

# Southern Planning Committee

## Agenda

---

<b>Date:</b>	<b>Wednesday, 29th June, 2016</b>
<b>Time:</b>	<b>10.00 am</b>
<b>Venue:</b>	<b>Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ</b>

---

Members of the public are requested to check the Council's website the week the Southern Planning Committee 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.

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.

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

1. **Apologies for Absence**

To receive 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 pre-determined any item on the agenda.

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

To approve the minutes of the meeting held on 25 May 2016.

Please contact Julie Zientek on 01270 686466

E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk) with any apologies or requests for further information  
[Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) to arrange to speak at the meeting

#### 4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Planning Committee
- The relevant Town/Parish Council

A total period of 3 minutes is allocated for each of the planning applications for the following:

- Members who are not members of the planning committee and are not the Ward Member
- Objectors
- Supporters
- Applicants

5. **16/0015N Land to Rear of 46, Chestnut Avenue, Shavington , Crewe, Cheshire CW2 5BJ: Outline application for the demolition of no. 46 Chestnut Avenue, Shavington and erection of 44 dwellings (including access) and associated works for Oscar Planning (Pages 9 - 32)**

To consider the above planning application.

6. **16/1487N Land North of Pool Lane, Winterley: Reserved matters application seeking consent for appearance, landscaping, layout and scale, following outline planning permission for the construction of up to 45no. dwellings (13/4632N) for Jane Aspinall, Bellway Homes Limited (Pages 33 - 44)**

To consider the above planning application.

7. **16/1575N Land adjacent to, Lodmore House, Lodmore Lane, Burleydam: Development of affordable housing including 3no. 3Bed 5Person Houses, 6no. 2Bed 4Person Houses, 4no. 2Bed 3Person Flats and 4no. 1Bed 2Person Flats. 17 units in total with 30no.parking spaces and private gardens for Ms Karen Wilford, Adactus Housing Group Ltd (Pages 45 - 58)**

To consider the above planning application.

8. **15/5579C Land on the south side of Dragons Lane, Moston, Sandbach, Cheshire CW11 3QB: Removal of condition 3 on application 12/0971C to make permission permanent and remove limitation on occupancy to named persons for Mr Martin Smith (Pages 59 - 70)**

To consider the above planning application.

9. **15/5650C Thimswarra Farm, Dragons Lane, Moston: Variation or removal of Condition 5 on application 14/3086C for Mr P Cosnett** (Pages 71 - 84)

To consider the above planning application.

10. **16/0325C Land adjacent to 36, Black Firs Lane, Somerford CW12 4QQ: Outline planning application for the erection of 3 No. dwellings for Gareth Jackson** (Pages 85 - 98)

To consider the above planning application.

11. **16/1309N 13, Buxton Avenue, Crewe CW1 6EU: Change of use of existing dwelling house to form 6 No Bedsits and 1 No Flat with external stair for Tomer Spitkowski** (Pages 99 - 106)

To consider the above planning application.

12. **16/1658N T I MIDWOOD & CO, GREEN LANE, WARDLE, CHESHIRE CW5 6BJ: Variation of Condition 4 on application 15/3163N - Outline application for extensions to the existing warehouse, the erection of a canopy and the construction of a delivery dock and replacement car parking, including details of access, appearance, layout and scale (details of landscaping reserved for subsequent approval), following the demolition of an existing office building for T I Midwood and Co Ltd** (Pages 107 - 114)

To consider the above planning application.

13. **16/2472M 14, Langley Road, Langley, Cheshire SK11 0DP: Certificate of lawful existing development - Single storey rear extension, part two storey/part single storey side extension and single storey front extension for Mr C Hooley** (Pages 115 - 120)

To consider the above planning application.

14. **Update following the resolution to approve application 15/1249N - Proposed construction of 10 No. Dwelling complete with access, associated parking and landscaping - Grenson Motors Co Ltd, Middlewich Road, Minshull Vernon, Cheshire, CW1 4RA** (Pages 121 - 124)

To consider proposed amendments to the committee resolution for application 15/1249N.

**THERE ARE NO PART 2 ITEMS**

**This page is intentionally left blank**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 25th May, 2016 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor G Merry (Chairman)  
Councillor M J Weatherill (Vice-Chairman)

Councillors Rhoda Bailey, D Bebbington, P Butterill, J Clowes, W S Davies,  
S Edgar, J Rhodes, B Roberts and B Walmsley

**OFFICERS PRESENT**

Daniel Evans	Principal Planning Officer
Patricia Evans	Senior Planning and Highways Lawyer
Andrew Goligher	Principal Development Control Officer - Highways
Peter Hooley	Planning and Enforcement Manager
Diane Moulson	Democratic Services Officer

**Apologies**

Councillor A Kolker

**1 DECLARATIONS OF INTEREST/PRE DETERMINATION**

The following declarations were made in the interests of openness:

With regard to application 15/4326C, Councillor B Walmsley declared that she knew the landowner but had not spoken to her recently.

With regard to application 15/5166N, Councillor S Davies declared that he had called in the application on behalf of the Parish Council but that he had not predetermined the matter.

With regard to applications 16/0564N and 16/1690N, Councillor S Edgar declared that he had made up his mind. He would exercise his separate speaking rights as the Ward Councillor for both applications but would not take part in the debate or vote.

**2 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 27 April 2016 be approved as a correct record and signed by the Chairman.

**3 15/4326C CROXTONBANK, 36, CROXTON LANE, MIDDLEWICH, CHESHIRE CW10 9EZ: OUTLINE APPLICATION FOR DEVELOPMENT COMPRISING THE DEMOLITION OF ONE EXISTING DWELLING (36 CROXTON BANK) AND CONSTRUCTION OF 27 RESIDENTIAL UNITS, INCLUDING A NEW ACCESS, AFFORDABLE HOUSING PROVISION AND AREA OF PUBLIC SPACE FOR LIZZIE SMITH, RENEW LAND DEVELOPMENTS LTD**

Note: Ms R Thorley (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update and an oral report of the site inspection.

RESOLVED:

(a) That authority be delegated to the Planning and Enforcement Manager in consultation with the Chairman of Southern Planning Committee to APPROVE the application subject to –

- Submission of updated Bat Survey
- Open space – Management company clarification
- Submission of a Heritage Statement to investigate the retention of the existing house on the site/justification for removal
- Further information to be provided for the ward member (Councillor Walmsley) to explain why no educational contribution is required
- Speed limit relocation with TRO contribution to be included within the Heads of Terms (moving the restricted speed limit sign as far from the proposed access point as required)
- Discussions with the applicant about reducing the time period for the submission of the Reserved Matters application

Section 106 agreement making provision for affordable housing comprising:

- 8 units on site 5 for social/affordable rent and 3 for shared ownership

Public open space comprising of:

- 800m2 of new amenity greenspace on site and commuted sum of £9460 towards future maintenance
- £6593.04 required to upgrade a DDA swing at Fountain Fields and £21,492 to maintain the upgraded facilities over 25 years

And the following conditions:

- 1 Standard outline time limit – 3 years
- 2 Submission of reserved matters
- 3 Accordance with approved plans
- 4 Submission of an Environmental Management Plan
- 5 Details of pile driving operations to be limited
- 6 Details of drainage (SUDS) to be submitted

- 7 Only foul drainage to be connected to sewer
- 8 Submission of landscaping scheme
- 9 Implementation of landscaping scheme
- 10 Retention of important trees
- 11 Tree and hedgerow protection measures
- 12 Arboricultural specification/method statement
- 13 Timing of the works and details of mitigation measures to ensure that the development would not have a detrimental impact upon breeding birds
- 14 Submission of updated protected species surveys with reserved matters application
- 15 Submission of noise mitigation scheme with reserved matters
- 16 Accordance with approved access and constructed prior to first occupation
- 17 Electric vehicle charging points for each dwelling
- 18 Scheme for connection into public right of way
- 19 Phase II contaminated land investigation to be submitted

Informative:

- 1 PROW

(b) In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority be delegated to the Planning and Enforcement Manager, in consultation with the Chairman (or in her absence the Vice Chairman) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

(c) Should this application be the subject of an appeal, authority be delegated to the Planning and Enforcement 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.

**4 15/5166N SMITHY LODGE, NANTWICH ROAD, WRENBURY CW5 8EW: PROPOSED DEVELOPMENT OF 10NO. RESIDENTIAL DWELLINGS FOR CHRIS CHAPLIN, LANDLINK PLC**

Note: Cllr Janet Palmer (on behalf of Wrenbury-cum-Frith Parish Council), Mr T Potts and Ms J Davies (objectors), Mr R Lee (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application and an oral report of the site inspection.

RESOLVED:

That, contrary to the planning officer's recommendation to approve, authority be delegated to the Head of Planning in consultation with the Chairman of Southern Planning Committee to REFUSE the application for the following reasons:

Development in the open countryside and impact on the Conservation Area, contrary to Development Plan policy and guidance in the NPPF.

**5 16/0953N LAND SOUTH OF SANDFIELD HOUSE, STATION ROAD, WRENBURY CW5 8EX: ERECTION OF 27 DWELLINGS AND ASSOCIATED INFRASTRUCTURE FOR HOLYHEAD ESTATES (WRENBURY) LTD**

Note: Cllr J Palmer (representing Wrenbury-cum-Frith Parish Council) and Mr S Hynes and Mr G L Jones (objectors) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update and an oral report of the site inspection.

**RESOLVED:**

(a) That, authority be delegated to the Head of Planning in consultation with the Chairman of Southern Planning Committee to APPROVE the application, subject to -

- The receipt of consultation response from ANSA (POS)
- The completion of a Section 106 Agreement –

Heads of Terms:

- £65,370.76 to secondary education
- Provision of 30% affordable housing

And the following conditions –

- 1 Commencement
- 2 Submission of reserved matters (all matters other than access)
- 3 Approved plans
- 4 Submission of a Phase 1 Contaminated Land Survey
- 5 Submission of soil or soil forming materials
- 6 Submission of piling foundations
- 7 Submission of dust control
- 8 Submission of major development construction phase environmental management plan
- 9 Reserved matters to include details of any external lighting
- 10 Access to the site shall be completed prior to the commencement of any other form of development
- 11 Submission of drainage scheme to include foul and surface water including sustainable drainage systems
- 12 Reserved matters to include Arboricultural Impact Assessment (AIA) including Tree Constraints Plan/Tree Protection Plan



- 13 Reserved matters to include Arboricultural Method Statement in accordance with BS5837:2012 Trees in Relation to Design Demolition and Construction - Recommendations
- 14 Reserved matters to include details of existing and proposed levels
- 15 Reserved matters to include detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow, roosting bats and barn owls
- 16 Reserved matters to include details of boundary treatments
- 17 Reserved matters to include details of bin/cycle storage
- 18 Reserved matters to include a single electric vehicle charging point for each dwelling
- 19 Finished floor levels to be no lower than 68.25m above ordinance datum
- 20 Reserved matters to include submission and implementation of a programme of archaeological work in accordance with a written scheme of investigation
- 21 Reserved matters to include a Barn Owl Habitat Management Plan for the blue line located between the red line of the outline application (land) and the river Weaver. Management plan to be implemented for a period of 10 years from commencement of development
- 22 Reserved matters to include the submission of updated badger survey and mitigation survey
- 23 Reserved matters to include proposals for the fencing off of the southern boundary of the application site during the construction phase to be submitted
- 24 Submission of land levels

(b) In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Chairman (or in her absence the Vice Chairman) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and the issue of the decision notice.

(c) Should the 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.

**6 16/0507N THE BUNGALOW, SADLERS WELLS, BUNBURY CW6 9NU: OUTLINE PLANNING APPLICATION FOR THE ERECTION OF A SINGLE TWO STOREY DWELLING ON LAND ADJACENT TO THE BUNGALOW, SADLERS WELLS FOR W STOCKTON**

Note: Cllr R Pulford (representing Bunbury Parish Council) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application.

RESOLVED:

- (a) That, for the reasons set out in the report, the application be APPROVED subject to the following conditions –

- 1 Commencement
- 2 Submission of reserved matters (all matters excluding access)
- 3 Approved plans
- 4 Boundary treatments
- 5 Submission of Flood Risk Mitigation Strategy
- 6 Submission of drainage scheme to include foul and surface water at reserved matters stage
- 7 Breeding bird survey for works in the nesting season
- 8 Tree mitigation measures to be provided at reserved matters
- 9 Construction method statement to be provided at reserved matters
- 10 Submission of land levels

Informative:

- 1 NPPF
- 2 Environmental protection

- (b) 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 objections or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) 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.

**7 16/1112C LAND ADJACENT ARCLID LODGE, HEMMINGSHAW LANE, ARCLID CW11 4SY: CONSTRUCTION OF TWO NEW RESIDENTIAL DWELLINGS (RESUBMISSION OF PLANNING APPLICATION REFERENCE 15/4711C) FOR THE DEREK BERESFORD FAMILY TRUST**

Note: Miss J Ashall (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application and an oral report of the site inspection.

**RESOLVED:**

- (a) That, for the reasons set out in the report, the application be APPROVED subject to the following conditions –

- 1 a 21 day notice period to Jodrell Bank (Manchester University)

And conditions –

- 1 Time
- 2 Plans
- 3 Prior submission of material details
- 4 Boundary treatments to be approved
- 5 Noise mitigation measures
- 6 Contaminated land – import of soils
- 7 Obscure glazing

Informatives:

- 1 NPPF
- 2 Contaminated land
- 3 Hours of construction

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

**8 16/0564N 417, NEWCASTLE ROAD, SHAVINGTON CW2 5EB:  
CHANGE OF USE FROM OFFICES WITH STORAGE  
AREAS(S)/WORKSHOP TO BEAUTY SALON WITH SUN BEDS AND  
TREATMENT ROOMS FOR MRS JULIE HOWES**

Note: Councillor S Edgar (Ward Councillor) addressed the Committee on this matter before withdrawing from the meeting. Cllr W McIntyre (on behalf of Shavington-cum-Gresty Parish Council) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application.

**RESOLVED:**

That, for the reasons set out in the report, the application be APPROVED subject to the following conditions –

- 1 Standard time
- 2 Approved plans
- 3 Obscure glazed window at first floor facing No.1 Crewe Road
- 4 Parking layout
- 5 Hours of operation: Monday to Friday 09.00 to 20.00, Saturday 09.00 to 18.00, no opening on Sundays/Bank Holidays

Informative:

The developer will remind customers of the business of the requirement to park safely when visiting the site.

**9 16/1690N VINE INN, ROPE LANE, SHAVINGTON CW2 5DT: VARIATION OF CONDITION 9 ON APPROVED PLANNING APPLICATION 14/5472N WHICH COVERS DELIVERY TIMES ASSOCIATED WITH THE STORE FOR NEWRIVER RETAIL PROPERTY UNIT TRUST NO.4**

Note: Councillor S Edgar (Ward Councillor) returned to the meeting to address the Committee on this matter before withdrawing. Cllr W McIntyre (on behalf of Shavington-cum-Gresty Parish Council) and Mr T Hallett (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application.

RESOLVED: That, contrary to the planning officer's recommendation for approval, the application be REFUSED for the following reason –

The proposed variation of condition would result in increased noise and disturbance to the occupiers of the adjacent residential properties and the existing public house at an unreasonable hour of the day. As a result, the proposed development would be contrary to Policy BE.1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The meeting commenced at 10.00 am and concluded at 1.00 pm

Councillor G Merry (Chairman)

Application No: 16/0015N

Location: LAND TO REAR OF, 46, CHESTNUT AVENUE, SHAVINGTON ,  
CREWE, CHESHIRE, CW2 5BJ

Proposal: Outline application for the demolition of no. 46 Chestnut Avenue,  
Shavington and erection of 44 dwellings (including access) and  
associated works.

Applicant: Oscar Planning

Expiry Date: 18-Apr-2016

## **SUMMARY**

The proposed development would be contrary to Policies NE.2, NE.4 and RES.5 and the development would result in a loss of open countryside and Green Gap. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites policies NE.2, NE.4 and RES.5 are out-of-date for the purposes of paragraph 49 of the NPPF. The presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS provision and significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Shavington.

The development would have a neutral impact upon education, protected species/ecology, flood risk/drainage, trees, residential amenity/noise/air quality/contaminated land and highways.

The adverse impacts of the development would be the loss of open countryside, harm to the Green Gap and limited landscape impact of the development.

However, the benefits of approving this development (as listed above) would significantly and demonstrably outweigh the adverse impacts of the development. As such the application is recommended for approval.

## **RECOMMENDATION**

**APPROVE subject to the completion of a S106 Agreement and the imposition of planning conditions**

## **PROPOSAL**

This is an outline planning application for the demolition of 46 Chestnut Avenue and the erection of 44 dwellings. Access is to be determined at this stage with all other matters reserved.

The proposed development includes a single access point onto Chestnut Avenue which would be located to southern boundary of the site.

During the course of this application a revised indicative plan was received and this now shows the provision of 3 bungalows to the south-west corner of the site.

## **SITE DESCRIPTION**

The site comprises 1.64ha of land located on the northern edge of Shavington. The site lies to the east of the Wainhomes development which was approved at appeal as part of two phases.

The site includes 46 Chestnut Avenue which is a modern two-storey detached dwelling set within a large curtilage. The main part of the site is currently in equine use and the eastern part of the site includes areas of hardstanding, two large stable buildings, a horse walker and a manege. To the west the land levels drop down to an existing tree lined watercourse. The western part of the site is undeveloped and the land is divided into a number of small paddocks used for the keeping of horses.

The site is bound by existing fencing and hedgerows, some of which contain trees. In addition, there are two hedgerows which project into the site.

Existing residential development lies to the south of the site fronting Chestnut Avenue. Northfield Place. The site is located within the Green Gap.

## **RELEVANT HISTORY**

### The application site

7/11097 - Detached 4 bedroom house with garage – Approved 7<sup>th</sup> June 1984

7/10076 - One detached dwelling and garage – 7<sup>th</sup> June 1983

### The adjacent site

15/4967N - Reserved Matters application seeking consent for appearance, landscaping, layout and scale following the approval of 14/3267N - Construction of up to 53 dwellings including details of access – Approved 9<sup>th</sup> March 2016

14/3267N - Construction of up to 53 dwellings including details of access (outline) – Refused 25<sup>th</sup> September 2014 – Appeal Lodged – Appeal Allowed 6<sup>th</sup> August 2015

14/1534N - Variation of condition 1 (plans) attached to planning application 13/1021N. Land off Rope Lane, Shavington, Crewe, Cheshire CW2 5DA Development proposed for the erection of up to 80 dwellings – Approved 20<sup>th</sup> May 2014

13/2299N - Approval of details of the appearance, landscaping, layout and scale as required by condition 1 attached to the outline planning permission 11/4549N – Refused 30<sup>th</sup> May 2013

13/1021N - Approval of details of the appearance, landscaping, layout and scale as required by condition 1 of 11/4549N attached to the outline planning permission – Appeal Against Non Determination – Appeal Allowed 22<sup>nd</sup> January 2014

11/4549N - Outline Planning Permission for Erection of Up to 80 Dwellings Including Details of Access Land – Refused 21<sup>st</sup> March 2012. Appeal Lodged. Appeal Allowed 28<sup>th</sup> November 2012

## **NATIONAL & LOCAL POLICY**

### **National Policy**

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

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

### **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside and as Green Gap under Policy NE.4.

The relevant Saved Policies are:

NE.2 (Open countryside)

NE.4 (Green Gaps)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RES.5 (Housing in the Open Countryside)

RES.7 (Affordable Housing)

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

TRAN.3 (Pedestrians)

TRAN.5 (Cycling)

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

## **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

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

### **Supplementary Planning Documents:**

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

## **CONSULTATIONS**

**United Utilities:** No objection subject to the imposition of conditions.

**NHS England:** No comments received.

**Head of Strategic Infrastructure:** No objection subject to the imposition of a planning condition.

**Natural England:** No comments to make.

**Environment Agency:** No objection subject to conditions.

**CEC Environmental Health:** Conditions suggested in relation to environment management plan, piling, travel plan, electric vehicle infrastructure, dust control and contaminated land. Informatives are also suggested in relation to contaminated land and hours of operation.

**CEC Strategic Housing Manager:** No objection.



**CEC Flood Risk Manager:** No objection subject to the imposition of planning conditions.

**Ansa (Public Open Space):** The D & A states there is a “potential” for future connectivity whereas the Planning Statement states the design “includes a new public footpath that “will” provide bridge connections into the neighbouring site”. This needs to be made clear for this development to work to meet aims and connectivity objectives of the local plan the bridge connections are vital across Swill Brook and a must to connect to the Wain Homes site to the West of the proposed development.

**CEC Education:** The development of 44 dwellings is expected to generate:

8 primary children (44 x 0.19)

7 secondary children (44 x 0.15)

1 SEN children (44 x 0.51 x 0.023%)

The development is forecast to increase an existing shortfall predicted for SEN provision in the locality.

To alleviate forecast pressures, the following contributions would be required:

1 x £50,000 x 0.91 = £45,500 (SEN)

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

**Shavington Parish Council:** Shavington Parish Council objects to the proposed development on the following grounds:

- Egress from the development onto an over-used and under-sized highway will exacerbate the problems already experienced.
- Flooding: There are significant problems of flooding in the parish in respect of previous sites and the flood plain in the area is such that it will add to the problems.
- Traffic from Chestnut Avenue into Crewe Road junction is not wide enough for current traffic flow and the development would exacerbate the situation.
- Erosion of the Green Gap: The development will further erode the Green Gap between the built-up areas of Shavington and Crewe and will adversely affect the visual character of the landscape which would significantly and demonstrably outweigh the benefits of the scheme, notwithstanding the shortfall in housing land supply. The development is therefore contrary to Policy NE4 (Green Gap) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and guidance in the National Planning Policy Framework.
- The roads in the village are inadequate and unable to cope with the current level of traffic. This development will worsen the situation.
- If this site does not appear in the land allocated for development in the new Cheshire East Local Development Plan, this is a further objection to the application; and
- In the event of the application being approved, Cheshire East Council is asked to add a condition to the effect that any affordable housing should be ‘pepper-potted’ throughout the site.
- The size of the site is inadequate and it would appear that the development has a potential to encroach onto the Vine Tree Play Area which is owned by the Parish Council. Specific comments in respect of this are:

*The development does not appear to meet the aims and connectivity objectives of the Local Plan. For the development to work, the bridge connections are vital across Swill Brook and must connect to the Wain Homes' site to the west of the proposed development. This will then allow good access to the country-side park and formal play area. The Local Plan standard of 60m<sup>2</sup> x 44 dwellings means that the required POS on site is 2,640m<sup>2</sup>. The developer's proposals of 2,150m<sup>2</sup> leave a shortfall of 490m<sup>2</sup>.*

**Rope Parish Council:** No comments received.

### REPRESENTATIONS

Letters of objection have been received from 32 local households raising the following points:

#### Principal of development

- There are currently 48 houses for sale in Shavington
- The house prices of new dwellings are too high for first time buyers
- There have been enough approvals in Shavington
- There needs to be a greater proportion of bungalows to serve the older population
- Erosion of the Green Gap between Shavington and Crewe
- Lack of employment in Shavington
- The dwellings will be occupied by commuters
- There is no need for further housing in Shavington
- There are currently 4 housing estates being built in Shavington
- Loss of village character
- Too many executive homes are being constructed in Shavington
- Shavington will merge with Crewe
- The site is within the open countryside
- Previous approvals meet the needs of the area
- Piecemeal form of development (phase 3 of the Rope Lane development)
- 1310 houses have been approved in Shavington
- Shavington has met its housing requirements already
- There are significant development plans at Basford East and Basford West
- The development does not meet the needs of an ageing population

#### Highways

- Chestnut Avenue is used as a rat run
- Chestnut Avenue is used by large volumes of traffic
- Increased traffic
- Local highways are in a poor state of repair
- There are a number of errors within the submitted Transport Assessment
- The junction of Main Road and Rope Lane is very busy and is not included within the traffic analysis
- The appendices are missing from the submitted Transport Assessment
- Highway disruption caused during the construction phase of the development
- Lack of parking within the centre of the village
- Chestnut Avenue is too narrow and cars often mount the verge
- Hazard caused by construction traffic
- On-street parking problems on Chestnut Avenue
- Traffic congestion when heading into Crewe during peak hours

- Poor visibility at the site access
- The access to the site could be improved
- Buses struggle to get down Chestnut Avenue

### Green Issues

- Impact upon wildlife
- Loss of habitat
- Lack of a protected species survey
- Loss of trees
- Landscape impact
- Most of the trees will be lost on this site
- The trees on the site are visible from Chestnut Avenue and have amenity value
- Impact upon protected species
- The site is well used by bird species

### Infrastructure

- Local infrastructure cannot cope with any further development
- The local schools are full
- Doctors surgeries are full

### Amenity Issues

- Loss of privacy
- Increased pollution
- Increased dust
- Increased noise
- Increased air pollution
- Noise and disturbance caused by the construction works
- Adverse visual impact
- Light pollution
- Loss of light/overshadowing
- The application site is higher than some of the adjoining dwellings
- Proximity of the access to adjacent dwellings – causing amenity issues
- The development does not meet separation distances

### Design issues

- The development would not respect the character of Shavington
- Lack of thought in relation to the layout of the houses
- Two-storey development is out of character and would be visible above the bungalows on Chestnut Avenue

### Other issues

- Risk of flooding from Swill Brook
- Increased risk of flooding
- Sewage infrastructure cannot cope with further development
- Insufficient information relating to surface water run-off from the site
- It is not possible to determine whether SUDS will be possible as part of this outline application
- No open space is provided as part of this application
- Increased risk of flooding to the adjoining dwellings

- Lack of notification as part of this application
- Impact upon the human rights of the existing dwellings
- The site is currently saturated following heavy rain
- Security issues to the existing dwellings
- Stability problems due to land level changes across the site

Letters of objection have been received from 5 local households raising the following points:

- Unable to find suitable housing in Shavington
- Currently having to travel from Staffordshire to work in the area
- Lack of affordable housing in Shavington
- The development will provide much needed family homes
- HS2 will increase the need for more housing in this area
- The site is only a short distance from Crewe Station

### **APPRAISAL**

#### **Principle of Development**

The site lies largely in the Open Countryside as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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

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

#### **Housing Land Supply**

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council’s ‘Housing Supply and Delivery Topic Paper’ (CD 9.7) of February 2016. This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council’s five year housing land supply.

From this document the Council's latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgfield approaches.

The paper concludes that going forward the preferred methodology would be the 'Sedgepool' approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need however at the current time, the Council cannot demonstrate a 5 year supply of housing.

### **Green Gap**

Policy NE.4 of the Local Plan states that *"approval will not be given for the construction of new buildings or the change of use of existing buildings or land which would either:*

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

*Exceptions to this policy will only be considered where it can be demonstrated that no suitable alternative location is available"*

A development of the scale proposed will clearly erode the physical gap between Shavington and Crewe.

At paragraph 14.2.5 of the Local Plan First Review Inspectors report it states that *"moving to the point of looking at the extent of the Green Gap land I believe that, in general, the Council is right to avoid the trap of looking in detail at the edges of the built-up areas. It would be too easy to allow those edges to be nibbled away, eroding the extent of the gaps, and through a cumulative process eventually negating their purpose".*

However in this case as part of appeal decision for Phase 1 of the Rope Lane development the Inspector finds that:

*'The appeal site lies within an indentation in the northern boundary of the settlement formed by a spur of residential development on Burlea Drive that extends up to the bridge on Rope Lane over the A500 and residential development at Northfield Place. Thus, in views from Rope Lane and the public footpath that runs from Rope Lane to Vine Tree Avenue whilst there would be a localised loss of openness, the development would not, overall, result in Shavington coming closer to Crewe or increase the visibility of the built-up edge of Crewe. In the above context, the development would not materially reduce the physical or perceived separation of Shavington and Crewe'*

As part of appeal decision for Phase 2 of the Rope Lane development the Inspector finds that:

*'in my opinion, although the proposed development would physically erode the Green Gap to a limited degree, it would not cause significant harm to the wider functions of the Green Gap in this location, given the extent of the remaining gap between the settlements, the lack of inter-visibility between Shavington and Crewe, the limited harm to the visual character landscape and that the function of this Green Gap in maintaining the definition and separation of these 2 settlements would not be significantly diminished.*

*I conclude, therefore, that although the proposed development would be contrary to Policy NE.4, there would be little harm to the purposes of the Green Gap in this location. As such, I have afforded this breach of policy some weight in my consideration of this appeal'*

In this case it is clear that the arguments relating to Green Gap on the adjacent sites have not been sufficient and both appeals were allowed despite being contrary to Policy NE.4. The development would have a lesser projection into the Green Gap than the Phase 1 and Phase 2 Wainhome developments on Rope Lane and as a result a reason for refusal relating to Green Gap could not be defended as a reason for refusal at appeal.

The loss of Green Gap will be weighed into the planning balance.

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

This is a proposed development of 44 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 13 dwellings to be provided as affordable dwellings. The SHMA 2013 shows the majority of the demand in Wybunbury and Shavington is for 8 x 1 bedroom, 20 x 2 bedroom, 7 x 3 bedroom and 12 x 4+ bedroom dwellings. Also there is a need for Older Persons dwellings for 1 x 1 bedroom and 7 x 2 bedrooms. The majority of the demand on Cheshire Homechoice is for 9 x 1 bedroom, 1 x 2 bedroom, 13 x 3 bedroom, 2 x 4 bedroom and 1 x 5 bedroom dwellings. Therefore 1 and 2 bedroom units on this site would be acceptable with 9 units should be provided as Affordable rent and 4 units as Intermediate tenure. As the need for 3 bedrooms is shown then the Intermediate Tenure should be allocated as 3 Bedroom units.

The exact details of the affordable housing will be provided at reserved matters stage. This will be secured as part of a S106 Agreement.

### **Public Open Space**

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site.

Using Policy RT.3 the required level would be 1,540sq.m and using Policy SE.6 of the Cheshire East Local Plan the required level would be 2,640sq.m.

The indicative plan shows that the developer will provide 2,150sq.m of public open space within the site. As such the level of open space meets the Development Plan requirement under Policy RT.3. It should be noted that as policy SE.6 is still subject to examination and may change that it can be only given moderate weight.

The level of open space would clearly exceed the requirements of Policy RT.3 and this would be a benefit of this development.

In terms of children's play space Policy RT.3 states that if farther than 400 metres from an easily accessible playground then the LPA will require the provision or contribution towards play equipment. In this case the development would not be farther than 400 metres from the proposed play area within the countrypark on the Wain Homes site to the west of the site and would be within 400 metres of the existing play area at Vine Tree Avenue.

In order to ensure that the proposed country park and play area as part of the Wain Homes development on Rope Lane is accessible from this development it is necessary to attach a planning condition to secure the provision of bridges over the watercourse to link into the adjacent open space.

### **Education**

An application of 44 dwellings is expected to generate 8 primary aged children, 7 secondary aged children and 1 SEN child.

In terms of primary school education, the proposed development would be served by 12 local primary schools. The Education Department have confirmed that there is capacity to accommodate the children generated by this development and there is no requirement for a primary school contribution. The details can be seen in the table below;

Primary Schools	PAN Sep-15	PAN Sep-16	Net Cap May-15	Revised Net Cap 2016	Pupil forecasts based on October 2014 School Census				
					2015	2016	2017	2018	2019
Wistaston Church Lane	60	60	420	420	421	422	418	418	417
Gainsborough	60	60	420	420	418	417	412	411	409
Wistaston Academy	60	60	420	420	392	387	387	381	375
Edleston	30	30	210	210	213	211	208	208	207
Pebble Brook	45	45	315	315	256	273	284	286	285
Shavington ( catchment School)	30	30	210	210	224	277	330	363	385
St Mary's	90	90	630	630	572	572	560	548	536
Vine Tree	30	30	210	210	209	210	206	205	203
Weston	38	38	266	266	257	262	265	267	272
Willaston	30	30	210	210	216	224	235	242	246
The Berkeley	60	60	330	420	377	383	391	393	390
Wynbunbury Delves	30	30	209	209	193	200	200	200	197
Developments with S106 funded and pupil yield included in the forecasts				202					
Developments with no S106 funded and pupil yield not included in the forecasts									17
Children expected from development									8
Overall total				4,142	3748	3838	3896	3922	3947
Overall surplus places projections					394	304	246	220	195

In terms of secondary schools, there are six schools which would serve the proposed development. The Education Department have confirmed that there is capacity to accommodate the children generated by this development and there is no requirement for a secondary school contribution. The details can be seen in the table below;

Secondary Schools	PAN Sep-15	PAN Sep-16	Net Cap May-15	Revised Net Cap 2016	Pupil forecasts based on October 2014 School Census					
					2015	2016	2017	2018	2019	2021
Brine Leas	215	215	1050	1050	1117	1142	1180	1192	1203	1203
Sir William Stanier	210	210	1050	1,050	836	872	919	996	1,058	1,143
Kings Grove	156	156	780	780	547	551	539	546	600	621
St Thomas More	128	128	642	642	642	646	656	673	686	693
Ruskin	140	140	666	666	470	459	476	492	497	525
Shavington Academy	170	170	850	850	542	597	645	670	713	755
Developments with S106 funded and pupil yield included in the forecasts				4						
Developments with no S106 funded and pupil yield not included in the forecasts										35
Children expected from development										7
Overall total				5,042	4154	4267	4415	4569	4757	4982
Overall surplus places projections					888	775	627	473	285	205

Although there are no tables available for SEN education provision the Councils Education department have confirmed that children in the Borough cannot be accommodated under current provision and some children are currently being educated outside the Borough. A contribution of £45,500 is required based on the increase in population and this will be secured as part of a S106 Agreement.

## Health

A number of the letters of objection raise concerns about the impact upon health provision in this area. Although no consultation response has been received from the NHS a search of the NHS Choices website shows that there are 5 GP practices within 3 miles of the application site and all are accepting patients indicating that there is capacity to serve this development.

## Location of the site



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

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

- Post office (1000m) – 480m
- Post Box (500m) – 480m
- Public House (1000m) – 320m
- Cash Point (1000m) – 595m
- Primary School (1000m) – 804m
- Local meeting place (1000m) – 643m
- Convenience Store (500m) – 480m
- Bus Stop (500m) – 320m
- Public Right of Way (500m) – 100m
- Secondary School (1000m) – 320m
- Medical Centre (1000m) - 700m
- Pharmacy (1000m) – 700m
- Children’s Play Space (500m) – Provided on site
- Leisure Centre (1000m) – 320m
- Outdoor Sports Facility (500m) – 320m
- Child Care Facility (nursery or crèche) (1000m) - 500m
- Amenity Open Space (500m) – Provided on site

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 4000m

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

## **ENVIRONMENTAL SUSTAINABILITY**

### **Residential Amenity**

The application is in outline form and the indicate plans show that the proposed dwellings would have a separation distance of between 40m and 70m to the existing dwellings which front Chestnut Avenue.

To the south-west of the site the indicative plans show that that would be the following separation distances;

- 31 metres between 14a Northfield Place and the proposed dwellings on plots 15-18
- 21 metres between 19 Northfield Place and the proposed bungalow on plot 19
- 17 metres between 19a Northfield Place and the proposed bungalow on plot 23

There would be adequate separation distances to the dwellings on the existing development on Rope Lane.

The indicative plans show that an acceptable layout can be achieved at reserved matters stage.

The Environmental Health Officer has requested conditions in relation to hours of construction, external lighting, and an environment management plan.

### **Air Quality**

Whilst this scheme itself is of a relatively small scale, and as such would not require an air quality impact assessment, there is a need for the Local Planning Authority to consider the cumulative impact of a large number of development in a particular area. In particular, the impact of transport related emissions on Local Air Quality.

The transport assessment submitted with the scheme makes reference to the accessibility of public transport, walking and cycling routes. The accessibility of low or zero emission transport options has the potential to mitigate the impacts of transport related emissions. However it is felt appropriate to ensure that uptake of these options is maximised through the development and implementation of a suitable travel plan.

In addition, modern Ultra Low Emission Vehicle technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow home charging of electric vehicles in new, modern properties.

### **Contaminated Land**

The application area has a history of stables and horticultural use and therefore the land may be contaminated. Furthermore there is a former pond on the south of the site which may have been previously infilled. Depending on the nature of any infill, there is the potential for localised contamination and ground gas issues.

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site.

A pre-determination questionnaire for contaminated land was submitted in support of the application. This provided some information about the site, the provided information indicated there is likely to be a quantity of made ground on site due to the site's historical redevelopment.

In addition, the site was previously used as an orchard, there is the potential for pesticide/herbicide residues to be present on the site as a result of this previous use.

As such, and in accordance with the Councils Environmental Health Officer recommends that a standard contaminated land condition is attached to any approval.

### Public Rights of Way

There are no PROW located on the application site.

The indicative plans show that the development would link into the footpath network and community park on the approved Wainhomes development. This is a positive aspect of the scheme.

### Highways

#### Access

It is proposed to locate the access off Chestnut Avenue and to provide a carriageway width of 5.5m with 2m footways either side, linking to existing footways on Chestnut Avenue. The access radii will be 6m and the access as shown on the submitted plan accords with standards.

Footway and cycle access is available to the wider area of Shavington and local amenities. Bus stops are also within 400m of the site and footway access to them is available, providing access to other areas of Shavington, Crewe and Nantwich.

Three footbridges across the stream have been proposed, increasing pedestrian connectivity with the neighbouring development that has recently been approved.

#### Access Safety

Traffic speeds have been measured on Chestnut Avenue and have indicated 85<sup>th</sup> percentile speeds of just under 30mph. The required visibility splay of the proposed access of 43m is achievable.

An accident analysis of the local area has been carried on the local area including Rope Lane/Vine Tree Avenue junction, Chestnut Avenue/Crewe Road junction and Crewe Road/Link Road (to A500) signal junction. The accident data also covered the whole of Chestnut Avenue, Vine Tree Avenue and Crewe Road section between Chestnut Avenue and the Link Road (to A500). The accidents are summarised in the table below.

Severity	2011	2012	2013	2014	2015	Total
Fatal	0	0	0	0	0	0
Serious	0	1	0	0	0	1
Slight	4	0	2	1	0	7

There has been 1 serious accident due an alcohol impaired driver failing to look properly whilst turning into Chestnut Avenue from Crewe Road. There have been no fatalities, indicating no accident trends or issues in the local road network.

Sections of Chestnut Avenue are in poor condition. Chestnut Avenue has been included in the CEC Highway Investment Programme for 2016/17 for treatment and improvement of the road surface.

### Network Capacity

The number of trips that the development would generate was predicted using UK industry standard software TRICS. A residential development of this size would produce approximately 1 vehicle trip every 2 minutes during each of the peak hours.

Junction capacity assessments have been carried out on the surrounding junctions using UK industry standard junction capacity assessment programs Junctions8 and Linsig. The impact of the vehicle trips generated from the proposal was assessed, alongside committed residential developments off Rope Lane and Newcastle Road.

The capacity assessments concluded that the development would not have a severe impact on the local road network.

### Highways Conclusion

The proposal is for 44 dwellings with all matters reserved except for access. The proposed access and footways are of acceptable widths and the visibility on exiting onto Chestnut Avenue will adhere to standards.

Footway access will be available onto Chestnut Avenue and the wider area, and to bus stops providing access to other areas of Shavington and to Crewe and Nantwich.

There have been 8 accidents over the last 5 years on the surrounding local road network with no fatalities and just 1 serious accident which was not down to the road layout.

The number of trips that would be generated from the site will be less than 1 every 2 minutes during each of the peak hours and trip generation is therefore considered minor.

### **Trees/Hedgerows**

The application is supported by an Arboricultural Statement which identifies 14 individual trees, 19 Groups of trees and 8 hedgerows within and immediately adjacent to the application site.

Access to the site will be off Chestnut Avenue by the demolition of No.46 Chestnut Avenue which will require the removal of a young poor quality Cypress, a poor quality Silver Birch and group of low quality Silver Birch, Cherry and Apple within the front garden. Whilst these trees present some limited contribution to visual amenity within the immediate area, their quality and contribution to the wider amenity is not considered significant. A formal Holly hedge along the front garden boundary fronting the adjacent highway will also require removal to accommodate the proposed access.

The proposed internal site layout will require the removal of 10 groups of trees, which have been identified as relatively low quality. A moderate (B category) group of two Hawthorn located to the northern boundary of the site (part of a former hedgerow) will require removal to accommodate

the proposed internal access and footpath. The loss of this group is not considered significant in the wider amenity context.

Whilst the proposal will require the loss of trees to accommodate the proposed access and internally within the site, most present a limited contribution to the wider amenity and it is considered there is sufficient scope within the site to offset their loss by replacement planting as part of the overall landscaping of the site.

Trees along the western site boundary along Swill Brook and a high quality group of Beech, Ash, Willow and Birch located immediately offsite to the north east are to be retained within open space provision. Some minor ingress into root protection areas of retained trees is anticipated to facilitate the location of internal access roads and car parking provision. However it is not anticipated that this will have a significant impact on the long term safe well being of trees and any special construction measure can be dealt with by condition.

The D & A Statement indicates that some remodelling of the land will be required to accommodate the development which may impact upon trees. It is not anticipated that this will be a major issue; however it would be appropriate to include the submission of levels detail as a condition on any reserved matters submission.

As a result there are no objections in terms of the tree implications from this development.

### **Design**

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

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

In this case the proposal would have a density of 26.8 dwellings per hectare this is consistent with the surrounding residential areas of Shavington.

In this case an indicative layout has been provided in support of this application and this shows that an acceptable layout can be achieved and that the areas of open space and all highways would be well overlooked. It is considered that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF could be negotiated at the reserved matters stage.

### **Landscape**

As part of the application a Landscape and Visual Appraisal has been submitted with reference to and using aspects of the guidance found within ‘Guidelines for landscape and Visual Impact Assessment’ 3<sup>rd</sup> Edition, this correctly identifies the baseline landscape of the application site and surrounding area. Landscape Appraisal also identifies the National Landscape Character Area and the Cheshire Landscape Character Assessment, which identifies that the application site is located with the Lower farms and Woods character Type, and specifically within the LFW7 Barthomley Character Area.

The appraisal identifies that the value of the key existing landscape features along Swill Brook is considered to be high, but low for other features within the site. That the magnitude of change will be low for features along Swill Brook, but medium to High for other features. The appraisal offers

the opinion that the landscape effects will be Minor beneficial at year 1 and that the sensitivity of the landscape will be minor/moderate adverse at year 1. is also high and offers as assessment of effect on landscape features that is minor beneficial, and assessment of significance of landscape effect on the landscape character as minor adverse, for year one. The appraisal indicates that on the landscape character area, the overall sensitivity is medium, the magnitude of change is medium to high and that for the application area the significance of effect will be moderate adverse.

The appraisal identifies that the proposed development will result in changes to views for a number of receptors.

The Councils Landscape Officer would broadly agree with the appraisal and the significance of effects that are identified. The appraisal does identify that the proposals will result in adverse landscape and visual effects, and this appears to indicate that the proposals would be contrary to Policy NE.4 Green Gap in the Crewe and Nantwich Replacement Local Plan 2011, which states that approval will not be given for construction of new buildings or the change of use of existing buildings or land would:

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

Nevertheless, the recent appeal decision for the site to the west of Swill Brook noted that although a proposed development may cause some harm to the visual character of the landscape and physically erode the Green Gap, that only limited weight should be afforded to the changes that would result from the proposed development.

### **Ecology**

Wybunbury Moss SSSI, Ramsar (midland Meres and Mosses Phase 1), National Nature Reserve, Special Area of Conservation

The proposed development is located approximately 1.9km from Wybunbury Moss which holds a number of statutory designations for its nature conservation value.

In this case Natural England have advised that they have no comments to make on this application.

### **Bats**

Evidence of bat activity in the form of bat droppings was recorded at 46 Chestnut Avenue during the initial bat survey undertaken in winter. However, no evidence of roosting bats was recorded during the bat activity surveys undertaken this year. It therefore appears likely that whilst bats may have previously roosted within the building there is no evidence to suggest that an active roost is currently present.

At present this property does not currently support a legally protected bat roost. There however remains the possibility that bats may return to roost at the property over the coming years. The applicant's consultant has recommended that the demolition of the property proceeds in accordance with a method statement of precautionary Reasonable Avoidance Measures in order

to minimise the potential impacts on bats. The applicant's consultant has also proposed that a bat roost be incorporated into the proposed development.

The Council's Ecologist recommends that a condition should be attached requiring an updated bat survey to be undertaken and a report of this survey including an updated mitigation strategy be submitted as part of any future reserved matters application.

### Swill Brook

Any reserved matters application for the site will need to include the provision of an undeveloped buffer/open space in the vicinity of Swill Brook in accordance with the submitted illustrative layout plan.

### Other Protected Species

Whilst no active setts were recorded on site, other protected species are known to occur in this locality. If planning consent is granted the Council's Ecologist recommends that a condition be attached requiring any future reserved matters application to be supported by an updated survey.

### **Flood Risk**

A narrow strip of the application site is located within Flood Zones 2 and 3 along the boundary with Swill Brook with the majority of the site located within Flood Zone 1. In support of this application a Flood Risk Assessment has been undertaken which recommends that:

- The finished floor levels be set a minimum of 600mm above the adjacent 1 in 100 annual probability plus climate change flood level, or 0.15m above adjacent ground levels whichever is greater
- That the detailed drainage design be developed in accordance with the principles set out within the FRA

The majority of the site is located in flood zone 1 apart from the western boundary due to a main river that issues along the boundary. The risk of flooding from this source will need to be appropriately mitigated.

Any SuDS should be designed so that the capacity takes account of the likely impacts of climate change and likely changes in impermeable area within the development over its lifetime and continues to provide effective drainage for properties.

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

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct

and indirect economic benefits to Shavington including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

### **Agricultural Land Quality**

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

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

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this case part of the site is developed (stables, hardstanding, horse walker, manege, the dwelling and curtilage) whilst the rest is in equine use. As a result the development would not result in the loss of BMV agricultural land.

### **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

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

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

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

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

### **PLANNING BALANCE**

The proposed development would be contrary to Policies NE.2, NE.4 and RES.5 and the development would result in a loss of open countryside and Green Gap. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites and the policies NE.2, NE.4 and RES.5 are out-of-date for the purposes of paragraph 49 of the NPPF. The presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that



LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- The development would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.
- In terms of the POS provision this would provide a facility for future residents and other residents in Shavington
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Shavington.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution.
- The impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation.
- There is not considered to be any flood risk/drainage implications raised by this development.
- The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/noise/air quality and contaminated land could be mitigated through the imposition of planning conditions.
- The development would provide a safe and suitable access and would not result in a severe highways impact

The adverse impacts of the development would be:

- loss of open countryside
- harm to the purposes of Green Gap in this location
- changes to the visual character of the landscape that would result from the proposed development

In this case the benefits outweigh the adverse impacts. This conclusion is informed by appeal decisions in the immediate locality that have considered the weight to be given to the relevant key issues. In accordance with paragraph 14 of the Framework the proposal constitutes sustainable development and is recommended for approval.

### **RECOMMENDATION:**

**APPROVE subject to a S106 Agreement to secure the following Heads of Terms:**

**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 to be maintained by a private management company
3. SEN Contribution of £45,500

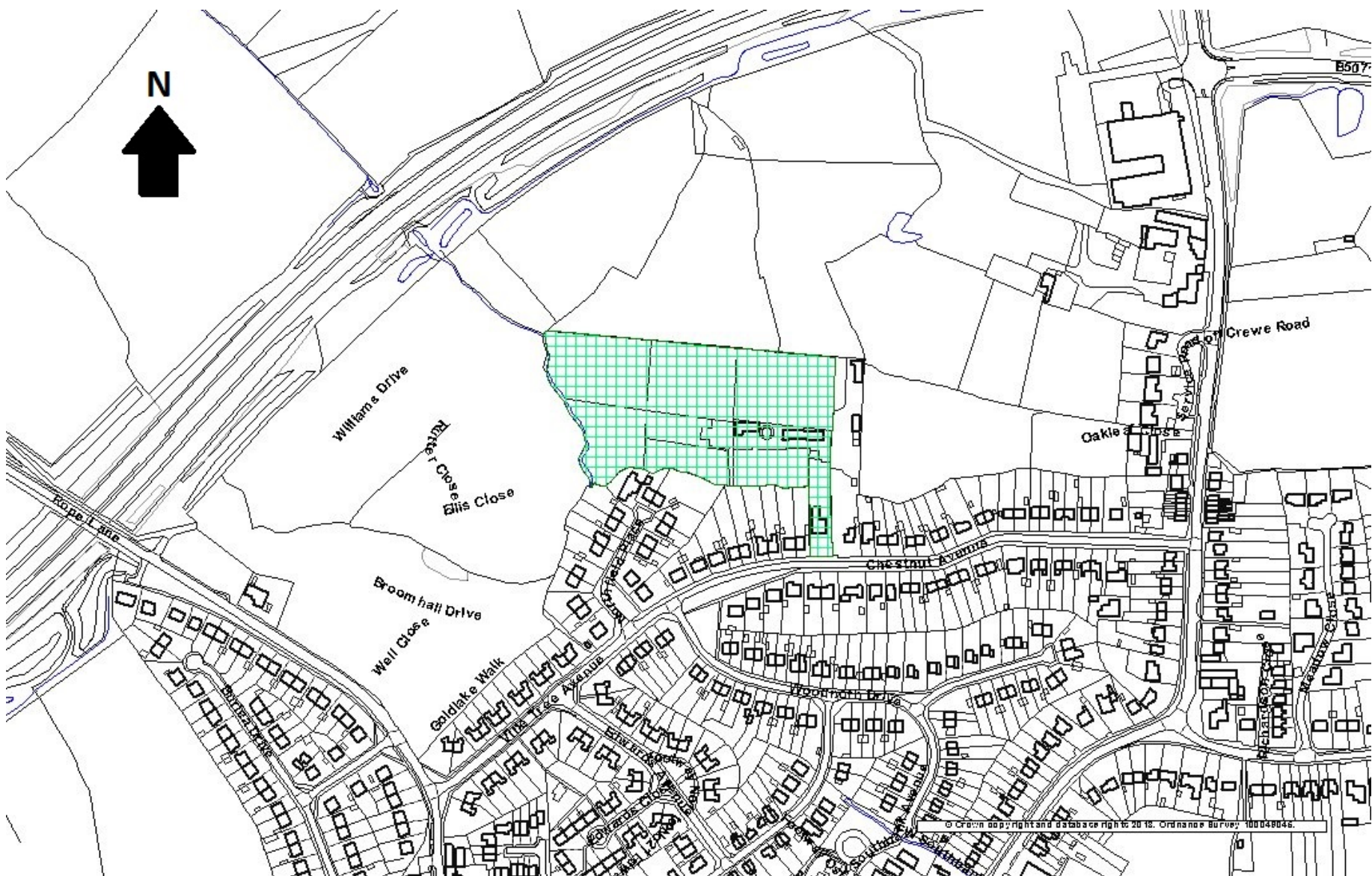
And the following conditions:

1. Standard outline 1
2. Standard outline 2
3. Standard outline 3
4. Approved Plans
5. Electric Vehicle Infrastructure to be submitted and approved
6. Construction Management Plan to be submitted and approved
7. Submission / Approval of Information regarding Contaminated Land
8. Any reserved matters application shall be supported by an Arboricultural Impact Assessment (AIA) in accordance with Section 5.4 of *BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)* which shall evaluate the direct and indirect impact effect of the proposed design on existing trees.
9. Reserved Matters application to include details of the existing and proposed land levels
10. The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the LPA
11. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA)
12. No development should commence on site until such time as detailed proposals for disposal of surface water (including a scheme for the on-site storage and regulated discharge) have been submitted to and agreed in writing with the LPA
13. Prior to the commencement of development, a scheme for the provision and management of an undeveloped buffer zone (minimum 8 metres wide), between the banktop of Wells Green Brook (also known locally as Swill Brook) and any built development, shall be submitted to and agreed in writing by the local planning authority.
14. Updated survey for Water Vole, Badger and Bats to be undertaken and submitted as part of any reserved matters application
15. Any future reserved matters application to include details of at least 3 pedestrian bridges linking the site with the community park adjacent to the site.

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in her absence the Vice Chair) of Southern Planning Committee, 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 to be maintained by a private management company
3. SEN Contribution of £45,500



Application No: 16/1487N

Location: Land North Of, POOL LANE, WINTERLEY

Proposal: Reserved matters application seeking consent for appearance, landscaping, layout and scale, following outline planning permission for the construction of up to 45no. dwellings (13/4632N)

Applicant: Jane Aspinall, Bellway Homes Limited

Expiry Date: 28-Jun-2016

**SUMMARY**

The application site lies entirely within the Open Countryside as determined by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The principle of the development for up to 45 dwellings on this site has already been approved under outline application 13/4632N. This application considers reserved matters in relation to Appearance, Landscaping, Layout and Scale.

Particular attention has been paid to securing satisfactory landscaping along Pool Lane, to safeguard the character of the area and the amenity of nearby residents.

The proposed layout complies with relevant policies of the Development Plan, national planning guidance and policies within the emerging Cheshire East Local Plan Strategy.

Subject to conditions, it is considered that all such matters are deemed to be acceptable.

**RECOMMENDATION**

**APPROVE** subject to conditions

**REASON FOR REPORT:**

This application has been called in to be determined by Southern Planning Committee by Cllr Hammond for the following reason:

*"I would request that this reserved matters application is determined by Committee as this was a controversial scheme refused by the Authority and granted permission by an Inspector at Public Inquiry."*

*There are in particular unresolved landscape and screening issues to mitigate the significant impact of the development on the amenity of residents and the rural character of Pool Lane.”*

## **PROPOSAL**

This reserved matters application seeks approval of the; Appearance, Landscaping, Layout and Scale for the erection of up to 45 dwellings, granted under outline approval 13/4632N.

A number of revised plans (Landscape Masterplan and Planning Layout Plan) have been received during the application process in order to address Officer and local resident concerns.

## **SITE DESCRIPTION**

The site of the proposed development extends to 2.89 ha and is located to the northern side of Pool Lane and the eastern side of Crewe Road, Winterley. The site is within Open Countryside. To the northern boundary of the site is an agricultural field and residential development fronting Crewe Road. To the east of the site is ribbon development fronting Pool Lane and to the south of the site is Pool Lane with residential properties to the opposite side. To the west are residential properties.

The land is currently in agricultural use and comprises one field. There are a number of trees and hedgerow to the boundaries of the site. Two trees onto the southern boundary of the site with Pool Lane are protected by a Tree Preservation Order.

The application site is elevated when compared to Crewe Road and Pool Lane but is relatively flat, sloping downwards towards Pool Lane.

## **RELEVANT HISTORY**

**13/4632N** - Outline planning permission for the construction of up to 45 dwellings – Allowed at appeal – 14<sup>th</sup> January 2015

**14/3393N** - Outline planning permission for the construction of up to 45no. dwellings (Resubmission of 13/4632N) – refused 25<sup>th</sup> September 2014

**14/3962N** - Outline planning permission for the construction of up to 79 dwellings – Appeal dismissed 2<sup>nd</sup> February 2016

## **NATIONAL & LOCAL POLICY**

### **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside.

The relevant Saved Policies are:

- NE.2 (Open countryside)
- NE.5 (Nature Conservation and Habitats)
- NE.8 (Sites of Local Importance for Nature Conservation)
- NE.9: (Protected Species)
- NE.20 (Flood Prevention)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)

RES.5 (Housing in the Open Countryside)  
RES.7 (Affordable Housing)  
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)  
RT.9 (Footpaths and Bridleways)  
TRAN.3 (Pedestrians)  
TRAN.5 (Cycling)

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

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

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

### **National Policy**

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

Of particular relevance are paragraphs:

- 14. Presumption in favour of sustainable development.
- 50. Wide choice of quality homes
- 56-68. Requiring good design

### **CONSULTATIONS**

**Head of Strategic Infrastructure (HSI)** –The access was agreed at the outline planning application stage and this application does not allow for the opportunity to revisit the access arrangement. The following comments were made regarding the internal road layout:

*“The main road alignment from Pool Lane is likely to serve further phases of development and therefore this has been designed to a higher technical standard than the more informal crescent to the south of the site.*

*The proposed internal road layout is acceptable and is suitable for adoption, the car parking provision across the site meets current CEC standards. There is also some visitor car parking being provided on the informal loop road.*

*This highway layout proposed is considered acceptable and no highway objections are raised.”*

**Environmental Protection (Cheshire East Council)** – No further comments.

**Housing Strategy and Needs (Cheshire East Council)** – No objection as Regenda (Registered Social Landlord) have confirmed they are happy with the affordable housing locations on the proposed site plan.

**Flood Risk** – No objection subject to two conditions (one relating to soakaway drainage and one relating to storm periods) and an informative. The Agent has advised that the soakaway tests are being carried out with the aim to remove at least one of the suggested conditions. At the time of writing the report this information had not been received.

**Ecology** – No objection subject to lighting condition, no removal of dead wood condition and a hedgehog condition.

**Forestry** - No objection subject to two conditions (one relating to the Arboricultural Method Statement and one relating to the implementation and construction of the access road serving Plots 13 – 17).

**Conservation and Design** – No objection. The revised submitted drawings have followed the Conservation and Design Officers recommendations where possible.

**Open Spaces** – No objection. The Open Space provision is some 0.24 Hectares and the Open Space Officer has verbally agreed that the open space provision is acceptable. Should any issues be raised prior to Planning Committee a committee update will be prepared.

**Haslington Parish Council** – No objection but the following comments made:

1. The introduction of an open space Health trial is welcomed but would seek assurances that local consultation is undertaken on the equipment and placing of these items in line with demographics on the population to make use of the area.
2. The introduction of new housing brings extra vehicles to the area can it be made clearer where these will be parked as garages or parking on properties looks like minimum which again could cause overspill onto Crewe Road or Winterley pool meaning the loss of people visiting due to no parking spaces.
3. The width and extent of tree belt planting falls short of that scheme commended by the Inspector. We would recommend minor amendments to the layout enabling the commended tree belt scheme to be accommodated.
4. We have concerns that the open space/ play area footpath at the Pool Lane/ Crewe Road corner will be unsafe. The path should be swung to join the Crewe Road footpath earlier - clear of the corner - and fitted with appropriate safety guidance (gate or barriers).



## REPRESENTATIONS

Neighbour notification letters were sent to all adjacent occupants. In response, seven letters of representation have been received to date. The main areas of objection are;

- No provision for mobility issues
- Unclear information relating to the retention of the hedge
- Lack of clarification relating to the compound
- Access to Pool Lane unclear
- Flood management concerns
- Building materials blowing into houses and vehicles
- Land levels and amenity issues
- Highway safety
- Construction vehicle issues
- Landscape issues

## APPRAISAL

The key issues are:

- The acceptability of the; Appearance, Landscaping, Layout and Scale
- The impact upon all other matters

## SUSTAINABILITY

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

In this instance, consideration of the Layout, Scale, Appearance and Landscaping are the principal considerations.

### Design

#### Layout

The proposed development is for 45 new dwellings. The layout plan shows that the development would be constructed in a rectangular pattern, following the shape of the proposed new access road. The layout shows that the properties on the site would overlook the access road, with the units facing away from Crewe Road and Pool Lane.

The properties would respect the pattern of development within the nearby area which includes singular roads to the rear of main roads that provide housing (e.g. Fishermans Close off Nesfield Drive).

A footpath link is proposed to the south-west corner of the site, leading on to Crewe Road. The original scheme showed the footpath link leading onto Pool Lane and this was amended following highway safety concerns.

Access would be onto Crewe Road. This was approved as part of the outline application. Indeed, the proposed layout largely conforms with the indicative layout presented at outline stage.

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

### Scale

The proposal would comprise of 45 two-storey dwellings, comprising of a mixture of 13 house types and an apartment block.

The heights of the 9 dwelling types would range between 7.2 metres (m) (the 4FA124 house type) and 8.1 m in height (the 4KE131 house type). The apartment block would measure 8.8 m in height.

A planning history search of the nearby properties in Winterley shows that the closest properties generally comprise of heights between 7 and 8 metres. As such, the proposed heights of the dwellings would generally reflect the heights of the surrounding properties.

The taller apartment block is proposed towards the middle of the site, and as such would not appear incongruous.

It should be noted that the range of house types and subsequently the range of heights of the dwellings proposed would create a degree of interest.

The proposed footprints of the dwellings would largely reflect the scale of the footprints of the surrounding units.

As such, the scale of the proposed dwellings is considered to be acceptable.

### Appearance

The proposal would comprise 13 different house types and an apartment block. Of the 13 different dwellings, 33 will be detached and 8 shall be demi-detached. The apartment block will also be detached.

Of the 33 detached dwellings, these shall comprise of 10 different house types which would range between 7.2 and 8.1 m in height.

The house types would comprise of a mixture of rectangular or 'L-shaped' footprints. Of the 'L-shaped' footprint dwellings, the 'L' is predominantly created by gable features.

All 33 of the detached dwellings would be two-storey in height and comprise of a mixture of dual pitched and hipped roofs. Some of the units include small porches. Some include small dormers within the roof scape.

Of the 8 semi-detached units, these would range in height between 7.6 and 8.1 m and have rectangular footprints. They would all be two-storey's in height and have dual-pitched roofs. Half dual-pitched dormers are also proposed.

It is advised within the materials schedule that the dwellings would comprise of red facing brick walls and a contrast brick, some part rendered (with Tudor boarding), red roof tiles, white uPVC fenestration and GRP doors.

The closest neighbouring properties predominantly comprise of two-storey, detached units, with a mixed exposed brick and rendered finish and red/grey tiled roof.

There are also examples of hipped roofed properties and semi-detached properties within the vicinity.

As such, it is considered that the general design of the dwellings would not appear incongruous within this setting.

As such, subject to the prior approval of the material detail which is secured via a condition on the outline application, it is considered that the appearance of the proposed dwellings would be acceptable and would adhere with Policy GR2 of the adopted local plan.

### **Landscaping (including trees and hedgerows)**

The submitted information is supported by an Arboricultural Method Statement.

The Landscape Management Plan statement advises that existing trees will be retained as part of the development. The Forestry Officer originally raised concerns over the construction of the access road serving plots 13 – 17. If this portion of the access road were to be adopted the level of construction required would be more onerous in terms of the surface treatment. Strategic Infrastructure (Highways) have advised that this portion of the access would be a private drive therefore the proposal is acceptable when considering the trees and the road materials.

The Council's Tree Officer has concluded that he has no objections, subject to conditions relating to all works being carried out in accordance with Arboricultural Method Statement and the implementation and construction of the access road serving Plots 13 – 17.

During the Planning Appeal a local resident presented a suggested landscape buffer along the southern boundary with Pool Lane. The Inspector commended the efforts of the local resident and the local resident and Agent have discussed the inclusion of the buffer strip during this reserved matters application. The Agent has revised the landscape plan to show an increase in the width of the buffer strip however the Local Resident does not consider this to be sufficient. In the Inspector's report for the planning appeal relating to application reference 14/3962N, the Inspector looks at the boundary with Pool Lane:

*"Some properties on Pool Lane, facing the consented part of the site, have dense, mature planting to their boundaries. No 6 has, in addition, a tall outbuilding along its frontage. These would be largely unaffected with regard to overlooking from the appeal scheme. Nonetheless, there would be adverse impacts upon a number of other dwellings, from 8 Pool Lane eastwards. Although the dwellings are set back from the lane, their frontages are completely open, with views of the appeal site. The elevation of the appeal site above Pool Lane, and the potential for new dwellings to be tight to, and rising above, the site boundary, would, in my judgment result in a very significant adverse change in, and an oppressive impact upon, the outlook from these dwellings. With regard to privacy, I am satisfied that the likely distances are such that if new dwellings were orientated appropriately there would not be any serious adverse impacts."*

Overall it is considered that the applicant has responded positively to the concerns of the local resident and the landscape buffer is considered acceptable. Concerns were raised by the Planning Officer regarding the maintenance of the landscape buffer to the south of Plot 22. The Agent has clarified that the landscape buffer will not be in the ownership of No. 22 and will be maintained by a management company.

Whilst this is a material consideration, the buffer as shown on the revised landscape is considered acceptable and it is not considered that this would substantiate a reason for refusal.

Hedgerows are a priority habitat and hence a material consideration. Condition 17 of the outline permission requires compensatory planting proposals to be submitted to address the loss of any hedgerows lost as a result of the proposed development.

The submitted ecological mitigation strategy states that 11m of Hedgerow H3 and 13m of Hedgerow H4 would be lost. The submitted landscape plan however appears to show the southern extent of H4 (on the sites eastern boundary, located below the proposed access point) being lost and replaced with a line of new tree planting. The submitted landscape master has been amended to show the retention of this section of hedgerow. The submitted habitat plan also shows a number of gaps in northern hedgerow. The revised plan shows this being gapped up as part of the landscaping scheme for the site as shown on the landscape master plan.

As such, subject to these conditions; it is considered that there would be no significant impact upon the landscape.

### **Other Matters**

#### Affordable Housing

As part of the outline planning application, the affordable housing provision was secured via a S106 agreement.

This agreement secured the following;

- 30% of the total dwellings to be provided as affordable housing
- 65% of the affordable dwellings to be affordable or social rented, 35% to be intermediate
- The affordable dwellings to be pepper-potted across the site
- Affordable homes to meet CFSH Level 3 and to be built in accordance with the Homes & Communities Agency Design & Quality Standards.
- The affordable dwellings to be provided no later than occupation of 50% of the open market dwellings.

In response to this application, the Council's Housing Officer has raised no objections as the Registered Social Landlord has submitted a covering letter stating that the layout provision is acceptable.

#### Open Space

The layout plan shows that a degree of Public Open Space (POS) is proposed within the development itself and includes 'trim trail' equipment.

This plan shows that this land would be positioned to the east of the site and forms the boundary with Crewe Road. It would be roughly rectangular in shape and largely conforms with that proposed on the indicative layout plan considered as part of the outline application.

The on-site provision has been agreed and is deemed to adhere with Policy RT3 of the Local Plan.

## Amenity

Policy BE.1 of the Local Plan advises that proposals for new development shall be permitted so long as the development does not prejudice the amenity of future occupiers or the occupiers of adjacent properties by reason of overshadowing, overlooking visual intrusion, noise and disturbance or in any other way.

The proposed dwellings will need to largely conform to the separation standards detailed within paragraph 3.9 of 'The Development on Backland and Gardens SPD'. These standards include a 21 metre gap between main windows of directly facing dwellings across both the front and rear gardens and a 13.5 metre gap between the main windows of dwellings directly facing the flank walls of an adjacent dwelling. Paragraph 3.35 of this SPD advises that each garden should have no less than 50 metres squared of private amenity space.

All neighbouring dwellings outside of the development proposal would be over the 21 metre separation standard with regards to front to rear relationships according to the submitted layout plan.

With regards to the front or rear to side 13.5 m standard, this only becomes applicable if there are sole windows to principal habitable rooms within either impacted dwelling directly opposing each other in this configuration.

At the northern boundary the layout plan shows an approximate 18.1 m gap between the side elevation of No. 326 Crewe Road and the rear elevation of the closest dwelling to the south (plot No. 2) hence adhering with this standard. At the southern boundary, at the closest point the rear elevation of plot No. 23 would be 28 m from the front elevation of No. 2, Pool Lane hence adhering with this standard.

In terms of the relationships between the proposed new dwellings themselves, although at some points the relationships fall short of the recommended 21 metre and 13.5 metre separation standards, it is considered that these dwellings are far enough away from each other (generally across the road from), so not to create any significant concerns in relation to loss of light, visual intrusion or loss of privacy for the future occupiers.

It is considered that there is enough space within the site for each of the 40 properties now proposed to have an appropriate sized garden.

During the outline planning application, Environmental Health have advised that they have no objections, subject to various conditions.

As such, subject to conditions and informatives, it is considered that the proposal would be acceptable in terms of amenity and Policies BE.1 and BE.6 of the Local Plan.

## Ecology

Concerns were raised by the Ecology Officer relating to trees T3, T4 and T5 as the submitted information advises that the removal of some dead wood from these trees would be required and this would trigger the need for additional bat survey information. The Agent has advised that a

condition stipulating that there should be no removal of dead wood from the trees would be acceptable if the application is approved.

As part of this application, the Council's Nature Conservation Officer has advised that the proposed development is unlikely to have an adverse impact up the ecological features for which Winterley Pool was designated and no objections are raised.

### Flood Risk and Drainage

Flood Risk and Drainage have no objection to the proposed scheme subject to a condition relating to soakaway testing, a condition relating to information regarding storm periods and informative relating to water courses.

### **Planning Balance**

Planning permission for the development has already been approved, the application seeks approval of matters of detail.

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

The scheme therefore represents a sustainable form of development providing sufficient quality of design and landscaping.

It is also considered that the development would not have a detrimental impact upon neighbouring amenity, ecology or trees.

The proposal complies with relevant policies of the Development Plan and is recommended for approval subject to conditions.

### **RECOMMENDATION**

**APPROVE subject to the following conditions:**

- 1. In accordance with Outline**
- 2. Development in accordance with approved plans**
- 3. Soakaway drainage**
- 4. Storm period drainage**
- 5. External lighting condition**
- 6. No removal of deadwood from trees**
- 7. Hedgehog gaps in hedgerows**
- 8. Implementation and construction of the access road serving Plots 13 – 17 – trees**

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



**This page is intentionally left blank**



Application No: 16/1575N

Location: LAND ADJACENT TO, Lodmore House, LODMORE LANE, BURLEYDAM

Proposal: Development of affordable housing including 3no. 3Bed 5Person Houses, 6no. 2Bed 4Person Houses, 4no. 2Bed 3Person Flats and 4no. 1Bed 2Person Flats. 17 units in total with 30no.parking spaces and private gardens.

Applicant: Ms Karen Wilford, Adactus Housing Group Ltd

Expiry Date: 05-Jul-2016

**SUMMARY:** The application site lies with an area designated as Open Countryside as determined by the Crewe and Nantwich Borough Council Replacement Local Plan, where Policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture and therefore there is a general presumption against development.

However, Policy RES.8 states that planning permission may be granted for the provision of affordable housing, as an exception to Policy NE.2, where housing will meet the needs of people previously shown to be in local need, the site is in a sustainable location, immediately adjacent to an existing settlement boundary or exceptionally within or adjoining the built area of other rural settlements; and the scale, layout and design of the scheme is appropriate to the character of the settlement.

The applicant is a Social Housing provider, Adactus Housing Group Ltd and the proposal is for 17 affordable housing units, therefore the site can be considered as a rural exception site for the purposes of policy.

The proposal would bring positive planning benefits such as; the provision of affordable housing in an area of need and a boost to the local economy.

The negatives for the site are the generally unsustainable location and will have some impact on the setting of the listed building in the countryside, and loss of trees.

However it is considered that the positive benefits from social housing in area of rural need, and increasing the Housing Land Supply outweigh the negative impacts caused in terms of environmental sustainability in terms of loss of Open Countryside, loss of trees and unsustainable.

Further, no issues with regards to neighbouring amenity, landscape, or highways, would be created.

.

**RECOMMENDATION: APPROVE Subject to Section 106 Agreement and conditions**

### **PROPOSAL:**

The proposal is for the construction of 17 dwellings, 3no. 3 bed houses, 6no. 2 bed houses, 4no. 2 bed flats and 4no. 1 bed flats. The proposal includes 100% social housing.

### **SITE DESCRIPTION:**

The application site comprises a field adjacent to Lodmore House, on Lodmore Lane, Burleydam. The application site is a relatively square area of land on the corner of Lodmore Lane.

The application site is situated within Burleydam which is a settlement designated as being Open Countryside. The application site lies adjacent to a Grade II Listed Buildings, Lodmore House.

### **RELEVANT HISTORY:**

7/09622 - Change of use from agricultural land to recreational use. – Approved with conditions 13<sup>th</sup> January 1983

### **NATIONAL & LOCAL POLICY**

#### **National Policy**

National Planning Policy Framework (NPPF)

#### **Local Plan Policy**

*Crewe and Nantwich Replacement Local Plan 2011*

- 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.8 – Listed Buildings – Alterations and Extensions
- NE.2 – Open Countryside
- NE.5 – Nature Conservation and Habitats
- NE.9 – Protected Species

NE.17 – Pollution Control  
NE.20 – Flood Prevention  
RES.7 – Affordable Housing  
RES.3 – Housing Densities  
RES.8 – Affordable Housing in rural area outside settlement boundaries (rural exceptions policy)  
RT.3 – Provision of Recreational Open Space and Children's Playspace in New Housing Developments

### *Cheshire East Council Local Plan*

MP1 – Presumption in Favour of Sustainable Development  
PG5 – Open Countryside  
SD1 – Sustainable Development in Cheshire East  
SD2 – Sustainable Development Principles  
SC4 – Residential Mix  
SC6 – Rural Exceptions Housing for Local Needs  
SE1 – Design  
SE3 – Biodiversity and Geodiversity  
SE4 – The Landscape  
SE7- The Historic Environment  
CO1 – Sustainable Travel and Transport

#### **Other Considerations:**

Interim Planning Statement: Affordable Housing (Feb 2011)  
North West Sustainability Checklist  
The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

#### **CONSULTATIONS:**

**Environmental Health** – No objection, subject to conditions for Piling works, construction management plan, lighting, travel information pack, Electric Vehicle Infrastructure, dust control, contaminated land, soil forming materials, and informatives for piling, hours of construction, and contaminated land

**Archaeology** – The development site is recorded on the Tithe Award dated 1845, therefore potentially there maybe remains of a cottage. A condition is proposed to secure a programme of archaeological work to be carried out prior to commencement of development.

**Strategic Housing Officer** – No Objections subject to a S106 Agreement to secure the 100% affordable housing provision.

**Strategic Infrastructure Manager** – The SIM is satisfied that the development proposals can be safely accommodated on the adjacent highway network; accordingly, the SIM has no objection to the planning application.

**Environment Agency** – No objection subject to conditions for foul drainage

**United Utilities** – No objections, subject to conditions for foul and surface water drainage, SUDs management and maintenance

**Flood Risk Manager** – No objections subject to a condition for drainage

**Historic England** – Do not consider that it is necessary for this application to be notified to Historic England

**Natural England** – No objections

### **PARISH/TOWN COUNCIL REPRESENTATION**

**Dodcott-cum-Wilkesley Parish Council** - The Parish Council fully supports this application for much needed affordable housing within the Parish. The Parish Council has been striving for several years to bring an affordable housing development into the local area and is pleased that Adactus Housing has submitted the application. The Parish Council has been consulted by the Housing Association and the Parish Council approve of the development in Lodmore Lane. The only stipulation that the Parish Council would like to make is that the planning application be linked to a local lettings policy. This is to ensure that local residents/people with a local connection are given the initial opportunity to apply for one of the affordable homes.

### **OTHER REPRESENTATIONS**

Letters of objection have been received from 2 local residences. The main issues raised are;

- Concerns raised about flooding
- Loss of oak tree planted by the Parish for the millennium
- Highway safety impacts
- No provision for children's play space

### **OFFICER APPRAISAL**

#### **Principle of Development**

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

However, Policy RES.8 states that planning permission may be granted for the provision of affordable housing, as an exception to Policy NE.2, where housing will meet the needs of people previously shown to be in local need, the site is in a sustainable location, immediately adjacent to an existing settlement boundary or exceptionally within or adjoining the built area

of other rural settlements; and the scale, layout and design of the scheme is appropriate to the character of the settlement.

The applicant is a Social Housing provider, Adactus Housing Group Ltd and the proposal is for 17 affordable housing units, therefore the site can be considered as an exception site for housing.

The issue in question is whether the development represents sustainable development and if the development accords with all other relevant Policies within the Local Plan.

### **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

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

In order to assess whether or not residential development of this site would be sustainable, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. This suggests that new developments should meet the following:

- 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).

It is considered that Burleydam is limited in terms of public services and facilities that are available. With the exception of a pub, church with community facilities and a dance and Fitness Academy the nearest facilities are located in either Audlem or Whitchurch Town

Centres. Public transport options are limited to a bus service, which runs between Nantwich Audlem and Whitchurch, and the nearest Train Stations are in Nantwich and Whitchurch. The application site is just under 1 mile away from the bus stop next to the Combermere Arms, however there are no paths. It is evident therefore that essential facilities are not readily accessible and therefore the site is clearly less sustainable than a town centre location.

The site is in a rural location with limited access to local services and public transport; it is likely that the majority of trips to and from the site will be car borne, however, the application is for just 17 dwellings and the level of traffic generated by the site will be low, therefore, even if the site was located in a sustainable location the number of car trips that could be replaced by sustainable transport options such as walking, cycling or public transport would also be low.

As a result the site is considered to lie within an unsustainable location. There are, however, 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**

### **Affordable housing**

This application is for the provision of 17 affordable housing units for rental through a social housing provider.

The Interim Planning Statement: Affordable Housing (IPS) states that: -

- With regards to Rural Exceptions Sites proposals must be for small schemes appropriate to the locality and consist in their entirety of subsidised housing that will be retained in perpetuity for rent, shared ownership or in partnership with a RSL.
- In all such cases they must be supported by an up-to-date survey identifying the need for such provision within the local community. Unless the survey indicates a need for such provision, planning permission will not be granted.

- In addition the provision needs to meet the strategic priorities of the Council in relation to the development of affordable housing in rural areas

Evidence of Housing Need:

Rural Housing Needs Survey –

A rural housing needs survey was carried out in the 2012 for Dodcott-cum-Wilkesley Parish with the final report being written in January 2013. The survey highlighted several types of resident that had an affordable housing need within Dodcott-Cum-Wilkesley, including:

- 5 respondents requiring alternative housing within the parish
- 20 current Dodcott-Cum-Wilkesley residents who wish to form a new household within Dodcott-Cum-Wilkesley or Cheshire East within the next 5 years
- 7 ex-Dodcott-Cum-Wilkesley residents who would move back into the parish if affordable housing were available.

Of these 32 potential new households:

- 13 would need to be either subsidised ownership or rentable properties
- The majority would be for a son or daughter of a respondent
- The majority would be required within the next 2 years.

This is a proposed development of 17 dwellings. This application has all 17 dwellings as affordable rent.

The SHMA 2013 shows the majority of the demand in Audlem area for the next 5 years is for 4x 1 bedroom, 16x 3 bedroom, 4x 4 bedroom dwellings and 3x 2 bedroom dwellings for Older Persons, per year. The majority of the demand on Cheshire Homechoice is for 5x 1 bedroom, 8x 2 bedroom and 4x 3 bedroom dwellings therefore 1, 2 3 and 4 on this site would be acceptable.

Adactus are to manage the 17 Affordable rent properties and this meets both the IPS Rural Exception requirements and the proven need for this type of accommodation. The addition of 17 Affordable rental units meets the strategic Priority of the Council as the Registered Providers are reducing the number of Rental units on new sites across Cheshire East.

It is therefore considered that there is clearly a need for this type of development in this rural area and therefore the provision shall be secured by way of a S106 Agreement.

### **Amenity**

The application site is situated on the corner of Lodmore Lane and is sites between Lodmore House and the properties on Fields View.

The development is designed to look like a farmhouse with rural buildings and is designed in such as way to create a internal courtyard design with development in a square design. The proposed dwellings will be sited 16m at the shortest distance away from the dwellings on Fields View and 25m away from Lodmore house with a shed in between.

The dwellings in Block 1 will have rear windows facing towards the curtilage of Lodmore House. Although the proposed development will visually change the outlook of the

dwellinghouse, there will be a separation distance of over 25m which will meet the separation distances of 21m between principal windows as set out in the SPD.

The properties on Fields View have principal windows on the front elevations and the proposed dwellings will have rear elevations facing towards the neighbours properties. However due to the positions of the new dwelling and the positions of the existing dwellings, no direct overlooking will occur as the windows will not directly overlook each other. The existing dwellings will overlook the access point into the development and the new dwellings will face towards the side gardens of the existing dwellings.

Internally there will be an interface distance between Block 1 and Block 3 of 20m, this is 1m below the suggested standards however this is not considered to be significant issue, and would not have a significantly detrimental impact on future neighbour occupation.

The proposed site plan appears to show a suitable level of private amenity space afforded to each property albeit a number of them having less than the 50 square metres. All units have provision for bin storage, and all dwellinghouse houses have paved areas and garden land and a small shed. It is therefore considered that the provision of private amenity space is sufficient.

Environmental Protection have requested conditions for Piling foundations, construction management plan, lighting, Travel Information Pack, Electric Vehicle Infrastructure, dust control, and contaminated land, and it is considered that all conditions are proposed are reasonable and will help to mitigate for any impact on neighbours and the environment as a whole.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Landscape**

This is an application for the development of 17 affordable housing units and 30 parking spaces on land adjacent to Lodmore Lane, Burleydam. The application site is located in a rural area, has a number of hedgerows and hedgerow trees along its boundary and is located adjacent to Lodmore House, a Grade II listed building. To the east of the site, on the opposite side of Lodmore Lane are a number of semi-detached properties.

The application site is located in an area identified in the Crewe and Nantwich Local Plan as being Open Countryside, and the applicants have submitted a Landscape plan and specification. The Council's Landscape Officer has assessed the landscape and concludes that the landscape proposals are considered to be acceptable.

### **Trees**

The application is supported by a BS5837 Arboricultural Survey by DK Landscape & Ecology (Ref (DKLE-05/2014/Lod/Arb) dated 3<sup>rd</sup> June 2014. The results and recommendations of the survey in relation to T1 and G1 which are recommended to be retained as part of the development proposals have not been reflected in the proposed site layout with both the individual tree T1 and the group G1 scheduled to be removed.



The Arboricultural survey categorises both T1 and the collective presence as moderate value category B trees, and the Council's Tree Officer would concur with this designation. The Oak T1 is a small early mature specimen of no significant presence but certainly has long term potential. Its removal can be adequately compensated within a detailed landscape scheme for the site. The linear group of Sycamore and Hawthorn identified as G1 extend across the majority of the sites southern boundary. Whilst their value is in their collective presence individually a number of the Sycamores present bifurcated main stems. Whilst no evidence of inherent movement was noted, long term there may be problems in respect of continued structural integrity. The present layout cannot accommodate the trees located on the southern boundary even if the hard standing was removed; issues of social proximity and dominance would prevail.

The Tree officer concludes that the identified trees are not considered worthy of formal protection under a Tree Preservation Order, and therefore it would be unreasonable to refuse the application on these grounds. The updated landscape details include new tree planting to mitigate for the loss of the trees on the site.

### **Ecology**

The proposal includes an Ecological survey. The Councils Ecology Officer has yet to comment on the details submitted. This will form a separate update to the southern planning committee members.

### **Design and Impact on adjacent Listed Building**

The proposal scheme has been designed to appear as a farmstead within the site which has a frontage on to the corner of Lodmore Lane and retaining the parking area within the courtyard area of the proposal. The design aims to take key characteristics from the surrounding rural area, with a traditional barn type design and materials.

The Council's built heritage officer has considered the proposal and notes that the development will have some impact on the Grade II listed building Lodmore House, however with the inclusion of a more substantial boundary treatment of hedges and trees along the western boundary to create a clear separation between the application site and the heritage asset it is considered that the impact will be limited.

With the additional of conditions in relation to materials to be used it is considered that the harm to the setting of the listed building is limited and the development although will have some increased impact on the character and appearance of the streetscene will not unduly harm the setting or character of the area to warrant refusal.

### **Archeology**

The proposed development site is recorded on the Tithe Award, dated c. 1845, for the Township of Dodcott Cum Wilkesley in the parish of Audlem and Acton, as Cottage and Croft (plot 273), then occupied by a Joseph Carter, although the Tithe map fails to depict the site as occupied by any buildings. A similar problem exists with the plot immediately to the east of the proposed development (plot 274) recorded as the site of the Old House where again no building is depicted. Given the Tithe Award's description and there is a named occupier to the

site, this discrepancy is considered to more likely to be due to mapping errors at the time of survey rather than an error in the Award. To the west of the proposed development site lie Lodmore Lane Cottages, a grade II listed building, recorded on the Cheshire Historic Environment Record DCH 5511, dated to the 17<sup>th</sup> century, possibly indicating that occupation of both plots 273 & 274 might have originated at a similar date.

Consequently the proposed development site is considered to have the potential to contain structural remains of the cottage recorded on the Tithe Award, and the Cheshire Archaeology Planning Advisory Service has therefore recommend that should the Council be minded to grant planning permission for this development, the applicants be required to undertake a programme of archaeological work, and that such works be secured by means of condition.

### **Strategic Highways**

The site extends to approximately 0.2 hectares in area and is located in a rural area approximately 1.4 kilometres to the south east of Burleydam. The site is currently accessed from Lodmore Lane. This is a full planning application for the development of 17 dwellings with associated parking and landscaping. All dwellings will be served from a private communal car park which will be accessed from Lodmore Lane.

#### Local highway network

Lodmore Lane is a lightly trafficked rural lane; in the vicinity of the site the carriageway is approximately 5.0m wide with no footway provision and a speed limit of 60mph. Speed surveys demonstrate that actual speeds are much lower than 60mph due to the alignment and character of the road. The recorded 85<sup>th</sup> percentile wet weather speeds were 25mph southbound past the site and 27mph northbound past the site.

#### Internal site layout

The private communal car park has 17 parking spaces which, based on the housing mix, is in accordance with CEC's minimum standards for residential dwellings.

Refuse collection is proposed from the road side on Lodmore Lane and, an area has been set aside within the site, adjacent to Lodmore Lane, for the temporary storage of bins on collection days, to minimise refuse vehicle dwell time on Lodmore Lane whilst the bins are emptied. The proposed layout is acceptable to the SIM.

#### Access

Access to the site is taken from a priority controlled junction with Lodmore Lane located in the position of the existing site access; the proposed junction layout is illustrated in in BTP Architects drawing number P104. The layout comprises:

- A site access carriageway width of 6.0m;
- Corner radii of 6.0m;
- A visibility splay of 2.4m x 27m to the north of the access; and
- A visibility splay of 2.4m x 38m to the south of the access.

The 27m visibility splay in the non-leading direction to the north of the site access is substandard by 6.0m; however, given that Lodmore Lane is lightly trafficked (around 320 two

way trips per day), the relatively small shortfall in visibility would be unlikely to have an impact on road safety.

In terms of junction geometry, layout and visibility, the access proposals are considered to be acceptable to serve a development of 17 dwellings in this location.

### Traffic Impact

A development of 17 dwellings would be expected to generate less than 12 two way trips during the morning and evening commuter peak periods; this level of traffic generation would not be expected to have a material impact on the operation of the adjacent or wider highway network.

The Strategic Infrastructure Manager is satisfied that the development proposals can be safely accommodated on the adjacent highway network; and accordingly, has no objection.

## **ECONOMIC SUSTAINABILITY**

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest shops for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of resident's spending money in the area and using local services.

As such, it is considered that the proposed development would be economically sustainable.

## **PLANNING BALANCE AND CONCLUSION**

The application site lies with an area designated as Open Countryside as determined by the Crewe and Nantwich Borough Council Replacement Local Plan, where Policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture and therefore there is a general presumption against development.

However, Policy RES.8 states that planning permission may be granted for the provision of affordable housing, as an exception to Policy NE.2, where housing will meet the needs of people previously shown to be in local need, the site is in a sustainable location, immediately adjacent to an existing settlement boundary or exceptionally within or adjoining the built area of other rural settlements; and the scale, layout and design of the scheme is appropriate to the character of the settlement.

The applicant is a Social Housing provider, Adactus Housing Group Ltd and the proposal is for 17 affordable housing units, therefore the site can be considered as an exception site for housing.

The proposal would bring positive planning benefits such as; the provision of affordable housing in an area of need and a minor boost to the local economy.

The negatives for the site are the generally unsustainable location and will have some impact on the setting of the listed building in the countryside, and loss of trees.

However it is not considered that the negative impacts caused in terms of environmental sustainability on the Countryside, loss of trees and unsustainable location do not outweigh the positive benefits identified, in allowing social housing in area of need, and increasing the Housing Land Supply.

No issues with regards to neighbouring amenity, landscape, or highways, would be created.

As such, the development is recommended for approval.

### **RECOMMENDATIONS**

**APPROVE Subject to Section 106 agreement and conditions:**

**Heads of Terms**

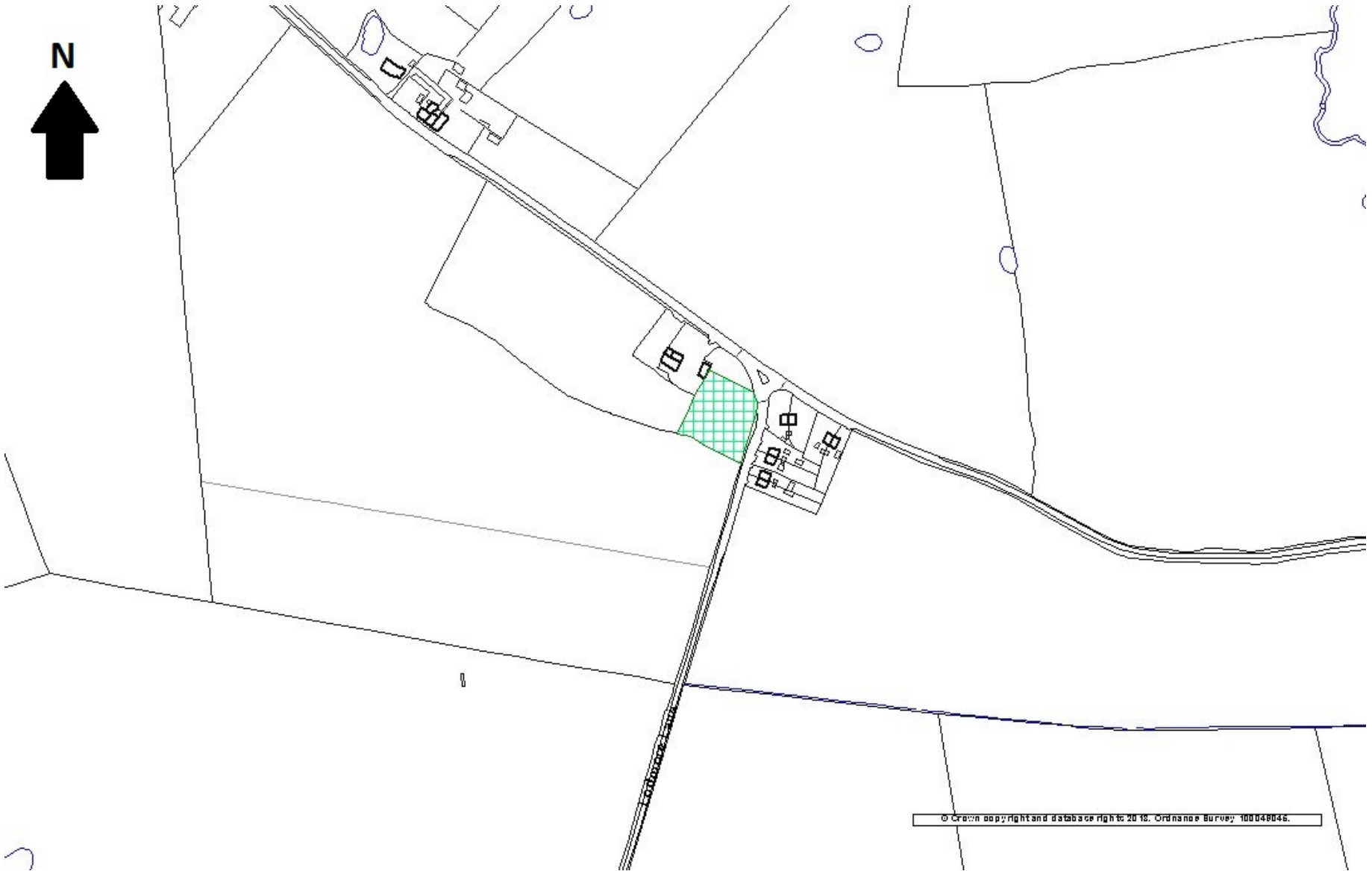
**Secure 100% affordable units**

- requires them to transfer all units to a Registered Provider
- Includes provisions that require the affordable homes to be let to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy.

### **Conditions**

1. Standard
2. Approved plans
3. Submission of samples of building materials
4. Surfacing materials
5. Piling Foundations
6. Major development construction phase environmental management plan
7. Lighting
8. Travel Information Pack
9. Electric Vehicle Infrastructure
10. Dust control
11. Contaminated Land
12. Soil forming materials
13. Unknown Contaminated Land
14. Removal of PD
15. Programme of archaeological work
16. Foul water condition
17. Surface water condition
18. Suds Drainage and management condition
19. Tree and hedgerow protection
20. Improved landscape scheme retaining existing hedges
21. Landscape implementation
22. Nesting Birds
23. Bird nesting features

## 24. Hedgehog features



Application No: 15/5579C

Location: Land on the south side of Dragons Lane, Moston, Sandbach, Cheshire, CW11 3QB

Proposal: Removal of condition 3 on application 12/0971C to make permission permanent and remove limitation on occupancy to named persons

Applicant: Mr Martin Smith

Expiry Date: 04-Feb-2016

### SUMMARY

Having regard to the rural location of the site, the distance from facilities and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be a limited adverse impact upon the character and appearance of this rural area to the same extent as there is for the existing development. The impacts from this proposal will of course be permanent. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

The Inspector on the original application on this site found that the identified harm must be balanced against the substantial current need for gypsy and traveller pitches in Cheshire East and the lack of alternative accommodation available to the appellant and his family. Due to the fact that it is likely that new pitches will become available through the development plan process, the Inspector considered that permission for a temporary period of five years was appropriate. The temporary permission was granted in February 2014 and runs until February 2019. The permission therefore still has over half its time to run, and will continue to provide the Council with reasonable time to still deliver site allocations through the development plan process. It is therefore considered that the timescale for the temporary permission should remain, and that a permanent permission is not justified at this time.

Turning to the occupancy of the site being restricted to the identified family members; the Inspector stated that the temporary period of 5 years would cater for the appellant's short term need and provide the Council reasonable time to deliver site allocations. However, in the Inspector's decision letter under the heading "*Need & Personal Circumstances*", all that is said about the appellant's needs is "*It is clear that, as a gypsy, the appellant is disadvantaged by the unmet need and that significant weight should be attached to the accommodation needs of the appellant and his family.*"

Furthermore, when considering the location of the site, the Inspector noted, *“Although it was claimed at the Inquiry that members of the family had a need for regular medical attention, no evidence of substance was provided to substantiate this or to indicate that the appellant’s family has any specific need to be accommodated on the appeal site specifically to access health, educational or other services, although at the time of the Hearing the appellant’s son and daughter-in-law were expecting the birth of their first child.”*

There was little or no evidence presented at the appeal to show a specific need for the applicant to be located on the application site, and therefore it is considered that less weight should be afforded to the personal needs of the applicant compared to the significant unmet need in general for gypsy and traveller sites within the Borough. These circumstances could therefore apply to any gypsy or traveller and not just the applicant and his family. Indeed, the Inspector on the adjacent site concluded along similar lines, the general need outweighed the harm to the character and appearance of the area and the unsustainable location, and the appellant’s needs in that case just added more weight in favour of the proposal. In summary, it is not considered to be the personal circumstances of the applicant that justify the granting of a temporary permission in this case. It is therefore considered that the condition 3 should be varied to allow occupation of the site by any gypsy / traveller.

#### **SUMMARY RECOMMENDATION**

Temporary approval subject to conditions

#### **REASON FOR REPORT**

The proposal was called to committee by Cllr Wray, the local ward member for the following reasons:

- 1. At the request of Moston Parish Council because of considerable public interest.*
- 2. The conditions that were applied at the time are still relevant today and there is no cogent reason to alter them.*

#### **PROPOSAL**

The application seeks to remove Condition 3 on Application 12/0971C which stated:

*The use hereby permitted shall be carried on only by the following: Martin and Martina Smith; James Dean and Scarlet Smith; Emmanuel Smith; and Violet and Charlene Smith, and their respective resident dependants, and shall be for a limited period being the period of 5 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.*



The application therefore seeks to make the permission permanent and allow occupation by any gypsy / travellers, not just those listed in the condition.

### **SITE DESCRIPTION**

The application site is situated wholly within the open countryside as defined by Policy PS8 (Open Countryside) of the Congleton Borough Local Plan 2005. The site comprises an area of hardstanding upon which there are four gypsy pitches with associated caravans and vehicles.

### **RELEVANT HISTORY**

12/0971C – The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use – Refused 19.06.2012, Appeal allowed 13.02.2014

### **NATIONAL & LOCAL POLICY**

#### **National Policy**

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Planning Policy for Traveller Sites (PPTS) 2015 sets out the Government's planning policy for traveller sites. It should be read in conjunction with the Framework. The overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

#### **Development Plan:**

The Development Plan for this area is the Congleton Borough Local Plan First Review 2005, which allocates the whole site as open countryside

The relevant Saved Policies are:

- GR1 (New Development)
- GR2 (Design)
- GR6 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR19 (Infrastructure)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H6 (Residential Development in the Open Countryside and the Green Belt)
- H7 (Residential Caravans and Mobile Homes)
- H8 (Gypsy Caravan Sites)

#### **Cheshire East Local Plan Strategy – Proposed Changes Version (CELP)**

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

SD1 Sustainable Development in Cheshire East  
SD2 Sustainable Development Principles  
PG5 Open Countryside  
SC7 Gypsies and Travellers and Travelling Showpeople

### **Other relevant documents**

Cheshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (March 2014)  
Cheshire East Council Gypsy, Traveller and Travelling Showpeople Site Identification Study (April 2014)

## **CONSULTATIONS**

**Head of Strategic Infrastructure** - Comments not received at time of report preparation

**Brine Board** – No comments to make

**Moston Parish Council** – Object to the proposal on the following grounds:

This application seeks to remove a condition imposed less than 2 years ago by The Planning Inspectorate, an executive agency sponsored by The Dept. for Communities and Local Government. Moston Parish Council is not convinced such a condition decision should be removed by a local authority.

## **REPRESENTATIONS**

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

- Peter Brett report reconfirmed the unsuitability of this site for development
- Would add permanent addition to highways safety problem
- Sites should be allocated through local plan process
- Permanent loss of greenfield site
- Permanent harm to character and appearance of the area
- Too early to make permanent
- No change in personal circumstances outlined which would justify any removal of the prescribed limitation of occupancy
- No justification for permanent permission
- If pitches not needed, land should be restored
- Health & safety risk from gas pipeline

A letter from Fiona Bruce MP has also been received requesting that the following concerns raised by Mottram Parish Council are taken into account:

- Land has been consistently said to be unsustainable for
- Temporary permission granted on basis that it was a family site
- Site is still being developed and changes are being asked for less than 2 years into 5 year permission
- Recent application for permanent permission on adjacent site was not granted.

## **APPLICANTS SUBMISSION**

A statement has been submitted on behalf of the applicant, which summarises how the proposal satisfies relevant planning policies.

## **APPRAISAL**

The key issue in the determination of this application is whether the condition restricting the occupancy of the pitches and the duration of the permission is reasonable or necessary in the interests of the following matters:

- (a) Whether the site is in an appropriate location for the use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area;
- (c) Whether there is any harm and conflict with policy, there are material considerations which outweigh any identified harm and conflict with policy.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Character and appearance**

There is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements identified in Policy H of the PPTS. This policy states local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure.

In his decision letter, when granting the original permission on this site, the Inspector identified *“the introduction of 4 residential pitches would introduce development outside areas allocated in the development plan, contrary to PPTS paragraph 23 and undermining the effectiveness of policies aimed at protecting the Countryside”*.

Limited harm to the character and appearance of the countryside has resulted from the presence of the four pitches, which would remain in the event that the permission was made permanent. There would therefore still be some conflict with local plan policies H8, GR1 and GR2 of the local plan and national policy in the PPTS and NPPF. Given the nature of Moston Green as a dispersed settlement of individual and small groups of dwellings, the proposed development would form another small group of dwellings which would not dominate the settled community. This approach and identification of harm to the character and appearance of the countryside is consistent with previous Inspectors who have considered previous applications on this field. There would not be any further harm to the character and appearance of the area if the site was occupied by any gypsy or traveller rather than those named in condition 3.

### **Accessibility**

Policy H8 of the local plan set out criteria which proposals for gypsy caravan sites are expected to comply with. One of these is that, wherever possible, such sites should be within 1.6 kilometres of existing local shops, community facilities, a primary school and public transport facilities. The more recent PPTS does not provide any further guidance on acceptable distances between traveller sites and local facilities

The Inspector on this site and the Inspector who considered the appeal on the adjacent site both acknowledged that policy H8 in the local plan is consistent with the Framework and the PPTS. Both Inspectors also identified that most facilities are beyond the 1.6kms specified in the local plan, that most journeys to and from the site would be by private car, but that these journeys would be relatively short and limited in number. The current proposal would therefore conflict with the requirements of policy H8 of the local plan. It would not however be significantly affected, to a greater or lesser degree, by family members (as referred to in the condition) or non-family members.

### **Amenity**

No significant impact upon the living conditions of neighbours were identified at the time of the previous appeal, and no further amenity issues are raised with this proposal. The development is therefore considered to comply with policy GR6 of the local plan.

### **Highways**

The Head of Strategic Infrastructure (HSI) raised no objections to the original proposal. The Inspector was also satisfied that access and parking arrangements would be adequate and additional traffic generated by the proposed use would not result in any significant harm in terms of highway safety and traffic generation, in accordance with policies GR9 and GR17 of the local plan. Comments are awaited from the HSI on the current proposal; however, there would not be any additional traffic generation arising from a permanent permission or from non-family members being based at the site. No highways issues are therefore anticipated, but further clarification will be reported as an update.

### **SOCIAL SUSTAINABILITY**

The PPTS makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. But other factors such as economic and social considerations are important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampments. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

### **Need**

The PPTS requires local authorities to identify and update annually, a supply of deliverable sites sufficient to provide five years worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

In 2013 Opinion Research Services (ORS) was commissioned by the local authorities of Cheshire to undertake a Gypsy, Traveller and Travelling showpeople Accommodation

Assessment (GTTSAA). The local authorities involved were: Cheshire West & Chester, Cheshire East, Halton and Warrington. Prior to this the last Gypsy and Traveller Accommodation and Related Services Assessment was published in 2007.

The study provides an evidence base to enable the Councils to comply with their requirements towards gypsies, travellers and travelling showpeople under the Housing Act 2004, the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2015. It provides up-to-date evidence about the accommodation needs of gypsies, travellers and travelling showpeople in the study area up to 2028.

In terms of future need within Cheshire East, an extra provision totalling 69 pitches is required to 2028. Over 5 year periods, this translates to 32 pitches between 2013-2018, 17 pitches between 2018-2023 and 20 pitches between 2023-2028. There was also a recommendation within the GTTSAA that the Council provide a transit site of between 5 and 10 pitches in order to address unauthorised encampments.

In June 2015, the Council granted approval for an additional 24 permanent pitches at Three Oaks Caravan Park, Booth Lane, Moston, which does go some way towards meeting the first five year requirement to 2018. This permission has been implemented, but the pitches have not been provided to date. Additionally a transit site comprising 9 pitches and a warden's pitch was granted approval at Cledford Lane in Middlewich in May 2015. This permission has not been implemented. It is however clear that the Council is taking steps towards addressing the need for additional traveller pitches within the Borough.

### **Site Identification Study**

Peter Brett Associates were appointed by the Council to carry out research to identify gypsy, traveller and travelling showpersons sites across the Borough. Sites have been assessed to determine if they are suitable, available and achievable. It is intended that the results of the study will be used to inform the development of relevant policies and allocations and to guide the consideration of planning applications.

Potential sites were established from a review of information relating to: a call for sites; existing authorised sites subject to full, temporary or personal consents or certificates of lawful use; existing unauthorised and tolerated sites and encampments; other sites owned by gypsies, travellers and travelling showpeople; surplus Council owned land; sites from previous and current land studies; housing allocations and potential urban extensions, and; sites owned by Registered Providers (housing associations).

It should be clarified that the site identification study does not allocate land for the proposed use, or confirm the acceptability in planning terms of the identified sites. It simply serves to highlight options available to the Council to meet the identified need for accommodation for gypsies, travellers and travelling showpeople within the Borough.

In terms of the application site, the Peter Brett report rejects the site as an option for permanent development stating that:

*The site would have an unacceptable impact on landscape character.*

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will make a very limited contribution towards bringing increased trade to local shops and businesses.

### **THIRD PARTY COMMENTS**

With regard to the comments received in representation, not addressed above, the proposal does not raise any additional health and safety issues relating to the gas pipeline to the east of the site beyond those on the existing permission.

### **PLANNING BALANCE**

Having regard to the rural location of the site, the distance from facilities and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be a limited adverse impact upon the character and appearance of this rural area to the same extent as there is for the existing development. The impacts from this proposal will of course be permanent. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the significant identified need for accommodation for gypsies and travellers in the Borough and the lack of available alternatives. A total of 69 additional plots are required within the Borough for the period to 2028. Whilst 24 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available, and substantial weight should still be attached to this unmet need in favour of the application.

Alongside this the Council's site identification study rejects the application site as a potential site for additional provision noting that it would have an unacceptable impact upon landscape character. However, there are currently no alternative sites that are available to the applicants or any other gypsy or traveller. The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal.

The Council does not have an adopted policy that is based on an accurate assessment of need in the Borough. A 5 year supply of deliverable sites cannot be demonstrated, which is matter that also weighs in favour of the application.

At the time of the original application, the Inspector concluded that the harm to the character and appearance of the countryside was sufficient to justify the refusal of a permanent planning permission. He also noted that policy H of the PPTS states that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan

The PPTS was revised in August 2015 and now policy H states that "Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan." The word "very" has now been inserted before "strictly limit" presumably to increase the protection given to open countryside locations, such as the application site. In addition, whilst the local

plan process has been subject to delay, there are clear indications of additional pitches coming forward (evidenced by recent planning permissions) and now that the local plan process has resumed, further new pitches are again likely to become available through the development plan process, in order to meet the identified need. However at this moment there remains a significant unmet need for gypsy and traveller pitches.

The Inspector found that the identified harm must be balanced against the substantial current need for gypsy and traveller pitches in Cheshire East and the lack of alternative accommodation available to the appellant and his family. Due to the fact that it is likely that new pitches will become available through the development plan process, the Inspector considered that permission for a temporary period of five years was appropriate.

The temporary permission was granted in February 2014 and runs until February 2019. The permission therefore still has over half its time to run, and will continue to provide the Council with reasonable time to still deliver site allocations through the development plan process. It is therefore considered that the timescale for the temporary permission should still remain, and that a permanent permission is not justified at this time.

Turning to the occupancy of the site being restricted to the identified family members; the Inspector stated that the temporary period of 5 years would cater for the appellant's short term need and provide the Council reasonable time to deliver site allocations. However, in the Inspector's decision letter under the heading "*Need & Personal Circumstances*", all that is said about the appellant's needs is "*It is clear that, as a gypsy, the appellant is disadvantaged by the unmet need and that significant weight should be attached to the accommodation needs of the appellant and his family.*" Furthermore, when considering the location of the site, the Inspector noted, "*Although it was claimed at the Inquiry that members of the family had a need*

*for regular medical attention, no evidence of substance was provided to substantiate this or to indicate that the appellant's family has any specific need to be accommodated on the appeal site specifically to access health, educational or other services, although at the time of the Hearing the appellant's son and daughter-in-law were expecting the birth of their first child.*"

These circumstances could therefore apply to any gypsy or traveller and not just the applicant and his family. There was little or no evidence presented at the appeal to show a specific need for the applicant to be located on the application site, and therefore it is considered that less weight should be afforded to the personal needs of the applicant compared to the significant unmet need in general for gypsy and traveller sites within the Borough. Indeed, the Inspector on the adjacent site concluded along similar lines, the general need outweighed the harm to the character and appearance of the area and the unsustainable location, and the appellant's needs in that case just added more weight in favour of the proposal. In summary, it is not considered to be the personal circumstances of the applicant that justify the granting of a temporary permission in this case. It is therefore considered that the condition 3 should be varied to allow occupation of the site by any gypsy / traveller.

## RECOMMENDATION

It is recommended that the temporary permission remains, but that the restriction on occupation of the site by named family members is removed. Condition 3 should therefore be varied to:

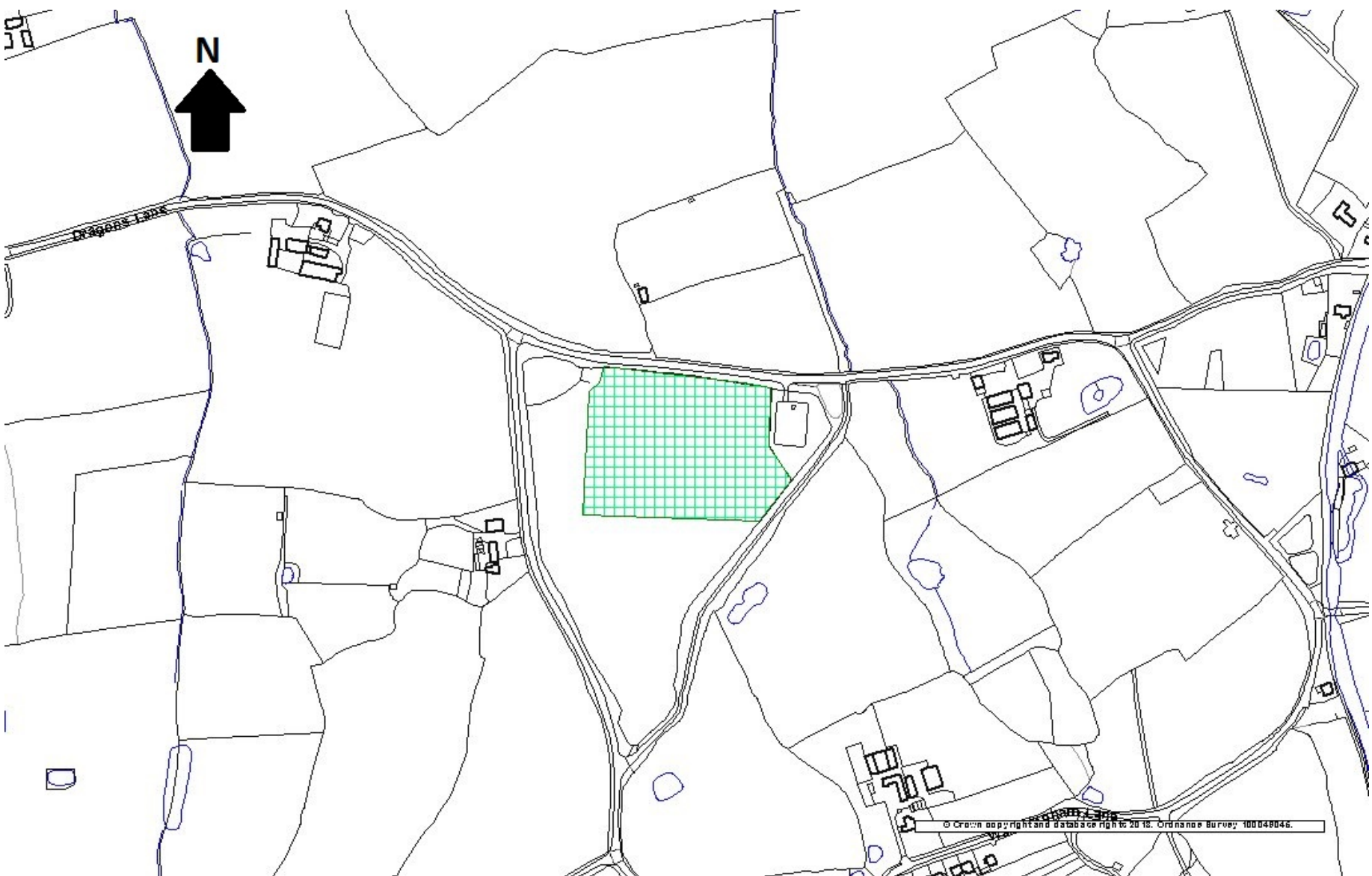
3. *The use of the land as a residential caravan site shall be discontinued and the land restored to its former condition on or before 13 February 2019, in accordance with a scheme of work first submitted to and approved in writing by the local planning authority.*

Application for Variation of Condition

RECOMMENDATION: Approve subject to following conditions

1. Occupation by gypsies and travellers only
2. Temporary permission to 13 February 2019
3. At end of period for which planning permission is granted for the use, the site shall be restored in accordance with details approved under 14/1853D
4. The development hereby permitted shall be carried out in accordance with the approved plans
5. Landscaping to be carried out in accordance with details approved under 14/1853D
6. No fences, gates or walls other than those expressly authorised by this permission shall be constructed.
7. There shall be no more than 4 pitches on the site and on each of the 4 pitches hereby approved no more than 2 caravans
8. Foul and surface water drainage to be provided in accordance with the details approved under 14/1853D
9. Visibility splays to be provided / retained
10. No commercial activities shall take place on the land, including the storage of materials
11. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.





**This page is intentionally left blank**

Application No: 15/5650C

Location: THIMSWARRA FARM, DRAGONS LANE, MOSTON

Proposal: Variation or removal of Condition 5 on application 14/3086C

Applicant: Mr P Cosnett

Expiry Date: 08-Feb-2016

### **SUMMARY**

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be further, but still limited, adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal, when compared to the existing development. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the significant identified need for accommodation for gypsies and travellers in the Borough and the lack of available alternatives. A total of 69 additional plots are required within the Borough for the period to 2028. Whilst 24 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available, and substantial weight should still be attached to this unmet need in favour of the application.

Alongside this the Council's site identification study rejects the application site as a potential site for additional provision noting that it is in an unsuitable location and would have an unacceptable impact upon landscape character. However, there are currently no alternative sites that are available to the applicants or any other gypsy or traveller. The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal.

The Council does not have an adopted policy that is based on an accurate assessment of need in the Borough. A 5 year supply of deliverable sites cannot be demonstrated, which is matter that also weighs in favour of the application.

The definition of sustainable development set out in the Framework includes more than an assessment of the proximity of the site to shops, services and facilities. It should be viewed in environmental, social and economic terms. Given the Inspector's conclusions on the original application where he identified that the poor accessibility of the proposed development and the limited harm to the character and appearance of the area were clearly outweighed by the substantial unmet need for gypsy and traveller pitch provision in Cheshire East, which still remains despite recent planning permissions, it is considered that the same conclusions should be drawn again, given the limited additional harm arising from two extra pitches in this case. It is also important to note that the Inspector stated that, "This would be the case irrespective of whether specific gypsies or travellers had been identified as prospective occupiers".

The statement put forward by the applicants notes that the current occupants of the site are the applicant, his wife and three children (two of which are school age). The proposal would provide accommodation for the whole family (son and married daughter would occupy the other plots) and provide a settled base where the family can access healthcare and schooling.

The Inspector in the original appeal also noted that Policy H of the PPTS specifies that new traveller site development in open countryside should be strictly limited and that, consequently, the location of the appeal site was far from ideal. He also acknowledged that new pitches are likely to become available through the development plan process by 2015.

The PPTS was revised in August 2015 and now policy H states that "Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan." The word "very" has now been inserted before "strictly limit" presumably to increase the protection given to open countryside locations, such as the application site. In addition, whilst the local plan process has been subject to delay, there are clear indications of additional pitches coming forward (evidenced by recent planning permissions) and now that the local plan process has resumed, further new pitches are again likely to become available through the development plan process, in order to meet the identified need. However at this moment there remains a significant unmet need for gypsy and traveller pitches.

As such, the situation is similar to that considered by the Inspector in 2012 with the Council working towards delivering site allocations as part of the development plan. Therefore, having regard to the limited additional harm arising from the current proposal, the stage of the local plan and site allocation process for gypsy and traveller site provision, it is considered that a temporary permission for the additional pitches can be justified in order for the Council to be given the opportunity to provide these site allocations on suitable sites, and to cater for the site owner's short term needs. It is recommended that this permission is aligned with the existing consent until 14

September 2018.

### **SUMMARY RECOMMENDATION**

Temporary approval subject to conditions

### **REASON FOR DEFERRAL**

The application was deferred from the Southern Planning Committee on 27 April for the following reason:

*For further information on the personal circumstances of the applicants, to enable Members to properly assess the need for the proposal.*

#### **Applicant's submission since deferral**

The applicant's agent has submitted the following information:

*Pat Cosnett is involved in property maintenance/groundwork. He obtains work by distributing leaflets, and travels away from Thimswarra Farm all summer in order to find work in other areas. Primarily, he travels to the Leicester/Hinckley/Nuneaton/Tamworth areas. Where possible, Pat and his family occupy pitches on authorised sites vacated for the summer by the usual residents of those pitches. Otherwise, they camp on the roadside. Pat's sister-in-law, Sylvia Smith, currently lives and travels with Pat and his wife, and is a dependent of Pat and his wife.*

*Mary Cosnett (Pat's daughter) and Isaac Price got married in Crewe in November 2015. Isaac finds tree-logging and gardening work for a living. They will use Thimswarra Farm as a winter base, and travel in the summer mainly to the Derbyshire area. When I last spoke to Pat, they were camping on a car park in Mansfield.*

*Patrick Cosnett (Junior) currently lives with his parents, but is getting married in February 2017. In the meantime, he travels and works with his father. He also finds gardening/tree work for himself.*

*The extended Cosnett family travel for at least 6 months of the year, and their travelling is connected to the way in which they make their living. They are clearly of nomadic habit of life, and are gypsies for planning purposes. They come from a travelling background; they continue to travel for work; and they intend to continue travelling in the future.*

#### **Conclusion on reason for deferral**

The information above does provide further details about the applicants' personal circumstances. However, as stated in the planning balance section of the original report below, it is also important to again note the Inspector's conclusions on the original application where he identified that the poor accessibility of the proposed development and the limited harm to the character and appearance of the area were clearly outweighed by the substantial unmet need for gypsy and traveller pitch provision in Cheshire East (which still remains). He

went onto state that *“This would be the case irrespective of whether specific gypsies or travellers had been identified as prospective occupiers”*.

Accordingly, it is recommended that the application be granted planning permission for a temporary period.

### **REASON FOR REPORT**

The proposal was called to committee by Cllr Wray, the local ward member for the following reasons:

- 1. At the request of Moston Parish Council because of considerable public interest.*
- 2. The conditions that were applied at the time are still relevant today and there is no cogent reason to alter them.*

### **PROPOSAL**

The application seeks to vary Condition 5 (number of pitches) on Application 14/3086C. Condition 5 stated:

*No more than one residential pitch shall be provided. No more than two caravans shall be stationed on the land at any one time, only one of which shall be a residential mobile home.*

The applicant is seeking consent for a further two residential pitches, which will increase the number of pitches from 1 to 3 and the total number of caravans from 2 to 6.

### **SITE DESCRIPTION**

The application site occupies a position on the corner of Plant Lane and Dragons Lane and is located within the Open Countryside as identified in the Congleton Borough Local Plan First Review. The site currently comprises a gravelled surface with one mobile home, two touring caravans, a mobile day room, stable block and a shipping container.

### **RELEVANT HISTORY**

14/3086C - REMOVAL OF CONDITION 2 (TIME LIMIT) ON APPLICATION 11/3548C - CHANGE OF USE OF LAND TO USE AS RESIDENTIAL CARAVAN SITE FOR ONE GYPSY FAMILY WITH TWO CARAVANS INCLUDING LAYING OF HARDSTANDING AND ERECTION OF STABLES – Further temporary permission approved 06.10.2015

11/3548C - CHANGE OF USE OF LAND TO USE AS RESIDENTIAL CARAVAN SITE FOR ONE GYPSY FAMILY WITH TWO CARAVANS, INCLUDING LAYING OF HARDSTANDING AND ERECTION OF STABLES – Refused 23.02.2012, Appeal allowed 14.09.2012

### **NATIONAL & LOCAL POLICY**

#### **National Policy**

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Planning Policy for Traveller Sites (PPTS) 2015 sets out the Government's planning policy for traveller sites. It should be read in conjunction with the Framework. The overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

### **Development Plan:**

The Development Plan for this area is the Congleton Borough Local Plan First Review 2005, which allocates the whole site as open countryside

The relevant Saved Policies are:

- GR1 (New Development)
- GR2 (Design)
- GR6 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR19 (Infrastructure)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H6 (Residential Development in the Open Countryside and the Green Belt)
- H7 (Residential Caravans and Mobile Homes)
- H8 (Gypsy Caravan Sites)

### **Cheshire East Local Plan Strategy – Proposed Changes Version (CELP)**

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

- SD1 Sustainable Development in Cheshire East
- SD2 Sustainable Development Principles
- PG5 Open Countryside
- SC7 Gypsies and Travellers and Travelling Showpeople

### **Other relevant documents**

- Cheshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (March 2014)
- Cheshire East Council Gypsy, Traveller and Travelling Showpeople Site Identification Study (April 2014)

## **CONSULTATIONS**

**Environmental Health** – Comments not received at time of report preparation

**Head of Strategic Infrastructure** - Comments not received at time of report preparation

**Brine Board** – No objections subject to condition relating to foundation design

**Moston Parish Council** – Object to the proposal on the following grounds:

This condition re-imposed by Cheshire East Council in 2015 was originally imposed on planning application 11/3548C by The Planning Inspectorate, an executive agency sponsored by The Dept. for Communities and Local Government. Moston Parish Council is not convinced such a condition/decision should be removed by a local authority. This was reinforced by a decision of Cheshire East Borough Council to refuse an application to extend Thimswarra Farm by an 2 extra pitches in January 2013 (12/3847C refers) and the Peter Brett report instigated by Cheshire East Council to find additional sites. The final paragraph and summing up of this site in their report states. The site is unsuitable as a location for permanent or any additional development.

There is a lack of information as to the specific requirement for this condition to be removed.

## **REPRESENTATIONS**

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

- Same application as 12/3847C, which was refused
- Other unauthorised structures on the site
- Lack of information
- Expansion of this site is against the NPPF/PPTS
- Visual harm
- Over development
- Unsustainable location
- Peter Brett report states - *“The site is unsuitable as a location for permanent or any additional development”*.
- Inadequate public consultation on application
- National Grid not consulted

## **APPLICANTS SUBMISSION**

A statement has been submitted on behalf of the applicant, which summarises how the proposal satisfies relevant planning policies, and outlines the family circumstances and requirement for the additional two pitches, which are for the applicant's son and daughter.

## **APPRAISAL**

The key issue in the determination of this application is whether the condition restricting the number of pitches is reasonable or necessary in the interests of the following matters:

- (a) Whether the site is in an appropriate location for the use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area;
- (c) Whether there is any harm and conflict with policy, there are material considerations which outweigh any identified harm and conflict with policy.



## ENVIRONMENTAL SUSTAINABILITY

### Character and appearance

There is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements identified in Policy H of the PPTS. This policy states local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure.

In his decision letter, granting the original permission on this site, the Inspector identified that the presence of a mobile home and touring caravan *“would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside”*, and he found that there would be *“a degree of conflict with saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF”*.

In this case, there would be an additional 4 caravans on the site, which would intensify the use of the site, increase the visual impact of the development and harm to the character and appearance of the countryside. However, the caravans would all be located within the existing area of hardstanding and there would be no further encroachment into the countryside. Whilst there is screening to the Dragons Lane and Plant Lane boundaries of the site, although not prominent features, the additional caravans would be visible, and there would therefore still be some conflict with local plan policies H8, GR1 and GR2 of the local plan and national policy in the PPTS and NPPF. Given the nature of Moston Green as a dispersed settlement of individual and small groups of dwellings, the proposed development would form another small group of dwellings which would not dominate the settled community. This approach, and identification of harm to the character and appearance of the countryside is consistent with previous Inspectors who have considered previous applications on this field.

### Accessibility

Policy H8 of the local plan set out criteria which proposals for gypsy caravan sites are expected to comply with. One of these is that, wherever possible, such sites should be within 1.6 kilometres of existing local shops, community facilities, a primary school and public transport facilities. The more recent PPTS does not provide any further guidance on acceptable distances between traveller sites and local facilities

The Inspector on this site and the Inspector who considered the appeal on the adjacent site both acknowledged that policy H8 in the local plan is consistent with the Framework and the PPTS. Both Inspectors also identified that most facilities are beyond the 1.6kms specified in the local plan, that most journeys to and from the site would be by private car, but that these journeys would be relatively short and limited in number. The current proposal would therefore conflict with the requirements of policy H8 of the local plan.

### Amenity

No significant impact upon the living conditions of neighbours were identified at the time of the previous appeal, and it is considered that the presence of an additional two pitches would not

have a significantly adverse impact upon the living conditions of neighbours in accordance with policy GR6 of the local plan.

### **Highways**

The Head of Strategic Infrastructure (HSI) raised no objections to the original proposal. The Inspector was also satisfied that access and parking arrangements would be adequate and additional traffic generated by the proposed use would have a negligible impact on highway safety, in accordance with policies GR9 and GR17 of the local plan. Comments are awaited from the HSI on the current proposal; however, it is not considered that two additional pitches would have any significant impact upon the traffic generation for the site. No highways issues are therefore anticipated, but further clarification will be reported as an update.

### **SOCIAL SUSTAINABILITY**

The PPTS makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. But other factors such as economic and social considerations are important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampments. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

### **Need**

The PPTS requires local authorities to identify and update annually, a supply of deliverable sites sufficient to provide five years worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

In 2013 Opinion Research Services (ORS) was commissioned by the local authorities of Cheshire to undertake a Gypsy, Traveller and Travelling showpeople Accommodation Assessment (GTTSA). The local authorities involved were: Cheshire West & Chester, Cheshire East, Halton and Warrington. Prior to this the last Gypsy and Traveller Accommodation and Related Services Assessment was published in 2007.

The study provides an evidence base to enable the Councils to comply with their requirements towards gypsies, travellers and travelling showpeople under the Housing Act 2004, the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2015. It provides up-to-date evidence about the accommodation needs of gypsies, travellers and travelling showpeople in the study area up to 2028.

In terms of future need within Cheshire East, an extra provision totalling 69 pitches is required to 2028. Over 5 year periods, this translates to 32 pitches between 2013-2018, 17 pitches between 2018-2023 and 20 pitches between 2023-2028. There was also a recommendation

within the GTTSAA that the Council provide a transit site of between 5 and 10 pitches in order to address unauthorised encampments.

In June 2015, the Council granted approval for an additional 24 permanent pitches at Three Oaks Caravan Park, Booth Lane, Moston, which does go some way towards meeting the first five year requirement to 2018. This permission has been implemented, but the pitches have not been provided to date. Additionally a transit site comprising 9 pitches and a warden's pitch was granted approval at Cledford Lane in Middlesbrough in May 2015. This permission has not been implemented. It is however clear that the Council is taking steps towards addressing the need for additional traveller pitches within the Borough.

### **Site Identification Study**

Peter Brett Associates were appointed by the Council to carry out research to identify gypsy, traveller and travelling showpersons sites across the Borough. Sites have been assessed to determine if they are suitable, available and achievable. It is intended that the results of the study will be used to inform the development of relevant policies and allocations and to guide the consideration of planning applications.

Potential sites were established from a review of information relating to: a call for sites; existing authorised sites subject to full, temporary or personal consents or certificates of lawful use; existing unauthorised and tolerated sites and encampments; other sites owned by gypsies, travellers and travelling showpeople; surplus Council owned land; sites from previous and current land studies; housing allocations and potential urban extensions, and; sites owned by Registered Providers (housing associations).

It should be clarified that the site identification study does not allocate land for the proposed use, or confirm the acceptability in planning terms of the identified sites. It simply serves to highlight options available to the Council to meet the identified need for accommodation for gypsies, travellers and travelling showpeople within the Borough.

In terms of the application site, the Peter Brett report rejects the site as an option for permanent development stating that:

*Although the site has temporary permission for Gypsy and Traveller use, the site is not suitable for full planning permission, as it would have an unacceptable impact on landscape character. There are partial views (reasonably screened in summer) through the hedgerow adjoining the junction of Dragons Lane and Plant Lane; as such the site is in a quite prominent location and development is likely to be recognisable as an isolated and non-vernacular intrusion into this rural area, although further appropriate screening could undoubtedly be provided. Furthermore, development within this part of the field would make it difficult to resist further piecemeal expansion and the extension of related activities (site CHE031 relates to part of the site and adjoining land and is evidence of this). The site is unsuitable as a location for permanent or any additional development.*

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will make a very limited contribution towards bringing increased trade to local shops and businesses.

### **THIRD PARTY COMMENTS**

With regard to the comments received in representation, not addressed above, it should be noted that application 12/3847C related to the parcel of land adjacent to the appeal site, involved further significant encroachment into the field and is therefore materially different to the current proposal.

The current application includes some of the unauthorised structures that are currently on the site. Any further structures that remain on site will be the subject of separate enforcement action.

The neighbour notification procedure was carried out in accordance with the statutory requirements for publicity.

### **PLANNING BALANCE**

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be further, but still limited, adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal, when compared to the existing development. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the significant identified need for accommodation for gypsies and travellers in the Borough and the lack of available alternatives. A total of 69 additional plots are required within the Borough for the period to 2028. Whilst 24 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available, and substantial weight should still be attached to this unmet need in favour of the application.

Alongside this the Council's site identification study rejects the application site as a potential site for additional provision noting that it is in an unsuitable location and would have an unacceptable impact upon landscape character. However, there are currently no alternative sites that are available to the applicants or any other gypsy or traveller. The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal.

The Council does not have an adopted policy that is based on an accurate assessment of need in the Borough. A 5 year supply of deliverable sites cannot be demonstrated, which is matter that also weighs in favour of the application.

The definition of sustainable development set out in the Framework includes more than an assessment of the proximity of the site to shops, services and facilities. It should be viewed in environmental, social and economic terms. Given the Inspector's conclusions on the original

application where he identified that the poor accessibility of the proposed development and the limited harm to the character and appearance of the area were clearly outweighed by the substantial unmet need for gypsy and traveller pitch provision in Cheshire East, which still remains despite recent planning permissions, it is considered that the same conclusions should be drawn again, given the limited additional harm arising from two extra pitches in this case. It is also important to note that the Inspector stated that, "This would be the case irrespective of whether specific gypsies or travellers had been identified as prospective occupiers".

The statement put forward by the applicants notes that the current occupants of the site are the applicant, his wife and three children (two of which are school age). The proposal would provide accommodation for the whole family (son and married daughter would occupy the other plots) and provide a settled base where the family can access healthcare and schooling.

The Inspector in the original appeal also noted that Policy H of the PPTS specifies that new traveller site development in open countryside should be strictly limited and that, consequently, the location of the appeal site was far from ideal. He also acknowledged that new pitches are likely to become available through the development plan process by 2015.

The PPTS was revised in August 2015 and now policy H states that "Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan." The word "very" has now been inserted before "strictly limit" presumably to increase the protection given to open countryside locations, such as the application site. In addition, whilst the local plan process has been subject to delay, there are clear indications of additional pitches coming forward (evidenced by recent planning permissions) and now that the local plan process has resumed, further new pitches are again likely to become available through the development plan process, in order to meet the identified need. However at this moment there remains a significant unmet need for gypsy and traveller pitches.

As such, the situation is similar to that considered by the Inspector in 2012 with the Council working towards delivering site allocations as part of the development plan. Therefore, having regard to the limited additional harm arising from the current proposal, the stage of the local plan and site allocation process for gypsy and traveller site provision, it is considered that a temporary permission for the additional pitches can be justified in order for the Council to be given the opportunity to provide these site allocations on suitable sites, and to cater for the site owner's short term needs. It is recommended that this permission is aligned with the existing consent until 14 September 2018.

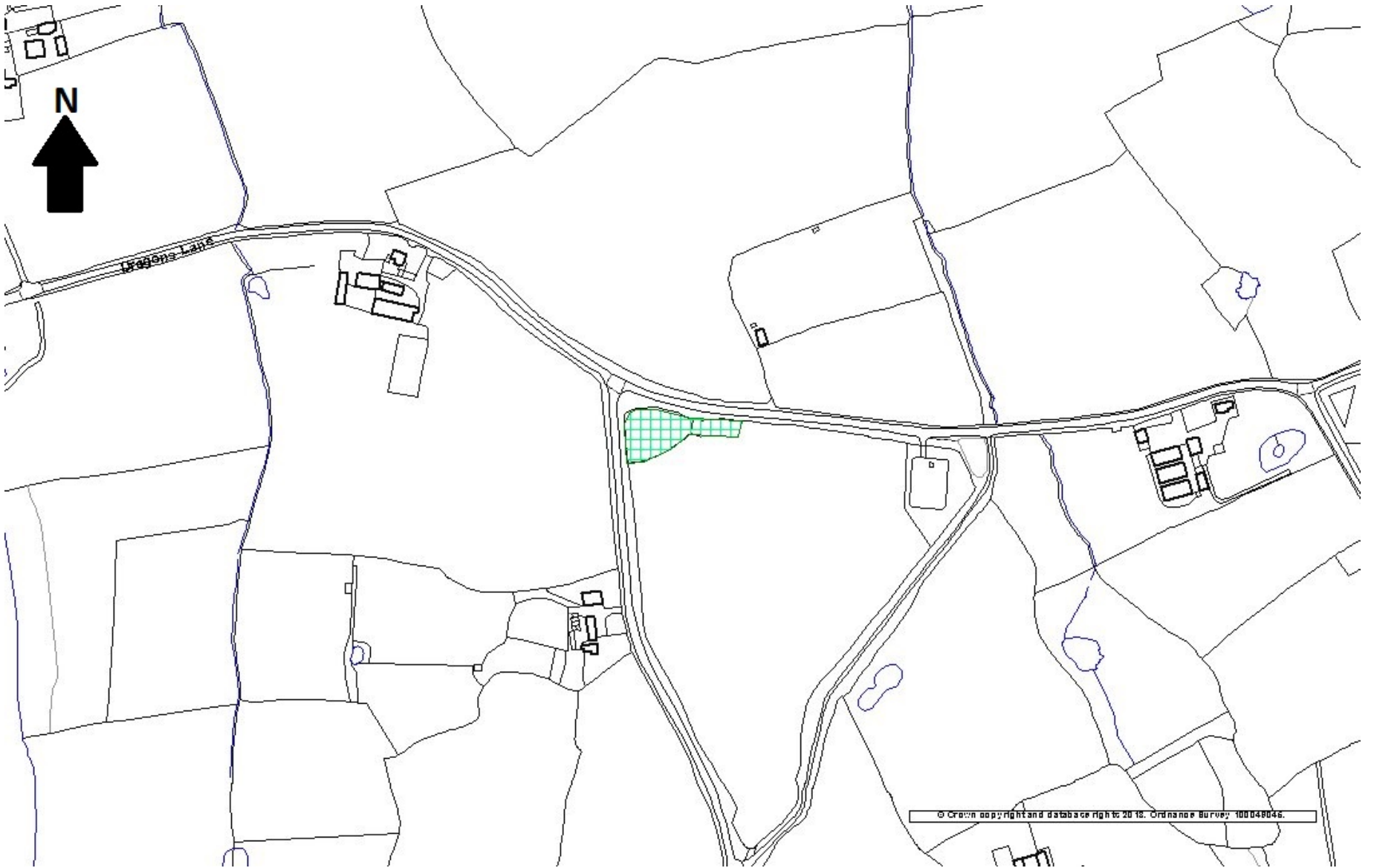
### **RECOMMENDATION**

It is recommended that the application be granted for a temporary period.

### Application for Variation of Condition

RECOMMENDATION: Approve subject to following conditions

1. Use of the land as a residential caravan site shall be discontinued on or before 14 September 2018
2. Approved plans
3. Occupation by gypsies and travellers
4. Landscaping scheme to be submitted within 3 months
5. No more than six caravans (no more than three static caravans)
6. External lighting to be approved
7. Details of external colour of stable block to be submitted
8. Manure storage details to be submitted
9. Drainage details to be submitted within 3 months
10. No commercial use of the site and no vehicle over 3.5 tonnes parked / stored on site



**This page is intentionally left blank**



Application No: 16/0325C

Location: Land adjacent to 36, Black Firs Lane, Somerford, CW12 4QQ

Proposal: Outline planning application for the erection of 3 No. dwellings.

Applicant: Gareth Jackson

Expiry Date: 24-Mar-2016

### **SUMMARY**

**The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.**

**Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.**

**Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.**

**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 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).**

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

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

**In this instance, it is considered that the economic and social benefits of the scheme would outweigh the dis-benefits by virtue of the loss of designated open countryside and the minor impact upon the efficiency of the Jodrell Bank Radio Telescope.**

**On the basis of the above, it is considered that the proposal represents sustainable development and paragraph 14 is engaged. Furthermore, applying the tests within**

paragraph 14 it is considered that the adverse effects of the scheme are significantly and demonstrably outweighed by the benefits. Accordingly it is recommended for approval.

## **RECOMMENDATION**

**Delegate to the Head of Planning and Development and Chair of Southern Planning Committee to formally notify the University of Manchester (Jodrell Bank) with a further 21 day consultation period, of the intention to grant planning permission, subject to conditions**

## **REASON FOR REFERRAL**

This application is referred to Southern Planning Committee as it proposes housing in the Open Countryside. This would represent a departure from the Development Plan.

## **PROPOSAL**

This application seeks outline planning permission for the construction of three with all matters reserved for subsequent approval. The proposal therefore merely seeks to establish whether the construction of three dwellings would be acceptable as a matter of principle.

The scheme is supported by an indicative layout which indicates the retention of the existing dwelling and the construction of three detached dwellings within the curtilage of the existing property. One dwelling is shown with an integral garage while two are shown with a detached garage. To facilitate the development part of the existing dwelling is shown to be demolished. The indicative point of access to serve the development would be via the existing point of access.

## **SITE DESCRIPTION**

The site relates to a detached dwelling and its generous residential curtilage which is located within the Open Countryside as defined by the Congleton Borough Local Plan Inset Map.

The application site (which excludes part of the existing dwelling) extends to approximately 0.38 hectares. The application site is well vegetated with trees along the site boundaries.

The site is located to the north but outside of the Infill boundary line of Somerford (Chelford Road/Holmes Chapel Road/Black Firs Lane). There are extant planning permissions for residential development immediately to the south of the site and on the opposite side of Black Firs Lane. The site falls within the Jodrell Bank Outer Zone.

## **RELEVANT SITE HISTORY**

None relevant

## **LOCAL & NATIONAL POLICY**

## **Congleton Borough Local Plan**

The Development Plan for this area is the 2005 Congleton Borough Local Plan, which allocates the site, under Policy PS8, as Open Countryside

The relevant Saved Policies are;

PS8 – Open Countryside; GR1 – New Development; GR2 – Design; GR6 - Amenity and Health; GR9 - Highways & Parking; GR20 – Public Utilities; GR22 – Open Space Provision; NR3 – Habitats; NR1 - Trees and Woodlands; H1 & H2 - Provision of New Housing Development; and, H6 - Residential development in the Open Countryside and the Green Belt

## **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

Policy SD1 - Sustainable Development in Cheshire East; Policy SD2 - Sustainable Development Principles; Policy SE1 - Design; Policy SE2 - Efficient Use of Land; Policy SE3 - Biodiversity and Geodiversity; Policy SE4 - The Landscape; Policy SE5 - Trees, Hedgerows and Woodland; Policy SE9 - Energy Efficient Development; Policy SE12 - Pollution, Land Contamination and Land Instability; Policy IN1 – Infrastructure; Policy IN2 - Developer Contributions; Policy PG1 - Overall Development Strategy; Policy PG2 - Settlement Hierarchy; Policy PG5 - Open Countryside; and, Policy SC4 - Residential Mix.

## **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

7 – Achieving Sustainable Development; 14 - Presumption in favour of sustainable development; 17 – Core planning principles; 32 – Promoting sustainable transport; 47-50 - Wide choice of quality homes; 55 - Isolated dwellings in the countryside; 56-68 - Requiring good design; 69-78 - Promoting healthy communities; and, 109-11 - Conserving and enhancing the natural environment.

## **Supplementary Planning Documents:**

North West Sustainability Checklist

## **CONSULTATIONS**

**CEC Highways** – The submitted visibility splays shown on the plan are acceptable and the increased width of access is adequate to serve the number of units proposed.

**Environmental Protection** – No objections, subject to a number of conditions including; Pile Driving (if proposed); measures to control dust; the submission of a Phase I contaminated land survey; Testing of soil brought into the site; and, unexpected contamination.

**Strategic Housing (Cheshire East Council)** – Following the recent Court of Appeal decision, there will be no requirement for affordable housing on this site.

**University of Manchester (Jodrell Bank)** - In the case of the proposal 16/0325C, we oppose this development. Our view is that the impact from the additional potential contribution to the existing level of interference coming from that direction will be relatively minor. This is a general direction in which there is already significant development close to the telescope.

We would ask the planning authority to take this in to account in reaching its decision on this development, noting that the cumulative impact of this and other developments is more significant than each development individually.

**Somerford Parish Council** – No objection - In view of the proposed development of the adjoining land, to the rear, It would be hard to justify objecting to the 3 proposed dwellings. SPC wish that the aesthetics of the architecture will reflect the style and character of the existing property.

For a single dwelling the access is acceptable but for 4 properties at a entry/exit point could potentially not be suitable at busy times. The site plan submitted shows the track as it is at the moment. When the triangle is developed it would no doubt require a much wider access /entry point and move the access closer to the existing drive of number 36.

### REPRESENTATIONS

Neighbour notification letters were sent to all adjacent occupants, and a site notice was erected. One letter of representation have been received. The main objections raised include;

- Difficult to comment with all matters reserved – require more detail on scale and layout to ensure no overbearing impact;
- Proposals would dramatically change established pattern of development
- Irreversible change in character, detrimental to open countryside

### APPRAISAL

The key issues are:

- The principle of the development
- The sustainability of the proposal, including its; Environmental, Economic and Social role
- Planning balance

### Principle of Development

The site is designated as being within the Open Countryside where Policy PS8 (Open Countryside) of the Congleton Borough Local Plan states that development will only be permitted if it falls within one of a number of categories.

As the proposed development is for the erection of 3 new dwellings in the Open Countryside, it is subsequently subject to Policy H6 of the Congleton Local Plan and Policy PG5 of the

emerging Cheshire East Local Plan Strategy – Submission Version. Policies H6 and PG5 advise that residential development within the Open Countryside will not be permitted unless it falls within a number of categories.

The proposed development does also not fall within any of the categories listed within Policies PS8, H6 of the Local Plan or PG5 of the emerging plan relating to development within the open countryside. As a result, the proposed development constitutes a “departure” from the development plan and emerging plan and as such, there is a presumption against the proposal.

The issue in question is whether the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection. These are considered below.

### Housing Land Supply

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council’s ‘Housing Supply and Delivery Topic Paper’ of February 2016.

This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council’s five year housing land supply. From this document the Council’s latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgfield approaches.

The paper concludes that going forward the preferred methodology would be the ‘Sedgepool’ approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need. However, at the current time, the Council cannot demonstrate a 5 year supply of housing.

This is a material consideration in support of the proposal.

## **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

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

The NPPF determines that sustainable development includes three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

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

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

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

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

The issue in question is whether the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection. These are considered below.

## **Environmental role**

### Locational Sustainability

The National Planning Policy Framework definition of sustainable development is:

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

Accessibility is a key factor of sustainability that can be measured. 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 sustainability of different development site options.

Although a locational sustainability assessment has not been provided by the applicant for this scheme, the application site is located 100m from the Infill boundary line for Somerford. There have also been numerous approvals within the immediate area, including 180 dwellings on the opposite side of Black Firs Lane, and dwellings fronting Black Firs Lane immediately to the south of the site. The site and surrounding area has been considered to be locationally sustainable in previous decisions and it is therefore considered that this site should also be considered to be locationally sustainable with good access to services and facilities.

### Landscape Impact

The application site covers an area of 0.38 hectares of residential curtilage land. The site boundaries are well defined by established vegetation which creates a visually well contained site. It is likely that the site can be developed without any significant loss of boundary treatment/established boundary vegetation. The Council’s Principal Landscape Officer advises that the proposals would not result in significant landscape or visual impacts, subject to the imposition of conditions relating to landscape.

### Ecology

The application is supported by an Extended Phase 1 Habitat Survey and Bat Roost Potential Survey. The survey has been undertaken by a suitably qualified and experienced ecological consultant. The survey has considered the potential impact of the development on protected species and their habitats.

### Badgers

The survey identifies that no evidence of badgers was recorded on site. However, badger setts are however known to be present in the locality. Based on the current status of badgers on the site, the proposed development is not likely to have a significant adverse impact upon badgers.

However, as the status of badgers on a site can change in a short timescale it is advised that any future reserved matters application to be supported by an updated badger survey.

### Great Crested Newts

The Councils Nature Conservation Officer confirms that Great Crested Newts are not reasonably likely to be present or affected by the proposed development.

### Bats

The submitted report has identified a bat roost being present in the existing dwelling house which will not be directly affected by the proposed development.

The garage block and stables buildings which will be demolished as part of the proposed development have been identified as having low potential to support roosting bats and no evidence of roosting bats was recorded as being associated with these buildings.

Based on the current levels of bat activity on site roosting bats are not reasonably likely to be affected by the proposed works however as roosting bats are present on site it is advised that, as with badgers, if outline permission is granted a condition should be attached to ensure that any future reserved matters application be supported by an updated bat survey.

### Design

The application is in outline with all matters reserved including scale, layout and appearance. Notwithstanding this, an indicative layout shows the provision of up to 3 new dwellings within the site along with the retention of part of the existing dwelling.

Black Firs Lane is primarily characterised by large detached dwellings set in plots which front onto the public highway. The application proposals would provide dwellings which would be sited on the garden land to the side and rear of the host dwelling, and as such would be at odds with the prevailing pattern of development along Black Firs Lane. Notwithstanding this, a large housing development for 180 dwellings have been approved on the opposite side of Black Firs Lane which would ultimately change the character and pattern of development within the immediate area. Additionally, as detailed above, the site itself is well contained by the existing boundary vegetation which is proposed to be retained. The proposed development therefore is unlikely to be prominent when viewed from Black Firs Lane.

The indicative layout demonstrates that the site can accommodate the provision of three additional detached dwellings comfortably within the plot without resulting in an overdevelopment of the site.

The scheme is therefore unlikely to have a detrimental impact on the character and appearance of the area and, the indicative layout is deemed to be acceptable in principle.

### Access

Details of access are a reserved matter. However the submission indicates that the proposals would be accessed via the existing point of access from Black Firs Lane. Details of the achievable visibility splays from the existing point of access have been provided. The Councils Highways Officer has confirmed that the proposed visibility splays are adequate to serve the intensified use of this point of access. The proposals would not therefore amount to a severe impact on highway safety.

### Environmental Conclusion



It is not considered that the proposed development would create any significant environmental impacts with regards to; the landscape, protected species, highway safety, and design, subject to conditions.

As a result of the above reasons, it is not considered that the proposed development would be environmentally neutral.

### **Economic Role**

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’.*

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

‘the intrinsic character and beauty of the countryside and supporting thriving rural communities within it’.

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

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

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

With regard to the economic role of sustainable development, the proposed development will help, albeit in a small way, to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits, to Someford, west Congleton and the surrounding area, including additional trade for local businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal, although small, will generate economic benefits to the area.

### **Social Role**

The proposed development would provide three open market dwellings which in itself, would be a social benefit.

### 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.

To the south of the site is an extant planning permission for the construction of a new dwelling. The nearest dwelling as shown on the indicative layout would be approx 18m from the boundary, which would be sufficient to ensure that the proposals would not amount to significant overlooking or overbearing on the private amenity space of that property.

Plots 1 and 2 would share boundaries with open countryside and as such would not give rise to amenity issues through overbearing, overlooking or overshadowing. It is noted that there is a current planning application to develop the land beyond these boundaries for housing. The indicative siting of the dwellings from these boundaries, along with the mature boundary treatment is sufficient for the proposals not to compromise any future housing development of the adjoining land.

In terms of the internal relationships, it is considered that the indicative layout demonstrates that the proposed development would provide sufficient interface distances not to compromise residential amenity for future occupants. Additionally, a satisfactory level of private amenity space for each dwelling can be secured as detailed in the indicative layout.

The Council's Environmental Protection Team have reviewed the submission and advised that they have no objections, subject to a number of conditions relating to piling, dust control, and contaminated land.

As such, subject to the above suggested conditions, from the Council's Environmental Protection Officer, the proposal is considered to adhere to Policy GR6 of the Local Plan.

### Jodrell Bank

As the application site falls within the Jodrell Bank Radio Telescope Consultation Zone, it is subject to Policy PS10 of the Local Plan.

Policy PS10 advises that for such sites, development will not be permitted which can be shown to impair the efficiency of the Jodrell Bank Radio Telescope.

It is proposed that Policy PS10 will be replaced by Policy SE14 within the emerging Cheshire East Local Plan Strategy – Submission Version. The principles of this policy broadly reflect those of Policy PS10.

The University of Manchester (who operate Jodrell Bank), have advised that the additional potential contribution to the existing level of interference coming from that direction will be relatively minor.

As such, there would be an impact upon the Telescope, but the impact would be 'minor' and this impact needs to be weighed in the overall balance of the application proposal.

Should the committee resolve to grant planning permission the Council will be required to give 21 days notice of the intention to do so to Manchester University, in accordance with the Jodrell Bank Directive.

## Planning Balance

The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.

Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

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 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

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

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

In this instance, it is considered that the economic and social benefits of the scheme would outweigh the dis-benefits by virtue of the loss of designated open countryside and the minor impact upon the efficiency of the Jodrell Bank Radio Telescope.

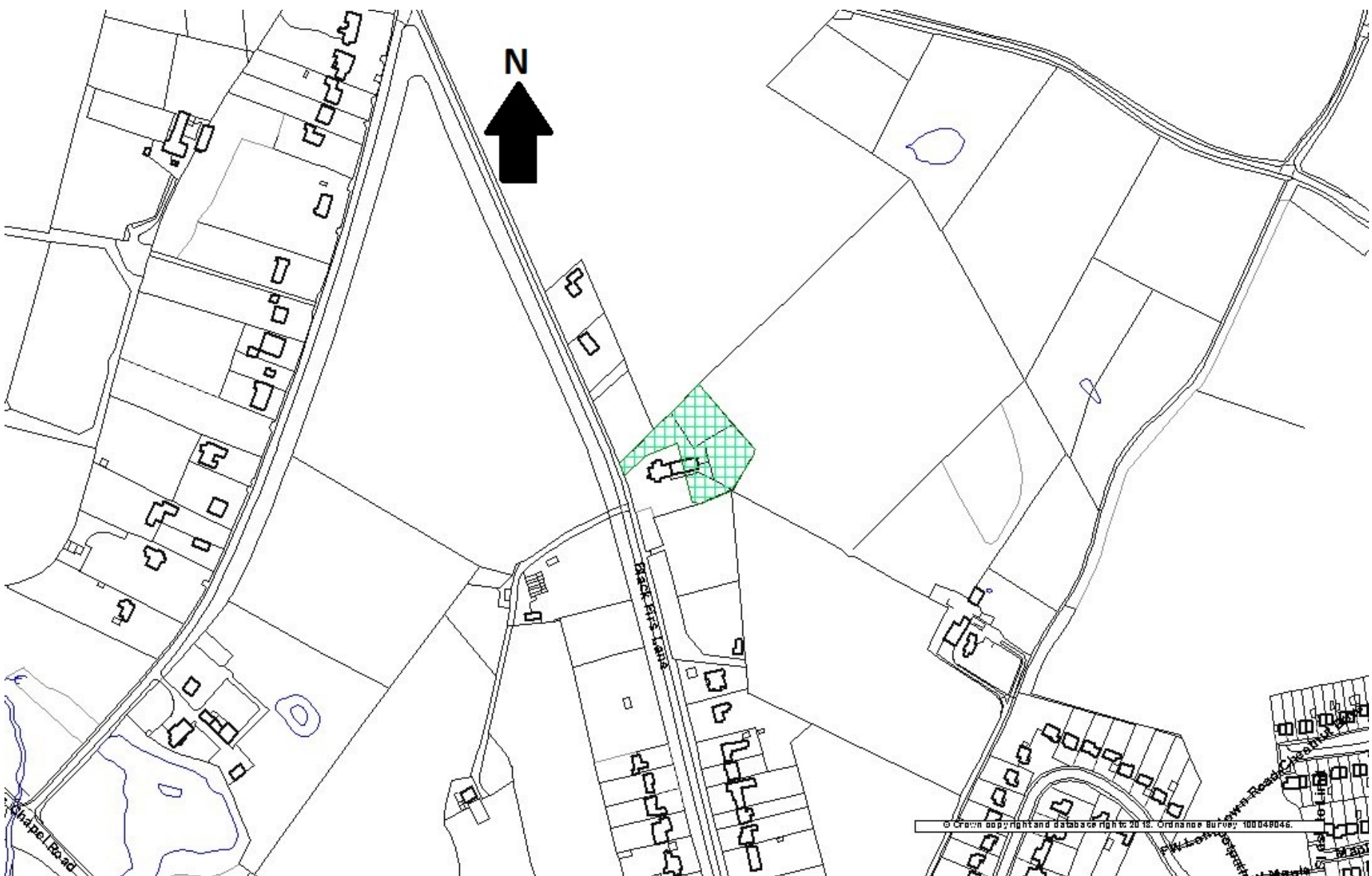
On the basis of the above, it is considered that the proposal represents sustainable development and paragraph 14 is engaged. Furthermore, applying the tests within paragraph 14 it is considered that the adverse effects of the scheme are significantly and demonstrably outweighed by the benefits. Accordingly it is recommended for approval.

## RECOMMENDATION

**Delegate to the Head of Planning and Development and Chair of Southern Planning Committee to formally notify the University of Manchester (Jodrell Bank) with a further 21 day consultation period, of the intention to grant planning permission subject to the following conditions**

- 1. Commencement of Development (Outline)**
- 2. Submission of Reserved Matters (Access, Appearance, Landscaping, Layout and Scale)**
- 3. Reserved Matters to be informed by indicative layout**
- 4. Details of existing and proposed ground levels**
- 5. Details of surface and foul water drainage – Prior submission/approval**

6. Landscaping Reserved Matters Application shall include details of existing trees to be retained along with measures for their retention
7. All subsequent Reserved Matters Application shall be supported by an updated protected species survey with regard to Badgers and Bats
8. Access reserved matter shall detail access and visibility as approved detailed on approved visibility plan
9. Dust Control Measures – Prior submission/approval
10. Contaminated Land Survey – Prior submission/approval
11. Soil Importation testing
12. Unidentified Contamination



**This page is intentionally left blank**

Application No: 16/1309N

Location: 13, Buxton Avenue, Crewe, CW1 6EU

Proposal: Change of use of existing dwelling house to form 6 No Bedsits and 1 No Flat with external stair

Applicant: Tomer Spitkowski

Expiry Date: 10-May-2016

**CONCLUSION**

The proposed development for external alterations, rear dormer, and conversion of dwelling into six bed sits and one self contained flat, with is acceptable in principle and would not be detrimental to the character or appearance of the surrounding area, the existing dwellinghouse, the amenity of the neighbouring properties, or highway safety. The development is therefore considered to comply with the relevant policies in the Local Plan and a recommendation of approval is made.

**SUMMARY RECOMMENDATION**

Approve subject to conditions

**REASON FOR REFERRAL**

This application has been called in by Cllr Brookfield on grounds of inadequate bin storage, associated antisocial behaviour, parking congestion and amenity impacts from overlooking.

**DETAILS OF PROPOSAL**

This application seeks planning permission for the change of use form a single dwelling house to form 6 bedsits and one self contained flat.

Permission is also sought for building alterations including:

- Additional doors and window to front elevation;
- Steel construction rear access stair to first floor;
- Rear flat roof dormer finished with timber shiplap boarding;
- Two 'velux' windows to the front roof elevation.

## **SITE DESCRIPTION**

The application site is a two-storey, mid terraced dwelling, situated on Buxton Avenue, within the Settlement Boundary of Crewe.

The property has an open brick finish, a dual-pitched tiled roof and white uPVC fenestration

## **RELEVANT HISTORY**

None Relevant

## **NATIONAL & LOCAL POLICIES**

### **National policy**

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

Of particular relevance to this application are paragraphs; 17 (Core planning principles) and 56-68 (Good design).

### **Development Plan**

The Development Plan for this area is the Crewe and Nantwich Local Plan 2011.

The relevant Saved Policies are:

BE.1 Amenity

BE.2 Design

BE.3 Access and Parking

RES.11 Improvements and Alterations to Existing Dwellings

Supplementary Planning Document (SPD) – Extensions and Householder Development

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:

SD1 (Sustainable Development in Cheshire East)

SD2 (Sustainable Development Principles)

SE1 (Design)

## **CONSULTATIONS**

**Highways:** No Objection.



**Environmental Protection:** No Objection subject to Informative.

**Housing Standards:** No Objection.

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

**Crewe Town Council:** Objection received on the following grounds:

- *Inadequate off-street parking and the absence of details of bin storage to meet the needs of the potential number of occupants;*
- *The proposal, in combination with other existing shared houses in the area, will adversely affect the amenity of residents through increased noise and disturbance;*
- *Overlooking of neighbouring property from principal rooms at first and second floor level.*

## **OTHER REPRESENTATIONS**

Neighbour notification letters were sent to adjoining occupants.

In addition to the objection from the Town Council, five neighbour comments and direct representations from Cllrs Hogben and Brookfield have been received raising objection to the proposal on the grounds of the following issues:

- Loss of residential amenity as a result of
  - noise and waste impacts
  - loss of privacy from overlooking
- Adverse highways Impacts as result of parking
- Inadequate bin storage provision
- Lack of family housing in the area

(A full record of received comments can be found on the Cheshire East Borough Council web site)

## **APPRAISAL**

The key issues are:

- The principle of the development
- The impact upon neighbouring amenity
- The impact of the design
- The impact upon highway safety

## Principle of Development

The development site is situated within the settlement boundary of Crewe, where there is a presumption in favour of sustainable development. The proposals for the conversion of single dwelling into six bed sits and the formation of self contained flat and proposed alterations including external stair and flat roof rear dormer extension are in principal acceptable subject to compliance with the relevant local plan policies as discussed below. In addition the Supplementary Planning Document 'Extensions and Householder Development' is also a material consideration.

## Design

Policy BE.2 of the Local Plan advises that proposals for new development will be permitted provided that they achieve a high standard of design, respect the character and form of the surroundings, and would not adversely affect the streetscene by reason of scale, height, proportions or materials used.

It is considered that the height, scale, form and appearance of the proposed rear dormer extension and proposed alterations to openings is considered to be appropriate and appear subservient to the original dwelling and in keeping with the streetscene.

The proposals for a steel construction external stair for access to the first floor flat to the rear elevation would not be readily viewed from the streetscene, and would not be considered to represent an overly obtrusive feature in relation to the host dwelling.

It is therefore considered that there would be no significant impacts on the character of the street scene, original dwelling house and surrounding area as a result of the proposals, and is in accordance with Local Plan policies RES.11, BE.2 and advice provided within the SPD 'Extensions and Householder Development'.

## Amenity

Policy BE.1 (Amenity) of the Local Plan advises that development shall only be acceptable where it would not prejudice the amenity of future occupiers or the occupiers of adjacent properties by reason of overshadowing, overlooking or visual intrusion or that of noise or odour impacts.

The application site is a mid terrace. It is considered that the properties affected by the development are those either side, on Buxton Avenue and the rear of properties on Lea Avenue.

Concerns have been raised relating to adverse amenity impacts as a result of noise impacts as a result of the intensification of the residential use and as a result of overlooking, which specifically relate to the rear of no. 18 Lea Avenue across the rear alley.

The proposed rear flat roof dormer with windows serving would face rear elevation of no. 18 Lea Avenue with a separation distance of approximately 27m to any principle windows, and due to height and position would not offer any direct views. As a result would therefore not be

considered to represent any adverse amenity impacts as a result of overlooking and loss of privacy as a result of the proposed rear dormer or that of any of the amended openings.

Likewise the window to the rear elevation for the self contained flat would be in excess of 27m to the rear elevation of no. 18 Lea Avenue and would not represent any additional loss of residential amenity over the existing situation.

The location and use of the rear external stair which is primarily for access, and not for use as a balcony, would not result in any significant loss in amenity to neighbouring properties.

With regards the provision of private amenity space for future residents it is proposed the rear yard area is to be used for both the self contained flat and bed-sits. Whilst it is appreciated that this space is limited it is considered that the proposed residential use as bed-sits and single flat, that this communal area would be sufficient to enable residents to undertake necessary general activities such as drying of washing and private outside space.

With regards provision of adequate accommodation living space, consultation with the councils housing standards officer raised no objection to the proposals. As such it is considered that the proposals would not result in adverse living standards of future residents.

Consultation with the Councils Environmental Protection has not raised any objection to the proposals, subject to attachment of informative relating to hours of construction and advice relating to building regulations on noise transmission.

For the above reasons it is considered that the proposals would not result in any significant adverse amenity impacts on neighbouring properties or that of future residents and would accord with Policy BE.1 (Amenity) and Policy RES.11 (Improvements and Alterations to Existing Dwellings) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

### Highways

A primary concern raised both from local residents and town councillors is the potential adverse impact upon highway safety from a parking and access perspective. Parking on Buxton Avenue has been reported to be currently problematic and additional pressure from the multi residential use of the dwelling has raised concerns as to highways safety and provision of safe parking for residents.

The Councils Strategic Infrastructure Manager has raised no objection to the proposals and advises that the loss of the parking space in the garage would be replaced by on street parking by the removal of drop curb and H-Bar marking. He further advises that car ownership data for this area and dwelling type results in little additional on-street parking and the traffic impact as a consequence of this proposal will be negligible.

Accordingly, there would not likely be any significant adverse impact upon highways safety and that the proposals would be in accordance with Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

### Other Issues

Bin storage and collection has been raised as a significant concern from both local residents and town councillors. To address these comments the applicant has provided revised plans showing additional off street bin storage in addition to the existing on street provision.

The proposals show the provision of off-street bin storage both to the front of the property, showing space for two large bins, for the self contained flat and to the rear within and adjacent to an attached outbuilding, showing space for five bins, for the bed-sits.

It is considered that the provided storage, which is not all contained, is not considered appropriate and therefore has the potential to cause adverse amenity impacts upon neighbours.

The applicant has subsequently advised that the space shown for bin storage in the rear outbuilding has the potential to be utilised for cycle storage and that a custom built bin storage area would be feasible within the rear yard area this information would be provided via an update.

In addition to clarify the waste requirements for the bed sits comments from the Council's Cleansing Department are awaited and will be provided within the committee update.

Subject to the provision of further information via committee update and the provision of a suitable covered bin storage area, which would be secured by condition, should approval be granted, it is considered that the proposals would satisfy the waste management needs of the self contained flat and that of the bed sits.

### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The proposed development will not have a significant impact upon neighbouring amenity. The proposed development is of an acceptable design and complies with Policy BE.1 (Amenity), Policy BE.2 (Design Standards), and Policy RES.11 (Improvements and Alterations to Existing Dwellings) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

### **RECOMMENDATION**

**APPROVE subject to conditions;**

- 1. Time (3 years)**
- 2. Plans**
- 3. Materials to Match**
- 4. One bike parking space for each flat/bed sit to be provided**

**Informative:**

- 1. NPPF**
- 2. Hours of construction**

**In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic**

**Planning, in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.**



Application No: 16/1658N

Location: T I MIDWOOD & CO, GREEN LANE, WARDLE, CHESHIRE, CW5 6BJ

Proposal: Variation of Condition 4 on application 15/3163N - Outline application for extensions to the existing warehouse, the erection of a canopy and the construction of a delivery dock and replacement car parking, including details of access, appearance, layout and scale (details of landscaping reserved for subsequent approval), following the demolition of an existing office building

Applicant: T I Midwood and Co Ltd

Expiry Date: 06-Jul-2016

### **SUMMARY**

The application seeks permission for a minor amendment to an existing planning permission under s.73 of the Town and County Planning Act 1990.

The principle of employment development is supported within the NPPF and the statements made by the Planning Minister in relation to 'Planning for Growth' and a 'presumption in favour of sustainable development'. Furthermore employment development on this site is supported within the emerging Cheshire East Development Strategy. Therefore the principle of development is considered to be acceptable.

The development would not have a detrimental impact upon residential amenity, the highway network, flood risk/drainage, trees or ecology.

The increase in height of the building is a concern but given the nature of the site and the adjacent approved development it is on balance considered to be acceptable.

The design is considered to be acceptable in this location and the concerns regarding the loss of landscaping would be outweighed by the employment/economic benefits of this development.

### **RECOMMENDATION**

**Approve with conditions**

## PROPOSAL

Planning application 15/3163N is an outline planning permission for extensions to the existing warehouse, the erection of a canopy and the construction of a delivery dock and replacement car parking. The application gained approval for the details of access, appearance, layout and scale (details of landscaping are reserved). An existing office building would be demolished as part of this application.

The approved development takes the form of a two bay warehouse extension to the south of the existing buildings on the site (front). The two bays of the warehouse would each have a length of 30 metres (60 metres in total) and a width varying from 16-38 metres.

The proposed canopies would have an area 1,235sq.m. One canopy would be provided to a bay of the existing warehouse and the second would be provided to one of the proposed bays.

The application includes the provision of 34 new parking spaces to the northern part of the site.

The application forms state that this development would increase the number of full-time employees at the site from 60 to 80.

This application seeks to vary Condition 4 (the approved plans) to secure the following amendments to the approved scheme;

- Increase in the ridge height of the approved warehouse extension in the southern part of the site from 12.1 metres to 15.9 metres (the approved ridge height on the eastern part of the site will remain unchanged)
- The omission of the southernmost canopy (550sqm)
- Amendment of the design of the HGV dock loaders that serve the approved delivery dock and to replace two delivery doors on the eastern elevation with a single delivery door

## SITE DESCRIPTION

The application site is an existing business located on the northern side of Green Lane, Wardle within the open countryside as defined by the Crewe and Nantwich Replacement Local Plan. To the east of the site an existing skip hire business with another industrial unit and agricultural buildings to the west of the site. To the north of the site is the strategic employment allocation at Wardle which has outline planning permission.

The front part of the site includes a single storey office building with a lawn area, semi-mature trees and a man-made pond to the front of the site.

## RELEVANT HISTORY

15/3163N - Outline application for extensions to the existing warehouse, the erection of a canopy and the construction of a delivery dock and replacement car parking, including details of access, appearance, layout and scale (details of landscaping reserved for subsequent approval), following the demolition of an existing office building – Approved 1<sup>st</sup> October 2015

13/3871N - Reserved matters application, Landscaping of the proposed development – Approved 15<sup>th</sup> November 2013



12/4087N - The erection of a replacement storage and distribution unit, including details of access, appearance, layout and scale (details of landscaping reserved for subsequent approval), following the demolition of the existing building on the site – Approved 17<sup>th</sup> December 2012

11/1598N – Change of use from Class B8 Storage and Distribution to Class B8 Storage and Distribution with ancillary trade counter and agricultural and builders merchants – Approved 10<sup>th</sup> August 2011

10/4333N – Non-material amendment following the grant of planning permission 09/3543N – Approved 29<sup>th</sup> November 2010

10/3679N - Change of Use to Turn Warehouse into an Agricultural Merchants, Horticultural Merchants, Machinery Merchants and Animal Feed Merchants – Withdrawn 6<sup>th</sup> December 2010

09/3543N - Proposed Internal Layout Changes, Revised Elevations and Parking Layout to the Storage Unit with Internal Office Space and Service Area – Approved 23<sup>rd</sup> December 2009

## **POLICIES**

### **National Planning Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

14 - Presumption in favour of sustainable development

17 – Core planning principles

18 – 22 Building a Strong Competitive Economy

28 – Supporting a Prosperous Local Economy

109-125 – Natural environment

### **Local Plan policy**

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

BE.5 – Infrastructure

BE.6 – Development on Potentially Contaminated Land

NE.2 – Open Countryside

NE.5 – Nature Conservation and Habitats

NE.9 – Protected Species

NE.17 – Pollution Control

NE.20 – Flood Prevention

E.6 – Employment Development in the Open Countryside

TRAN.3 – Pedestrians

TRAN.9 – Car Parking Standards

TRAN.5 – Provision for Cyclists

RT.9 – Footpaths and Bridleways

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

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

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  
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

## **CONSULTATIONS:**

**CEC Head of Strategic Infrastructure:** No objection.

**Environment Agency:** No comments received.

**United Utilities:** No comments received.

**United Utilities:** No comments received.

## **VIEWS OF THE PARISH COUNCIL**

**Wardle Parish Council:** No comments received.

## **REPRESENTATIONS**

No representations received.

## **APPRAISAL**

### **Principle of Development**

The principle of development has already been accepted following the approval of the outline application 15/3163N.

This application relates to changes to the height/design of the approved development.

## Highway Implications

The test contained within the NPPF is that:

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

This development has outline approval as part of application 15/3163N. The changes proposed as part of this application relate to the height and design of the approved development. This will not raise any additional highways implications.

Accordingly, the Head of Strategic Infrastructure has raised no objection in relation to this planning application.

## Amenity

Given the rural nature of the site, between existing employment units, the proposed use and the scale of development. It is not considered that the proposed development would raise any issues such as noise and disturbance.

## Landscape

The site of the proposed development is a warehousing site with large steel clad warehouse buildings and extensive areas of concrete hard surfacing. There are agricultural land to the north, employment land to the south and east and a number of nissan huts to the west. (Adjacent land to the north, west and further east forms part of the former Wardle Airfield and has outline planning consent for employment development under application 13/2035N). A young hedge defines the northern boundary of the site, with a grassed strip and immature trees adjacent. There are lengths of hedge to the south, south west and south east and in the southern part of the site there is an area of formal maintained grassland with a pond, and a number of trees.

The proposed development would appear to allow for the retention of the northern hedge and trees with a narrowed grass strip. Most of the southern open area and pond would be developed to accommodate warehousing.

The submission does not include a landscape or visual impact assessment. The Design and Access Statement makes reference to the surrounding existing buildings and states that the proposed development will not have a material landscape or visual impact upon the surrounding area.

The development would be visible from a number of public vantage points, including Green Lane to the south, Nantwich Road (A51) to the north and public footpaths in the vicinity. The Councils Landscape Architect states that with limited information it is not possible to make an informed assessment as to what extent the proposed increase in height to 15.9 metres would impact on the appearance of the development in the landscape.

It should also be noted that at 15.9 metres in height the proposed extensions would be taller than the existing buildings on this site which are 12.1 metres in height. The development would be set

back from Green Lane by between 7.5 metres and 12.7 metres which does allow for a small landscape strip along the frontage of the site. However it is accepted that the increased height would appear prominent from Green Lane and other public viewing points.

In this case the development would be viewed in the context of other large warehouse and industrial buildings and on this basis (although it is accepted that none of the surrounding development appears to extend to 15.9 metres in height). However it should be noted that the outline approval at Wardle Airfield does include permission for development up to 18 metres in height to the north-west of the site and up to 15 metres in height immediately adjacent to the west and the north.

On this basis although there are concerns over the increased height it is considered that it would be comparable with the approved development at Wardle Airfield and given the emphasis on economic development within the NPPF the increase in height is on balance considered to be acceptable.

### **Design**

The increase in the height of the building is considered within the landscape section above.

In terms of the detailed design changes to the building the changes are very minor and do not raise any detailed design concerns.

### **Trees and Hedgerows**

There are no arboricultural, ecology, flood risk or drainage implications associated with the proposed variation to condition 4 of planning consent 15/3163N.

### **PLANNING BALANCE**

The principle of employment development is supported within the NPPF and the statements made by the Planning Minister in relation to 'Planning for Growth' and a 'presumption in favour of sustainable development'. Furthermore employment development on this site is supported within the emerging Cheshire East Development Strategy. Therefore the principle of development is considered to be acceptable.

The development would not have a detrimental impact upon residential amenity, the highway network, flood risk/drainage, trees or ecology.

The increase in height of the building is a concern but given the nature of the site and the adjacent approved development it is on balance considered to be acceptable. It is also considered that the changes represent a minor alteration in the context of the overall planning permission and can be dealt with under s.73 of the Act.

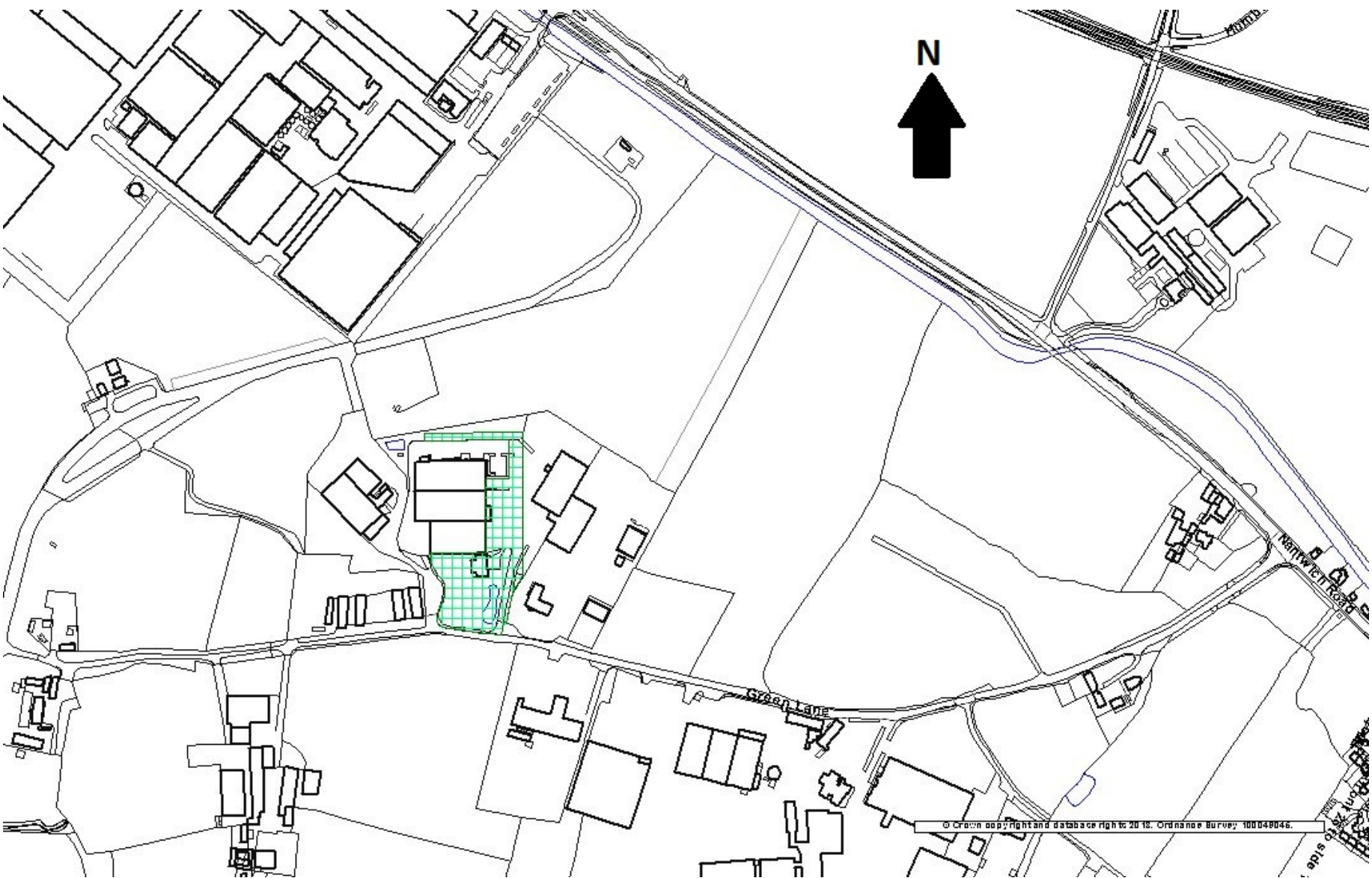
The design is considered to be acceptable in this location and the concerns regarding the loss of landscaping would be outweighed by the employment/economic benefits of this development.

### **RECOMMENDATIONS**

**And the following conditions;**

- 1. The subsequent approval by the Local Planning Authority before development of the landscaping of the site**
- 2. Application for reserved matters must be made not later than the expiration of three years from the date of this permission.**
- 3. Development to be implemented within 3 years of the date of the 1<sup>st</sup> October 2015 or expiry of 2 years from final approval of the last of the reserved matters.**
- 4. Approved Plans**
- 5. Parking to be provided before the approved extensions are first brought into use**
- 6. Materials to match existing**
- 7. Scheme for the disposal of surface water**

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



Application No: 16/2472M

Location: 14, LANGLEY ROAD, LANGLEY, CHESHIRE, SK11 0DP

Proposal: Certificate of lawful existing development - Single storey rear extension, part two storey/part single storey side extension and single storey front extension

Applicant: Mr C Hooley

Expiry Date: 15-Jul-2016

**SUMMARY**

Having regard to the information submitted to support the application, and the lack of any evidence to contradict this, there is considered to be sufficient evidence to demonstrate, beyond reasonable doubt, that a positive Certificate of Lawful Development should be granted for the building operations carried out to No.14 Langley Road.

**RECOMMENDATION**

The report be noted

**REASON FOR REFERRAL**

This application is referred to Southern Planning Committee as the applicant is a close family member of a senior employee of Cheshire East Council, and that senior employee is acting as agent for the application.

This is a Lawful Development Certificate for existing operational development and is not a planning application. The application is referred to Committee for information only. This is because it is a matter of establishing the legal position based upon an assessment of evidence and not about the planning merits of the development at the site.

This is a Lawful Development Certificate for existing operational development and is not a planning application. The application is referred to Committee for information only. This is because it is a matter of establishing the legal position based upon an assessment of evidence and not about the planning merits of the development at the site.

**DESCRIPTION OF SITE AND CONTEXT**

The application site relates to a two storey semi-detached dwelling which is located within ribbon development along Langley Road, Langley. The dwelling is located within the Green Belt and an Area of Special County Value as defined by the Macclesfield Local Plan Policies Map. The application dwelling has been extended with two and single storey side extensions, single storey front extensions and single storey rear extensions.

### **DETAILS OF PROPOSAL**

This application is a Lawful Development Certificate for existing development which seeks to determine whether the proposed alterations to the design of the extensions and alterations as approved under planning permission 04/1220P, as carried out, are lawful.

### **RELEVANT HISTORY**

**04/2178P** - Part single, part two storey side extension and new pitched roof to conservatory - approved - 18/10/04

**04/1220P** - Part single / part two storey side extension and new pitched roof to conservatory - approved - 28/06/2004

**37385P** - Construction of bedroom and bathroom over existing garage - approved - 24/05/84.

**23281PB** - Construction of new domestic garage - approved - 25/07/80.

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

Not applicable.

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

Sutton Parish Council have no objection to the proposal unless deemed unneighbourly.

### **REPRESENTATIONS**

None received

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

The application has been supported by the following documentation:

- Planning Statement
- Google Street view image dated Jun 2011
- Aerial Photograph dated October 2010

### **OFFICER APPRAISAL**

Legislative Background



The submitted application seeks determination that the external operations carried out to the host dwelling known as Silverdale (14 Langley Road) are lawful. Section 171B(1) and 191(2) of The Town and Country Planning Act 1990 confirm that operational development can be considered to be lawful after a period of four years from the date that the works were substantially completed.

Section 191(4) states that if the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application the operations in the application then a certificate should be issued to that effect.

In this instance the test is whether there is sufficient evidence to demonstrate on the balance of probability that the operational works have been carried out for a period in excess of 4 years.

The planning merits of the proposed works are not for consideration.

Works to which the certificate relates

Planning application 04/2178P for extensions to the application dwelling was approved on 28th June 2004. The approved plans were then subsequently amended through a minor working amendment, approved on 22nd March 2006. The extensions and alterations to the dwelling to which that approval related were not carried out in strict compliance with the approved plans as amended, with a series of non-material minor amendments to the overall design of the scheme being carried out. The proposed alterations to the approved scheme are:

- Repositioning of velux roof lights on single storey rear extension;
- Removal of glazing bars on windows in rear elevation;
- Removal of 3No. Velux rooflights from side elevation;
- Correction to position of existing rooflights on rear elevation;
- Removal of small flat roof section of single storey rear extension and continuation of pitched roof under bedroom window;
- Increase in ridge height by 100mm to tie into existing;
- Reduction of eaves height on lean to front extension by 500mm; and,
- Alteration of first floor window to bedroom in side elevation to high level window.

Review of evidence

The test is to consider whether the proposed works were substantially completed 4 years from the date that the application was made to be considered to be lawful for the purposes of s.191 of The Act. The relevant date therefore is 20th May 2012.

The application submission confirms that the proposed works were substantially completed by July 2007. The submission includes a Google Street view © image dated June 2011 and a Google Earth © aerial photograph dated October 2010. Both of these images show the works to which this certificate relates in situ. The information is sufficiently clear and unambiguous and the LPA has no evidence to contradict this evidence. Therefore, it is apparent, on the balance of probabilities, that the works have been substantially completed for a period in excess of 10 years from the date that the application was submitted.

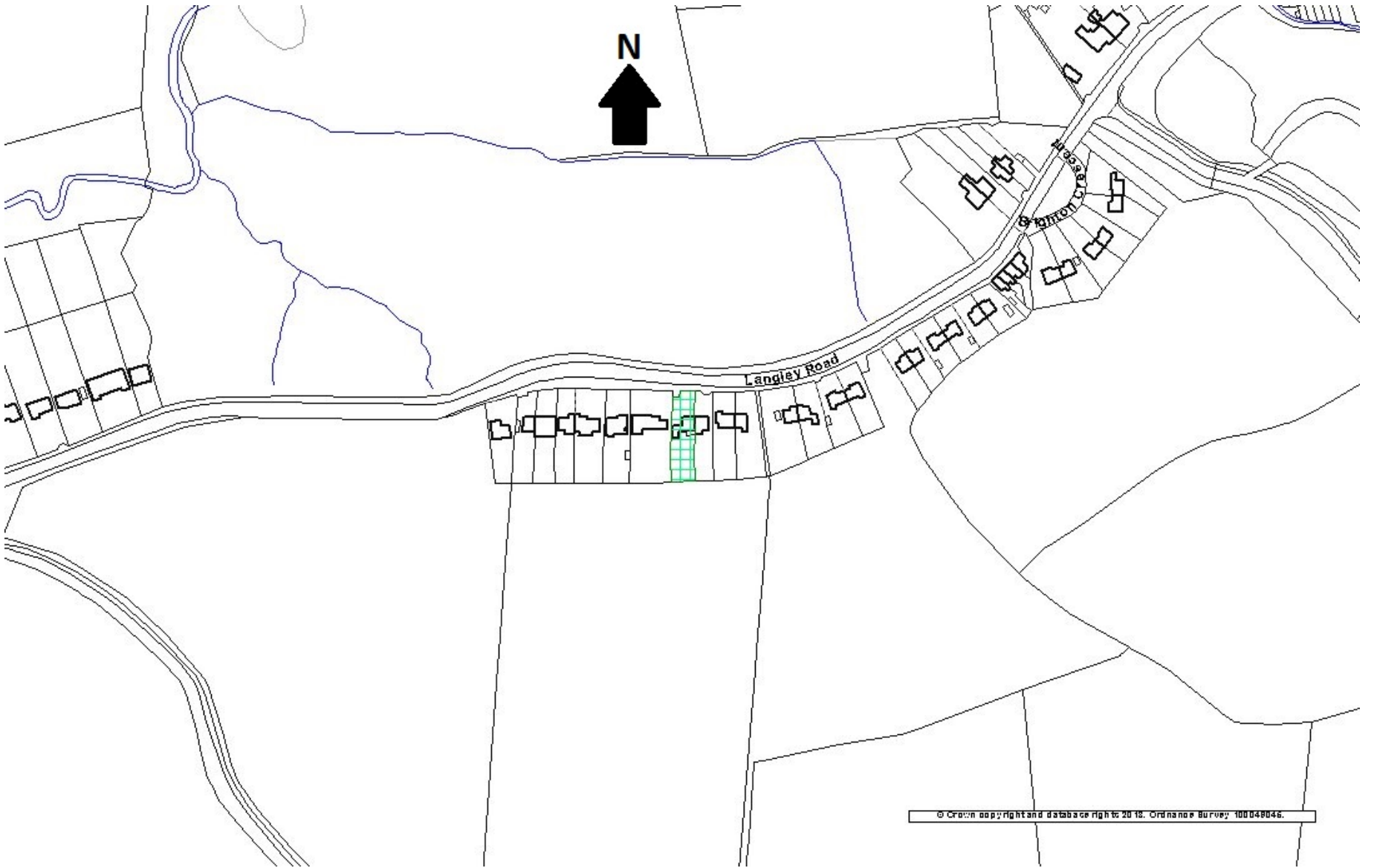
Therefore a positive certificate should be granted.

### **CONCLUSIONS AND REASONS FOR THE DECISION**

To conclude, having regard to the information outlined above, and the lack of any evidence contradicting this, there is considered to be sufficient evidence to demonstrate beyond reasonable doubt that a positive Certificate of Lawful Development should be granted for the building operations carried out to No.14 Langley Road.

### **RECOMMENDATION**

Members note the report to Issue a Positive Certificate



© Crown copyright and database rights 2018. Ordnance Survey 100048046.

**This page is intentionally left blank**

## CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE REPORT

---

<b>Date:</b>	29 <sup>th</sup> June 2016
<b>Report of:</b>	Daniel Evans – Principal Planning Officer
<b>Title:</b>	Update following the resolution to approve application 15/1249N – Proposed construction of 10 No. Dwelling complete with access, associated parking and landscaping.
<b>Site:</b>	Grenson Motors Co Ltd, Middlewich Road, Minshull Vernon, Cheshire, CW1 4RA

---

**1.0 Purpose of Report**

- 1.1 Planning application 15/1249N was referred to Southern Planning Committee on 30<sup>th</sup> March 2016. This report is to consider a recent Court of Appeal has ruled that a 2014 ministerial statement introducing the 'vacant building credit' and exempting small sites from affordable housing contributions was not unlawful.
- 1.2 The minutes from the meeting are as follows:

*RESOLVED*

*(a) That, for the reasons set out in the report, the application be APPROVED subject to the completion of a S106 Agreement to secure the following:*

*The reserved matters application to include the submission of an updated viability report which shall be assessed by an independent viability consultant (agreed between both parties and paid for by the applicant) which shall determine any affordable housing provision to be provided at the reserved matters stage.*

*and the following conditions:*

- 1. Submission of Reserved Matters*
- 2. Application for Approval of Reserved Matters*
- 3. Commencement of Development*
- 4. Plans*
- 5. Noise mitigation measures (construction of the dwellings)*
- 6. Noise mitigation measures (fencing)*
- 7. Dust control measures to be submitted for approval*
- 8. Submission / Approval of Information regarding Contaminated Land*
- 9. Surface Water Drainage Scheme*

10. *Surface Water Disposal via SUDs*
11. *Protection of Great Crested Newts*
12. *Tree Protection Condition*
13. *Construction Management Plan*

*(a) That, in order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority be delegated to the Head of Planning (Regulation) in consultation with the Chairman (or in her absence, the Vice Chairman) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.*

*(b) That, should this application be the subject of an appeal, authority be delegated to the Head of Planning (Regulation) 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 following:*

- The reserved matters application to include the submission of an updated viability report which shall be assessed by an independent viability consultant (agreed between both parties and paid for by the applicant) which shall determine any affordable housing provision to be provided at the reserved matters stage.*

## **2.0 Decision Required**

- 2.1 Since the resolution above the Court of Appeal has ruled that a 2014 ministerial statement introducing the 'vacant building credit' and exempting small sites from affordable housing contributions was not unlawful (*Secretary of State for Communities and Local Government v West Berkshire District Council and Another* [2016] EWCA Civ 441 (11 May 2016)).

## **3.0 Background**

- 3.1 The application site is a former garage and petrol station located to the western side of Middlewich Road in Bradfield Green. The site lies within the open countryside.
- 3.2 An application under 09/3251N was granted planning permission on 25<sup>th</sup> July 2012 to demolish the garage and petrol station and construct 11 no. dwellings. The garage and petrol station have since been demolished.
- 3.3 Dwellings lie to the north and south of the site whilst a public house lies immediately adjacent to the east. Open fields lie to the west.

## **4 Proposed Development**

- 4.1 The proposal seeks outline planning permission and approval of access for the construction of 10 no. detached dwellings. The works would include the provision of private driveways and hard and soft landscaping.

## **5 Officer Comment**

- 5.1 This committee resolution includes the requirement that the developer enters into a S106 Agreement to ensure that the reserved matters application includes the submission of an updated viability report which shall be assessed by an independent viability consultant (agreed between both parties and paid for by the applicant) which shall determine any affordable housing provision to be provided at the reserved matters stage.

- 5.2 Following the Court of Appeal judgement referred to above the Planning Practice Guidance has been amended and this states that the in the following circumstances contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development;

- *Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000sqm*
- *in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development.*

- 5.3 In this case it is clear that the development is of 10 units or less and a condition could be attached to ensure that the reserved matters is limited to a maximum combined gross floorspace of no more than 1000sqm. On this basis the Council is unable to require affordable provision on this site.

- 5.4 It should also be noted that the site is not located within a rural area as described under Section 157(1) of the Housing Act 1985 and the second point above does not apply.

## **6 Conclusion**

- 6.1 On the basis of the above, the Council is unable to require the developer to enter into a S106 Agreement to secure affordable housing on this development and this should be removed from the committee resolution. An additional condition will be required to state that the reserved matters application should have a maximum combined gross floorspace of no more than 1000sqm.

**7 Recommendation**

- 7.1 The Heads of Terms for the S106 Agreement are removed from this resolution and an additional condition is attached to the recommendation.

**8 Financial Implications**

- 8.1 There are no financial implications.

**9 Legal Implications**

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

**10 Risk Assessment**

- 10.1 There are no risks associated with this decision.

**11 Reasons for Recommendation**

- 11.1 To reflect the recent Court of Appeal judgement.

***For further information:***

*Portfolio Holder: Councillor Ainsley Arnold*  
*Officer: Daniel Evans – Principal Planning Officer*  
*Tel No: 01270 686751*  
*Email: daniel.evans@cheshireeast.gov.uk*

***Background Documents:***

- *Application 15/1249N*