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## CHESHIRE EAST COUNCIL

### STRATEGIC PLANNING BOARD

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**Date of meeting:** 18<sup>th</sup> February 2015  
**Report of:** David Malcolm – Principal Planning Manager  
**Title:** Cheshire Fresh, Middlewich: Approval sought for delegation to Cheshire West and Chester Council

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#### **1.0 Purpose of Report**

- 1.1 To consider a proposal for Cheshire East Council (CEC) to delegate the determination of a planning application which bisects the administrative boundary to Cheshire West and Chester Council (CWaC) in accordance with Section 101 of the Local Government Act 1972.
- 1.2 To explain the nature of the proposed application in Middlewich and what it will involve so that Members can make an informed decision.

#### **2.0 Decision Required**

- 2.1 That Cheshire East Council delegate authority to Cheshire West & Chester Council to determine the forthcoming application for Cheshire Fresh, Middlewich.

#### **3.0 Background**

- 3.1 Members may recall the proposals for a new auction centre, associated food and rural enterprise, businesses and lorry/car parking in Middlewich known as 'Cheshire Fresh' which was submitted in 2013. Given the nature of the application and that fact that much of the site area was located in the administrative boundary of CWaC it was agreed that authority for the determination of the whole application could be delegated to CWaC.
- 3.2 That application was eventually approved by CWaC in September 2014 subject various conditions.
- 3.3 Following the grant of planning permission, a detailed review of the design and layout of the scheme with Wright Marshall, the future operators of the auction centre has been undertaken. Internal layout amendments to the consented scheme are required to ensure the viable delivery of the auction centre. As full planning permission was granted for the new auction centre, a revised planning application is required as the new auction centre component of the scheme is now

proposed on the Cheshire East land in the south west portion of the site.

- 3.4 In a similar fashion to the previous application authority is now sought to enable the amended scheme to be delegated to CWaC.

#### **4.0 The Proposed Development**

- 4.1 The site extends to nearly 19 hectares (47 acres) of open land and is located on the eastern edge of Middlewich. The site is bound to the west by a public house (known as the Salt Cellar) an office development, a Travelodge and by Pochin Way. Beyond Pochin Way, the site is bound to by Midpoint 18 which has been developed by Pochin. Midpoint 18 is a strategic employment site for CE offering an extensive and mixed employment space employing some 2000 people. The site is bounded to the north by Holmes Chapel Road (A54) which is the main road linking Middlewich with the M6 motorway. The site comprises open land and the River Croco bounds the site to the south
- 4.2 The proposed development will offer the same quantum and mix of uses as per the September 2014 planning permission. For completeness, the proposed development will include:

Detailed plans for:

- A new Auction Centre for Cheshire to become the new home to Wright Marshall who will relocate from its existing premises at Chelford and Beeston. This purpose built facility will anchor the overall scheme helping to create a food and rural enterprise hub. A barn and parking area for cars and HGV's associated with the auction centre is also proposed;
- A lorry park; and
- The means of vehicular access to the proposed development from Holmes Chapel Road and Pochin Way.

Outline plans for:

- Business and office units (use class B1 and A2).
- Food accelerator unit (use class B2)
- Starter industrial units (use class B1 and B2).
- Light industrial, manufacturing and distribution areas (use class B2 and B8)
- A machinery dealership (sui generis).
- Veterinary practices (use class D1).
- Garden Centre with external display area (restricted use class A1).
- Farm shop and associated food hall (restricted use class A1 and A3).
- A box park (restricted use class A1).
- Restaurant and cafes (use class A3).

- 4.3 The only changes proposed by this application are the layout and orientation of the permitted uses. The Indicative Masterplan shows the proposed general configuration of the revised scheme. The key changes include:
- The relocation of the Auction Centre and associated barn and parking area to the south-west portion of the site onto land within Cheshire East. This is to reduce the level of physical infrastructure necessary to access the Auction Centre from Pochin Way.
  - This same access from Pochin Way will also provide access to the Food Accelerator Unit, proposed to be located to the south of the Auction Centre. This access will also maintain access to Kinderton Lodge Farm.
  - All other uses remain as described above and will be for the same quantum of development as permitted. Their location and configuration has been revised to take account of the Auction Centre's new positioning, although these uses are proposed in outline only and so the final layout is not yet fixed.
  - Vehicular accesses continue to be proposed from Holmes Chapel Road (A54) and Pochin Way. However, the existing access from Pochin Way will also be retained.

## **5.0 Assessment**

- 5.1 As part of the previous application, Members of SPB resolved on 17th July 2013 to delegate powers of determination for the original application wholly to CWaC, whilst CEC would act as a statutory consultee. It is intended that a new 'hybrid' planning application for the revised scheme will again be submitted to CWaC, with CEC acting as a statutory consultee.
- 5.2 Recent discussions between Officers believe that this is the most pragmatic way to handle the application and that this delegated process should again be followed with respect to the determination of the revised application.
- 5.3 The portion of the site which falls within Cheshire East is allocated as an Employment Area in the adopted Congleton Local Plan and has previously benefited from a planning permission for employment development.. The remainder of the site falls within Cheshire West and is designated as Open Countryside in accordance with the adopted Vale Royal Local Plan. Planning Policy Officers at CEC and CWaC and Pochin are promoting the allocation of the land for a food and rural enterprise development in the respective emerging Local Plans.

- 5.4 Given the employment designation of the land and the previous approved scheme it is not considered that the changes highlighted would cause any significant policy concerns for Cheshire East.
- 5.5 Section 101 of the Local Government Act 1972 (or equivalent under the 2000 Act) gives the power for any authority to allow another authority to determine any of its functions (by agreement).
- 5.6 Given previous work by CWaC on the scheme to revert back to the traditional approach of two separate application submissions would generate undue complexity, cost and confusion
- 5.7 As before, CWaC would lead the determination of the planning application and CEC would act as a consultee. CWaC would again be responsible for all of the administrative tasks associated with the application, such as consultations and notifications

## **6.0 Conclusions**

- 6.1 The application is very similar to the previous scheme but to enable effective delivery the layout and configuration has changed such that the auction centre is now on Cheshire East land. This does not give rise to a policy objection in principle.
- 6.2 The circumstances are therefore such that it is considered that the most appropriate process for determining this revised scheme is for CEC to delegate determination to CWaC.

## **7.0 Recommendation**

- 7.1 **That Cheshire East Council delegate authority to Cheshire West & Chester Council to determine the forthcoming application for Cheshire Fresh, Middlewich.**

## **8.0 Financial Implications**

- 8.1 No specific financial implications save for the increased cost of dealing with an application to the Cheshire East.

## **9.0 Legal Implications**

- 9.1 There are no legal implications with the recommendation which would be in accordance with the Local Government Act.

## **10.0 Risk Assessment**

- 10.1 There are no identified risks associated with this decision.

## **11.0 Reasons for Recommendation**



- 11.1 To ensure the application for Cheshire Fresh is dealt with both efficiently and effectively.

***For further information:***

*Portfolio Holder: Councillor Don Stockton*  
*Officer: David Malcolm – Principal Planning Manager*  
*Tel No: 01270 686744*  
*Email: david.malcolm@cheshireeast.gov.uk*

***Attachments***

*Location Plan showing the administrative boundary*  
*The indicative proposed plan*

***Background Documents:***

*Local Government Act*  
*Letter from HOW Planning requesting delegation to CWaC*

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