

# Southern Planning Committee

## Agenda

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**Date:** Wednesday, 4th April, 2018  
**Time:** 10.00 am  
**Venue:** Council Chamber, Municipal Buildings, Earle Street, Crewe  
CW1 2BJ

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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.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

### **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 3 - 8)

To approve the minutes of the meeting held on 7 March 2018.

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. **18/0319N Land Between Taylor Drive and Edmund Wright Way, Nantwich: Proposed vehicular and pedestrian link connecting Taylor Drive and Edmund Wright Way for Mr Chris Hindle, Cheshire East Council (Pages 9 - 22)**

To consider the above planning application.

#### 6. **17/5999C 79, Union Street, Sandbach, Cheshire CW11 4BG: Retrospective application for change of use from garage services to hand car wash and valeting facility for Mr Artan Kertolli (Pages 23 - 30)**

To consider the above planning application.

#### 7. **18/0317C Land North of Hind Heath Road, Sandbach: Outline planning application for up to 50 dwellings, new planting & landscaping, car parking, vehicular access point and associated ancillary works for Kodiak Land (Pages 31 - 56)**

To consider the above planning application.

#### 8. **17/2114C Thimswarra Farm, Dragons Lane, Moston: Removal of condition 1 to make permission permanent and non personal and variation of condition 2 and condition 5 to increase to 3 pitches (total of 7 caravans) on 15/5650C for Mr P Cosnett (Pages 57 - 72)**

To consider the above planning application.

#### 9. **17/2211N Whittakers Green Farm, Pewit Lane, Hunsterson, Cheshire CW5 7PP: Agricultural Building to Provide Grain Store (resubmission of 16/2930N) for Mr F.H. Rushton (Pages 73 - 86)**

To consider the above planning application.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 7th March, 2018 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor J Wray (Chairman)  
Councillor M J Weatherill (Vice-Chairman)

Councillors D Bebbington, P Butterill, J Clowes, W S Davies, S Edgar,  
S Pochin (for Cllr Rhoda Bailey), J Rhodes, B Roberts and B Walmsley

**OFFICERS PRESENT**

Wayne Ashdown (Network Manager – Highways)  
Daniel Evans (Principal Planning Officer)  
Andrew Goligher (Principal Development Control Officer - Highways)  
Emma Hood (Arboricultural Officer)  
Susan Orrell (Principal Planning Officer)  
James Thomas (Senior Lawyer)  
Julie Zientek (Democratic Services Officer)

**Apologies**

Councillors Rhoda Bailey and A Kolker

**86 DECLARATIONS OF INTEREST/PRE DETERMINATION**

The following declarations were made in the interests of openness:

With regard to application number 18/0016N, Councillor B Roberts declared that he had attended a number of briefings regarding Sydney Road Bridge and this compound but that he had kept an open mind.

With regard to application number 18/0016N, Councillor J Rhodes declared that she had also attended a number of briefings regarding Sydney Road Bridge and this compound but that she had kept an open mind.

**87 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 7 February 2018 be approved as a correct record and signed by the Chairman.

**88 18/0016N LAND EAST OF LIME TREE AVENUE, CREWE: PROPOSED TEMPORARY PERMISSION (UP TO 18 MONTHS) FOR AN ALTERNATIVE SITE COMPOUND FOR THE SYDNEY ROAD BRIDGE REPLACEMENT SCHEME, CONSISTING OF: 6 NO. TEMPORARY CABINS, WC BLOCK, PARKING AREA, SERVICE ROAD, LAYDOWN AREA, TOP SOIL STORAGE AREA AND ASSOCIATED FACILITIES, AND TEMPORARY DIVERSION OF A PUBLIC RIGHT OF WAY FOR MR CHRIS HINDLE, CHESHIRE EAST COUNCIL**

Note: Councillor B Walmsley arrived at the meeting during consideration of this item and did not take part in the debate or vote.

Note: Mr M Barker (objector) had not registered his intention to address the Committee. However, in accordance with paragraph 2.8 of the public speaking rights at Strategic Planning Board and Planning Committee meetings, the Committee agreed to allow Mr Barker to speak.

Note: Mr A Stratford also attended the meeting and addressed the Committee on behalf of the applicant.

The Committee considered a report regarding the above planning application and a written update.

**RESOLVED**

(a) That, for the reasons set out in the report and the written update, the application be APPROVED subject to the following conditions:

1. Standard time 3 years
2. Development to proceed in accordance with the approved plans
3. Within one month of the approved development commencing a scheme to remove and replace the 2 bay swing (4 swings in total – 2 cradle 2 flat) at the Council owned play area at Greendale Gardens shall be submitted to the Local Planning Authority for approval in writing. The approved scheme shall include replacement swings (4 swings in total) and surfacing to BSEN 1176 & 1177 standards. The approved scheme shall be implemented in accordance with the approved details within 3 months of works commencing unless otherwise agreed in writing with the Local Planning Authority.
4. Within one month of the commencement of the development submission of a scheme of landscaping of replacement tree planting to be submitted
5. Implementation of the scheme of replacement tree planting, landscaping and restoration of the site
6. Nesting birds – timing of works
7. Compliance with the Construction Environment Management Plan submitted as part of application 18/0567D
8. At all times of construction there shall be a prominently displayed contact telephone numbers for the reporting of issues and problems
9. External lighting details in accordance with the submitted report

10. Pre-completion surveys of the PROW/POS shall be submitted to the LPA and approved in writing.

Informatives;

1. Liaison committee to be set up with local residents and Members
  2. Standard Construction Hours informative
  3. PROW Informative
  4. Diversion of the PROW Informative
  5. Prior notification of local residents/ward members where noise generative activities will take place during standard construction hours
- (b) 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 his 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.

89 **18/0445N SYDNEY ROAD BRIDGE AND LAND ADJOINING THE HIGHWAY ON SYDNEY ROAD, CREWE: VARIATION OF CONDITIONS 3, 4, 7, 15, 16 AND 17 ON APPLICATION 17/1980N FOR CHRIS HINDLE, CHESHIRE EAST COUNCIL**

Note: Mr A Stratford attended the meeting and addressed the Committee on behalf of the applicant.

The Committee considered a report regarding the above planning application and a written update.

RESOLVED

- (a) That, for the reasons set out in the report and the written update, the application be APPROVED subject to the following conditions:
1. Standard time 3 years
  2. Development to proceed in accordance with the approved plans
  3. Prior to the commencement of Phase 2 submission of an amended plan to realign the footpath and to avoid Scottish Power infrastructure
  4. Prior to the commencement of Phase 2 details of the siting of the compound and its timing to be submitted and agreed
  5. The development shall proceed in accordance with the Tree Protection Scheme approved as part of application 18/0567D
  6. The development shall proceed in accordance with the Arboricultural Method Statement approved as part of application 18/0567D
  7. Prior to the commencement of Phase 2 submission of a scheme of landscaping including replacement tree and hedgerow planting to be submitted

8. Implementation of the scheme of landscaping including the replacement tree and hedgerow planting
9. The development shall proceed in accordance with the Reptile Mitigation Method Statement approved as part of application 18/0567D
10. Nesting birds – timing of works
11. The development shall proceed in accordance with the Construction Environment Management Plan approved as part of application 18/0567D
12. Where possible noise generative activities shall take place during standard construction hours
13. At all times of construction there shall be a prominently displayed contact telephone numbers for the reporting of issues and problems
14. The development shall proceed in accordance with the Dust Control Measures approved as part of application 18/0567D
15. Prior to the commencement of Phase 2 a drainage Strategy and design to be submitted and approved
16. Prior to the commencement of Phase 2 a scheme to improve cycleway and footpath provision within the vicinity of the site shall be submitted and approved
17. The part of the PROW scheme of management relating to the temporary footbridge over the footway, and specifically with regard to its details (elevations and cross sections), shall be submitted to and approved by the Local Planning Authority prior to the Phase 2 (Main Works) commencing. The approved scheme shall be implemented in accordance with the timetable, that should also be included for approval.
18. The line of the PROW shall be marked out prior to the commencement of development
19. Pre-completion surveys of the PROW shall be submitted to the LPA and approved in writing.

Informatives;

1. Japanese knotweed informative
  2. Standard Construction Hours informative
  3. Contaminated Land informative
  4. Informative to advise of United Utilities Infrastructure
  5. A temporary Traffic Regulation Order will be required to enable any diversion along Hungerford Road
  6. Brine Board informative to advise that precautions are required to mitigate the effects of any future brine movement
  7. Liaison committee to be set up with local residents and Members
  8. Diversion Route signage to be provided
- (b) 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 his 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.

90 **17/5776N LAND TO NORTH OF LITTLE HEATH BARN, AUDLEM: ERECTION OF RETIREMENT LIVING HOUSING (CATEGORY LL TYPE ACCOMMODATION), COMMUNAL FACILITIES, LANDSCAPING AND CAR PARKING (RE-SUBMISSION FOLLOWING NON-DETERMINATION OF APPLICATION 17/0339N) FOR MCCARTHY & STONE RETIREMENT LIFESTYLES**

Note: Parish Councillor G Seddon (on behalf of Audlem Parish Council) and Mrs F Christie (objector) attended the meeting and addressed the Committee on this matter.

Note: Mr P Cawood (objector) had not registered his intention to address the Committee. However, in accordance with paragraph 2.8 of the public speaking rights at Strategic Planning Board and Planning Committee meetings, the Committee agreed to allow Mr Cawood to speak.

The Committee considered a report regarding the above planning application and a written update.

**RESOLVED**

- (a) That, contrary to the planning officer's recommendation for approval, the application be REFUSED for the following reason:

Whilst the application has been supported by a viability report, the Council concludes that the scheme could provide a higher contribution towards affordable housing than that being proposed. As a result it has not been justified as part of the application process why the proposal is unable to provide the required contribution towards affordable housing. The proposal is therefore Contrary to Policies SC5, SD1 & SD2.

- (b) 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 his 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.

91 **17/5249M 11, MANOR PARK SOUTH, KNUTSFORD WA16 8AD: PROPOSED FIRST FLOOR EXTENSION VIA REVISED ROOF PITCH FOR MS OLIVIA HUNTER**

Note: Mr W Evans attended the meeting and addressed the Committee on behalf of the applicant.

The Committee considered a report regarding the above planning application.

RESOLVED

- (a) That, for the reasons set out in the report, the application be REFUSED for the following reasons:
1. The proposal would create an incongruous and alien feature within the existing street scene that would dominate surrounding dwellings. The proposal is considered to have a negative impact on the visual amenity of the area by increasing the overall scale and massing of the existing dwelling to an extent that would be disproportionate to neighbouring properties. The application would therefore be contrary to policies SE 1 and SD 2 of the Cheshire East Local Plan Strategy.
  2. The proposed extension, by virtue of its size, design and position relative to neighbouring property and adjoining boundaries, would be unduly dominant and overbearing causing an unacceptable loss of amenity to the occupiers of neighbouring property. The approval of the development would therefore be contrary to policies DC3 and DC38 of the Macclesfield Borough Local Plan.
- (b) 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 his 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.

**92 CHESHIRE EAST BOROUGH COUNCIL (CONGLETON - 59 PARK LANE) TREE PRESERVATION ORDER 2017**

Note: Mr A Tomkinson (objector) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above tree preservation order.

RESOLVED – That, for the reasons set out in the report, the Cheshire East Borough Council (Congleton - 59 Park Lane) Tree Preservation Order 2017 be confirmed without modification.

The meeting commenced at 10.00 am and concluded at 12.48 pm

Councillor J Wray (Chairman)

Application No: 18/0319N

Location: Land Between Taylor Drive And Edmund Wright Way, NANTWICH

Proposal: Proposed vehicular and pedestrian link connecting Taylor Drive and Edmund Wright Way

Applicant: Mr Chris Hindle, Cheshire East Council

Expiry Date: 06-Apr-2018

**SUMMARY:**

The proposal seeks to join Taylor Drive to Edmund Wright Way by means of a link bridge. The proposed works will include the clearance of some vegetation and with appropriate conditions relating to construction management, ecological mitigation and landscaping it is considered that any impacts from the development can be mitigated.

The proposed funding for the works have been secured by means of a legal agreement tied to the Malbank Waters scheme and will help to alleviate pressure on the wider Highway Network in this area of Nantwich. There has been a public consultation which has largely supported the proposal.

Whilst there may be some impact on the nearest residential properties, it considered that the improvements for the wider population of Nantwich outweighs the harm. It is therefore considered that the proposal is acceptable and is recommended for approval.

**RECOMMENDATION: Approve with conditions**

**REASON FOR REFERRAL**

This application is a minor proposal which would usually be decided under Delegated powers; however the Council are the applicant for the proposal and there have been significant levels of support and objection to the application. It has therefore been referred to the Southern Planning Committee for a decision.

**DESCRIPTION OF SITE AND CONTEXT**

The application site is positioned between Taylor Drive and Edmund Wright Way, and the proposal seeks to link the two roads together. There is a water course running through the site which links into the Shropshire Union Canal which runs parallel to Taylor Drive at the point. The site is currently a landscaped area with a number of trees running through the site with a cycle and pedestrian link across.

### **DETAILS OF PROPOSAL**

The proposal seeks permission for a vehicular and pedestrian link to connect Taylor Drive and Edmund Wright Way. This will include the construction of a bridge over a culvert linking the two roads. The elevational plans show metal railings on either side of the road.

### **RELEVANT HISTORY**

P96/0633 - O/A for residential development comprising 123 houses and 4 flats. - Land between Marsh Lane & Welsh Row, Nantwich – approved with conditions 28<sup>th</sup> January 1998

P98/0602 - Residential development comprising design and external appearance of 47 number dwellings - Land off Marsh Lane – approved with conditions 15<sup>th</sup> October 1998

P00/0043 - Erection of 9 dwellings (Reserved Matters) - Land off Welsh Row Nantwich – approved with conditions 25<sup>th</sup> May 2000

P00/0420 - Erection of 20 Dwellings (Reserved Matters) – approved with conditions 17<sup>th</sup> August 2000

P01/0072 - Erection of 56 No. Dwellings - Land between Marsh Lane and Welsh Row Nantwich – approved with conditions 2001

P01/0944 - Substitution of House Types on Plots 54-72 - Allotments adjacent to Marsh Lane Nantwich – approved with conditions 4<sup>th</sup> December 2001

P01/0974 - Outline Application for Residential Development - Allotment site adj Marsh Lane, Nantwich – Approved with conditions 6<sup>th</sup> February 2002

P02/0280 - 39 Dwellings - Land off Welsh Row. Nantwich – Approved 30<sup>th</sup> April 2002

P02/0815 - Resubmission of P02/0272 for the Relaxation of Conditions 5 and 8 of Planning Permission P01/0974, relating to the Number of Dwellings that may be constructed prior to the Completion of the Marsh Lane/Waterlode Link Road and the Provision of Affordable Housing - Residential Development of 17 Dwellings – approved with conditions 12<sup>th</sup> November 2002

P02/1012 - Retrospective Application for a Residential Development of 54 Dwellings, Parking and Associated Access Roads – approved with conditions 28<sup>th</sup> November 2003

P03/0791 - Construction of 64 Dwellings - Land off Welsh Row/Marsh Lane, Nantwich – approved with conditions 2<sup>nd</sup> March 2004

P04/0260 - Erection of 65 Dwellings, Garages, Landscaping and Public Open Space - Land to rear of Welsh Row, Nantwich – approved with conditions 7<sup>th</sup> April 2005

P05/1252 - Variation of Conditions (3, 4, 5, 7, 9, 10, 11, 12, 15, 16, 17 & 19) of P04/0260 in respect of Time Limit for Submission of Details for Erection of 65 Dwellings, Garages, Landscaping and Public Open Space - Land off Welsh Row, Nantwich, Cheshire – Approved with conditions 11<sup>th</sup> November 2005

P06/1204 - Deed of Variation to Section 106 Agreement Relating to P04/0260 to Permit 100% Staircasing – Land to rear of Welsh Row, Nantwich – approved 16<sup>th</sup> November 2006

## **POLICIES**

### **National Policy**

National Planning Policy Framework

### **Local Policy**

*Cheshire East Local Plan Strategy (CELPS)*

MP 1 – Presumption in favour of sustainable development

PG 2 – Settlement Hierarchy

SD 2 – Sustainable Development Principles

SE 1 – Design

SE 2 – Efficient Use of Land

SE 3 – Biodiversity and Geodiversity

SE 4 – The Landscape

SE 5 – Trees, Hedgerows and Woodland

SE 6 – Green Infrastructure

SE12 – Pollution, land contamination and land instability

SE13 – Flood risk and water management

IN 1 – Infrastructure

IN2 – Developer Contributions

CO1 – Sustainable Travel and Transport

CO4 – Travel Plans and Transport Assessment

*Saved Policies of the **Borough of Crewe and Nantwich Replacement Local Plan 2011:***

BE.1 – Amenity

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

NE.9 – Protected Species

NE.17 – Pollution Control

TRAN3 – Pedestrians

TRAN11 – Non Trunk Roads

RT.9 – Footpaths and Bridleways

## **Other Material Considerations**

Cheshire East Design Code

### **CONSIDERATIONS (External to Planning)**

**Highways:** No objections

**PROW:** No objections, subject to informatives.

**Environmental Health:** No objections

**Canal and River Trust:** Raise concerns and requested additional information in relation to the impact on the Canal Embankment and culvert.

**United Utilities:** None received at time of writing this report.

**Environment Agency:** Consultation not required – not a main river.

**Flood Risk:** None received at time of writing this report.

**Nantwich Civic Society:** Support the new link

### **VIEWS OF THE PARISH / TOWN COUNCIL –**

**Nantwich Town Council** - At the Nantwich Town Council meeting on 8 February 2018 a number of objectors to the above scheme attended to voice their concerns. The Council received their representations and resolved to forward a summary of objections to Cheshire East. The Council is also aware that the scheme has been the subject of prior consultation by Highways and the consultation results were in favour of the scheme. Accordingly, the main representations in support of the scheme are also summarised.

Representations against the proposed vehicular and pedestrian link connecting Taylor Drive and Edmund Wright Way Nantwich.

- The proposal will lead to increased noise and pollution.
- It will change the character of the existing quiet residential areas.
- There will be harm to road safety because of the increase in the risk of accidents.
- Edmund Wright Way has a drop off point for the school. The children will be at increased risk.
- The roads are not designed for through traffic and are not wide enough for two-way traffic.
- The curve of the road gives a limited line of sight.
- Visibility splays and turning radii for traffic accessing and exiting Edmund Wright Way and Marsh Lane are well below highway standards.
- The roads are not suitable for heavy traffic.
- Canal dwellers and Malbank School children's parents regularly use Taylor Drive for daily parking narrowing the carriageway down to one lane.

- The proposal will have an adverse effect on the canal embankment.
- There is no up to date traffic plan for Nantwich.
- The proposal will have an adverse effect on house prices and values.
- There has been inadequate consultation on the proposal.
- The proposal was not revealed on land charge searches.

Representations for the proposed vehicular and pedestrian link connecting Taylor Drive and Edmund Wright Way Nantwich

- The proposed road will offer a third route out of the area in addition to Queens Drive and Marsh Lane.
- However, if Marsh Lane is changed to one way southwards this proposal will offer a second route out of the area.
- The proposal will take some traffic from the new Malbank Waters development thus lessening the traffic flows on Queens Drive.
- The proposal was taken into account by the Planning Inspector when granting approval for Malbank Waters. The developer offered a sum of money in a unilateral undertaking. This was accepted by the Inspector as a material consideration in the granting of permission.
- The second phase of the Malbank Waters development has a planning condition requiring completion of the link and technically the developer is now in breach of this condition.
- The recent Highways consultation exercise indicates a majority of those who responded are in favour of the proposal.
- The link was shown in the original version of the Nantwich Local Plan and was only not implemented because of ownership issues.
- The new owners of houses on Malbank Waters have bought their houses in the expectation that the road will be provided.

**Acton, Edleston and Henhull Parish Council** - I write in support of the above application.

1. The proposed road has been included in approved development plans since the 1980's.
2. The link was included in approved applications for the housing areas off Edmund Wright Way and Taylor Drive. As such it has already been approved.
3. Money to provide this link was required as part of an approval by the Planning Inspectorate for a major housing development now known as Malbank Waters. Presumably the Inspectorate were aware of this earlier approval at the time of its decision to be able to include this condition. This money was paid by the developer some 2 years ago.
4. Traffic build up from the greater number of dwellings in the area has led to demonstrably more congestion on Queens Drive at certain times, as was anticipated, and thus the requirement of the planning permission for Malbank Waters that the money for link be provided.

I am concerned that notification of this application was limited to the area in the immediate vicinity of the proposed link. The public in the wider area who will benefit from its construction have only indirect knowledge of the application.

Cheshire East Council have been holding the funds to construct the link for some two years it is now incumbent on the Council to complete the work as a matter of urgency.

### **OTHER REPRESENTATIONS** – *All comments in full can be read on the planning file.*

- Around 40 letters of support have been received from neighbouring properties. The main issues raised are;
  - Useful/essential link to avoid the congested Marsh Lane and Queens Drive,
  - Will tidy up the area which has been a mess for some time,
  - Development will allow for the re-balancing of traffic in and out of Nantwich along 3 roads rather than the existing 2.
  - Support the development of Nantwich in the future
  - Link was clearly shown on plans when the estate was being developed
  - Raise questions why it has not already been carried out given the level of congestion on Marsh Lane, Queens Drive and Welsh Row,
  - Will allow drivers to assess the A51 without using Welsh Row,
  - Support but wider traffic management scheme needs to be considered,
  - Will enable the conditions associated with the Malbank Waters Estate to be implemented
  - Provide a safer crossing for residents of Mill House Care Home
  - Improve traffic in Marsh Lane for safer access to Millfields School,
  - Will help relieve traffic congestion on Queens Drive
  - Objectors are largely occupiers of Salt Meadows, Edmund Wright Way and Taylor Drive most other occupiers in the wider area are in support
  - Occupiers of Marsh Lane and Queens Drive also have children and should also be able to enjoy safer roads/reduced traffic
  - Taylor Drive and Edmund Wright Way are wider in parts than Marsh Lane
  - Most properties on Taylor Drive do have parking to the rear they just choose to park on the road
  
- A petition in support of the proposal has been submitted with 297 signatures.
  
- 3 Letters of general support but make the following observation have been received from neighbouring properties. The main issues raised are;
  - Concerns over the potential loss of specific cycle route, this should be clarified
  - Traffic flow at the Edmund Wright Way/ Marsh Lane/Millfields junction and potential ways to improve visibility/flow etc
  - Taylor Drive should be widened at pitch points
  - The road should be limited to 20mph
  - It is unfortunate that residence where not made aware, however the link should have been constructed years ago
  
- Approximately 100 letters of objections have been received from neighbouring properties. The main issues raised are;

- Separate pedestrian walkway required for school children,
- Concerns over safety impact on Children and Pets
- Excess noise
- Increase in Pollution/air quality
- Bought the house due to cul-de-sac position
- Current road network system works
- Concerns that proposal was not picked up on land charges surveys
- Concerns that funding was raised before planning permission and local consultation carried out,
- Impact on wildlife,
- The public consultation results where not a significant majority
- Concerns raised that the road is not wide enough for two way traffic
- Road would impact negatively on house values,
- Concerns raised over the works already commencing on site before planning permission given
- Robust and up-to date traffic surveys have not been carried out
- Issues with inaccuracies within the reports
- Impact on privacy
- Impact on neighbouring amenity, noise/stress/anxiety/pollution/general health
- Bridge and road over the culvert would be unsuitable for HGV's
- A link road around the other side of the canal would be a safer option,
- Houses on Taylor Drive park on the road due to lack of parking provision within the estate,
- Members of the public, canal boat owners, employees of Malbank school all also park on Taylor Drive,
- Road unsafe due to parked cars, currently have to drive at 5mph to exit Taylor Drive,
- Concerns over speeding cars
- Temporary bridge is not safe
- Concerns over impact on children at the Primary School,
- Contrary to the Cheshire East Design Guide Volume 1 section i23
- Impact on Dog Walkers
- The recent installation of MOVA control at the Welsh Row/Waterlode/High Street Junction has not been considered as part of the highway study,
- Concerns raised over transparency of link road proposal
- If the relief road is required due to the construction of Malbank Waters Development the developers should be made to construct a relief road on their land/opposite side of the canal
- Concerns raised over the consultation event and lack of record taken at the event
- Study carried out by Campaign to Protect Rural England suggests majority of road applications create induced traffic flows
- Impact on canal embankment
- Concerns raised regarding the perceived commencement on site prior to receiving planning permission
- Subsidence of the bank of the stream will worsen with increased use
- Land no in Cheshire East Highways ownership
- Too many new houses in Nantwich causing highways issues
- Road surface on Taylor Drive is poor and in need of improvement after 20 years of light use,

- School drop off area is dangerous at drop off and pick up times,
  - Alternative solution should be sought
  - The Curtins Report 2014 – Traffic and Impact Survey forecasts 590 vehicles per hour would use the road – this is a significant increase in use of the road,
  - Impact on house values
  - Will the occupiers affected be compensated?
  - Question why the background reports and studies have not been submitted with the application/lack of public information
  - S106 agreement did not meet the CIL tests on previous application and therefore is not lawful
  - Removal of the footpath requires a demolition order
  - Construction Management Statement required
  - Vehicle tracking plans required
  - Insufficient number of technical plans
- 
- Two petitions against the proposal have been submitted one with 91 signatures and the other with 376 signatures.

### **OFFICER APPRAISAL**

#### **Principle of Development**

The application site is situated within Nantwich settlement boundary where there is a presumption in favour of sustainable development. Nantwich is a Key service centre where the Local Plan Strategy states that growth is important to ensure its future vitality and prosperity of the area.

The proposal seeks permission to link Taylor Drive to Edmund Wright Way with a link of around 30m in length, with a 6.2m wide carriage way consisting of two lanes allowing two cars to pass one another and a 3m wide footway on the eastern side of the bridge. The applicant states that this link is one element of wider scheme of improvements to the Highway network on the western side of Nantwich.

Original plans for the estate, in the early 1990/2000's included a link road between the two sites, however the scheme was never secured, due to land ownership issues and funding constraints and was therefore never implemented. Furthermore, physically on site the appearance of the Taylor Drive end of the road junction would suggest a continuation was envisaged when constructed.

However, in more recent years wider consideration of the Nantwich highway system has been carried out, and the proposed link was considered as part of two residential developments south of Queens Drive in the southwest of Nantwich. Phase 1 of the development (12/2440N) and Phase 2 development (14/5841N) relating to a housing scheme known as Malbank Waters. During the Public Inquiry for the appeal against the refusal of planning permission for the Phase 1 development, it was agreed, as part of the mitigation package by the Planning Inspector that the implementation of the Taylor Drive/Edmund Wright Way link would, in part mitigate for the impacts of traffic associated with the development. As such, the Planning

Inspector allowed the appeal and £235,000 was secured by way of Planning Obligation towards the implementation of the road link.

This application seeks to implement the proposal which was agreed at the appeal and is therefore required to mitigate the housing development approved at Malbank Waters by the Planning Inspector.

It is therefore considered that the principle of the link has already been accepted in part by the Inspector at the above appeal which was then further agreed by the Secretary of State.

The applicant has carried out a public consultation prior to the submission of the scheme and the response was generally supportive of the scheme, although it is noted that the closest respondents were not supportive of the scheme.

However, it is therefore considered that subject to compliance with all other relevant planning policies of the development plan the proposal is acceptable in principle.

### **Highways Impact**

It is proposed to provide a vehicular and pedestrian link between Taylor Drive and Edmund Wright Way. There are existing residential developments served from both Taylor Drive and Edmund Wright Way and it was intended that these developments had a road link between them. However, as the sites had different developers the road link was never completed. As part of the recent development at Queens Drive, the completion of the road link was required in mitigation of the traffic impact of the development and also the implementation of a one way section of Marsh Lane.

The Taylor Drive/Edmund Wright Way link forms an integral part of wider traffic management proposals for the west side of Nantwich. Capacity analysis undertaken on the existing road network without any changes indicate that the Waterlode junction and Queens Drive junction with Welsh Row would be operating over capacity and suffer from congestion problems. The introduction of the road link would redistribute the trips on the road network and would improve the operation of both the traffic signal junction at Waterlode and also the Welsh Row/Queens Drive junction.

The provision of this road link has also been subject to public engagement and the results of the survey show that 54% of respondents support the introduction of the link.

The Strategic Highways Officer considers that the provision of the Taylor Drive/Edmund Wright Way link is required and plays an important function in the local road network to distribute traffic effectively. The road link in association with other proposed traffic management measures will reduce the level of congestion on Welsh Row and at the Waterlode and Queens Drive/Welsh Row junctions.

The Strategic Highways Officer therefore raises no objections to the application, and supports the proposal.

It is not considered that the proposed development would have any greater impact on pedestrian, including school children using the route or highway safety in the area.

## **Landscape Impact**

There is a hedge, trees, grass verge and a ditch together with a watercourse in the vicinity of the proposed works. The additional information provides elevational plans and sections of the structure and provides details of the proposed ground modelling, although specific existing/proposed levels data is not provided. It is considered reasonable for this element to be sought by condition.

The road radius and junction of the new footpath and Salt Meadow to the south east appear rather tight and the footway may require a dropped kerb. It is considered that the impact of the development can be mitigated and subject to the surrounding area being reinstated and landscape works undertaken to mitigate proposed vegetation losses the proposal is acceptable. A landscape scheme could be sought by condition.

## **Design**

Policy SE1 seeks to create a sense of place, managing design quality, sustainable urban, architectural and landscape design, liveability/workability and designing in safety. Ensuring design solutions achieve a sense of place by protecting and enhancing the quality, distinctiveness and character of settlements.

Whilst the bridge is relatively functional in its appearance, with the inclusion of a landscaping scheme to mitigate the overall visual impact of the development it is considered that the proposal is acceptable and will not have a detrimental impact on the streetscene or the character of the area.

## **Amenity**

Saved Policy BE.1 of the Crewe and Nantwich Local Plan advises that development would not be permitted if it is deemed to have a detrimental impact upon neighbouring amenity with regards to overlooking, overshadowing or visual intrusion.

It is considered that the physical works will not have a detrimental impact on neighbouring amenity due to its siting away from the residential dwellings across the culvert.

It is acknowledged that concerns have been raised by the nearby neighbours regarding noise and visual amenity impact, during the construction phase this will be relatively short lived as the application states the works are scheduled to take around 3 months. Any statutory disturbance during this time would be covered by Environmental Protection legislation.

The link road will increase traffic flows along Taylor Drive/Edmund Wright Way but given the residential nature of the area and the narrow street design this will help reduce the speed of cars. The plans show the link will 'give way' at the section adjoining Edmund Wright Way and therefore further help reduce vehicle speed.

Whilst there will be some increase in impact very locally, it is important to consider impact as a whole, and the benefits it will bring in particular Marsh Lane and Queens Drive.

It is therefore considered that although there may be some increased traffic along the route, the impact of the development will not have a significantly detrimental impact on neighbouring amenity to warrant refusal of the development.

The Environmental Protection department have been consulted and have raised no objections to the proposal in relation to Air Quality and noise impact. It is therefore considered that the proposal will not have a significantly detrimental impact on neighbouring amenity.

### **Drainage/Flood Risk**

United Utilities and the Council's flood risk team have been consulted however their responses are still outstanding, although it is not expected that the bridge will cause any concerns. Their responses will be reported in an update.

### **Ecology**

The plans show a relatively small footprint for the proposed works and limited potential wildlife conflict is anticipated from the required removal of vegetation. However, the Council's ecologist has reviewed the ecology report submitted and has raised no ecology objection to the proposal, subject to a condition relating to breeding birds.

### **Impact on the Canal**

The proposals are in close proximity to an embankment that supports the Shropshire Union Canal. The Canals and River Trust therefore are concerned with the potential structural stability of the adjacent embankment is maintained during the construction works, and to ensure that the loading from the new bridge itself would not impact negatively on the structural stability of the canal embankment or result in damage to the culvert below.

The Canal and River Trust requested that detailed information of the foundations of the bridge structure, a slope stability assessment, and a Construction Methodology Statement and Construction Management Plan should be provided in order to demonstrate that the works will not undermine or result in damage to the canal embankment. Although the above has not been provided, it is considered that a condition for a Construction Management Plan would be sufficient. The applicant has confirmed that the closest excavation works to the canal embankment would be 5m from the top of the bank, and would be under 1m in depth, at a height above the base of the embankment. Should this be the case, the Canal and River Trust have confirmed that the risk to the embankment could be successfully managed, by means of a condition.

### **Other Issues**

It is noted that a number of issues raised within the objections are not material planning considerations, these include impact on property values, potential compensation, land searches and land ownership, and therefore these issues have not influenced the recommendation of the application.

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

The proposal seeks to join Taylor Drive to Edmund Wright Way by means of a link bridge. The proposed works will include the clearance of some vegetation and with appropriate conditions relating to construction management, ecological mitigation and landscaping it is considered that any impacts from the development can be mitigated.

The proposed funding for the works have been secured by means of a legal agreement tied to the Malbank Waters scheme and will help to alleviate pressure on the wider Highway Network in this area of Nantwich. There has been a public consultation which has largely supported the proposal.

Whilst there may be some impact on the nearest residential properties, it considered that the improvements for the wider population of Nantwich outweighs the harm. It is therefore considered that the proposal is acceptable and is recommended for approval.

**Recommendation:** Approve with conditions

### **Conditions**

- 1. Standard Time**
- 2. Approved plans**
- 3. Surfacing Materials**
- 4. Landscaping – prior to first use**
- 5. Landscaping implementation**
- 6. Existing and Proposed levels**
- 7. Construction management plan**
- 8. Boundary Treatment**
- 9. Breeding bird survey**

**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.**



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Application No: 17/5999C

Location: 79, UNION STREET, SANDBACH, CHESHIRE, CW11 4BG

Proposal: Retrospective application for change of use from garage services to hand car wash and valeting facility.

Applicant: Mr Artan Kertolli

Expiry Date: 06-Apr-2018

### **Summary**

The site comprises a former car repair garage within the Settlement Zone Line and Town Centre Boundary of Sandbach where there is a presumption in favour of development.

From an economic sustainability perspective, the scheme will bring economic benefits to Sandbach town centre by virtue of employment and economic activity it generates

Whilst there are no social impacts, it can be argued that the occupation of the premises will protect it from future deterioration/ anti social behaviour given its period of prior vacancy.

From an environmental perspective, given the nature of the use and the availability of another hand car washes in Sandbach, the proposal is considered to be unlikely to generate the level of activity that would be detrimental to local amenities and highway safety at the end of the dead end street.

The use has commenced during this application's determination period and so this proposal is retrospective. It is acknowledged that, whilst the premises are located at the end of a cul-de-sac and that jet washing takes place inside the building, the neighbouring occupiers are mainly sheltered bungalows and during busy times at the weekend there may be queuing outside the premises waiting to be served.

The proposals are considered to be a sustainable form of development which would comply with the relevant local plan policies and would not compromise key sustainability principles as set out in national planning policy.

Therefore there is a presumption in favour of the development and accordingly it is recommended for approval.

**RECOMMENDATION: Approve subject to conditions**

**Approve subject to conditions**

## **CALL IN**

The application has been called in to Committee by Cllr Sam Corcoran on the following grounds:

*The location is inappropriate and would disturb the amenity of the area. Union Street is a quiet street with sheltered accommodation for the elderly. The increase in traffic generated by the car wash would change the character of the area as would the extra noise and queues of cars waiting to use the car wash.*

## **DESCRIPTION OF SITE AND CONTEXT**

The application site is a former vehicle repair workshop building with associated hardstanding area located at the east end of Union Street in Sandbach, to the south of the town centre. The site is within the settlement zone line as designated in the Congleton Borough Local Plan First Review (2005).

The site is bordered to the east by the Homebase store and on all other sides by residential properties. Bungalows along Union Street are occupied by elderly residents. The road is a dead end.

## **DETAILS OF PROPOSAL**

The application is for retrospective planning permission to change the use of the site for use as a hand car wash and valeting business, and install a container unit site cabin at the south edge of the site. Hand car-washing would be undertaken inside the main building, with valeting work undertaken to cars on the hardstanding area. The application indicates that customer cars would queue on the property before being serviced. The application notes intended hours of operation as Monday-Saturday 9-5pm and Sundays and Bank Holidays 11-4pm.

The hand car-wash business was previously in operation on the adjacent car park of the Homebase store. The use of the current site commenced on 15<sup>th</sup> November 2017. This application is therefore retrospective

## **RELEVANT HISTORY**

17/6000C – Advertisement consent for 1 fascia sign. Currently under determination.

13714/3 - PROPOSED WORKSHOP FOR THE REPAIR OF MOTOR VEHICLES. Approved with conditions, 09-Feb-1982

## **POLICIES**

### **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
- 18-22 - Building a strong, competitive economy
- 23 - Ensuring the vitality of town centres
- 56-68 - Requiring good design
- 123 – Noise and amenity

### **Local Plan Policy**

GR6-7 - Amenity and Health  
GR9 - Accessibility, Servicing and Provision of Parking  
GR17 - Car Parking  
GR18 - Traffic Generation  
DP2 - Housing Sites

### **Cheshire East Local Plan Strategy**

MP1 - Presumption in favour of sustainable development  
PG2 - Settlement Hierarchy  
SD1 - Sustainable Development in Cheshire East,  
SD2 - Sustainable Development Principles,  
EG1 - Economic Prosperity  
EG3 – Existing and Allocated Employment Sites  
EG5 - Promoting a Town Centre First Approach to Retail and Commerce  
SE1 – Design

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

**Strategic Highways Manager** - At busy times there may be some queuing taking place on Union St but this does not make it unsafe or the impact severe. The site was also previously used for car servicing and there therefore exists an existing land use which would have a vehicle trip generation rate associated with it. Given this and the highways impact of the existing use, the net highways implications will be minimal and no objection is raised with the informative that a S184 licence to create the new vehicle crossing will be required.

**Flood Risk Management** – No objection. Advised that run-off should be collected and disposed of to prevent pollution. Recommended that the applicant contact United Utilities to agree a connection to the wastewater sewer network within the vicinity of the site.

### **Environmental Health**

#### Noise

The noise mitigation measures set out in the noise impact assessment would make the development acceptable with respect to the impact of noise. No objection in terms of noise impact, subject to submission of a detailed acoustic mitigation scheme within one month of permission and implementation and retention.

#### Other issues

Following a site visit the environmental protection advised that no odour or water spray issues (which objectors had noted) were observed, but noted that any water spray arising may also be addressed by the noise screening proposed.

Separate permission should be sought for any external lighting.

Opening hours should be limited to M-F 0830-1800, Saturday 0900-1700, Sunday and Bank Holidays 1000-1600.

**Sandbach Town Council - Object** - will affect the amenities of a vulnerable section of the population living in close proximity to the proposed facility. The applicant documented the concerns of neighbours but did not address them within the application. The intermittent noise generated by the cleaning and valeting process, as well as the potential parking and traffic issues for existing

neighbours which could be caused on this narrow section of Union Street. As a result, this application is in contravention of policies GR6 and GR7 within the retained policies of the Congleton Borough Council Local Plan.

**United Utilities** – provided advisory comments on surface water drainage and water supply, no objections.

### **OTHER REPRESENTATIONS**

35 public comments were received, comprising three supporting comments with the remaining 33 in objection, including 23 duplicate letters from residents of Union Street. A petition signed by 22 residents of Union Street was also received. A letter of objection was also received from the MP Fiona Bruce.

A traffic report was produced and submitted by the Sandbach PCSO, recording vehicle movements on Union Street measured between 19/02/2018 and 27/02/2018. This report was reviewed by the Strategic Highways Manager, as noted in their consultation response.

**Objections and Observations related to:** Almost all objections, including those noted on the residents' petition, related to concerns about congestion, pedestrian safety and noise and pollution arising from additional vehicles accessing the site and forming queues along Union Street, particularly with reference to the elderly and vulnerable nature of residents along the street and the frequency of ambulances and care visitors arriving at properties along the street, and the use of Flat Lane as a popular pedestrian route into the town centre.

Concerns were also raised about the amenity effect of the operation of the car wash equipment, arising from noise, smells, water spray and cleaning chemicals, and washing run-off into the mains drains. Objectors also noted existing issues with car parking and vehicle movements on Union Street. An adjoining neighbour to the immediate south of the site raised concerns about the effect of the site cabin and site flood lights (the latter is not included in the application) on their amenity.

**Supporting notes:** Supporting comments noted the view that Union Street can accommodate the additional vehicles associated with the car wash.

In addition, the applicant submitted around 340 supportive comments from customers. None of the comments related to the planning merits of the scheme.

### **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;

**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

**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;

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

### **ENVIRONMENTAL ROLE**

#### **Principal of Development**

The site is located within the Settlement Zone Line of Sandbach, where there is a presumption in favour of development. The existing use is well established, and proposed change of use is considered to be an appropriate re-use of the site and an appropriate commercial development within the settlement boundary. The principle of development is therefore considered to be acceptable, subject to other planning considerations.

#### **Amenity**

Saved policy GR6 notes that development should not be permitted where it will have an unduly detrimental effect on residential amenity, including in terms of visual intrusion, environmental disturbance or pollution, or traffic generation, access and parking.

A noise impact assessment has been submitted which details the noise characteristics of the proposal in situ. This report measured noise arising from the operation of high-pressure water lances and vacuum cleaners on the site, and recommended that physical noise mitigation measures should be implemented to avoid an adverse noise impact, specifically the installation of a screen (e.g. Perspex) at the rear (south) boundary and extending the height of the existing wall at the west boundary adjoining Union Street.

While it is likely that visitor levels associated with the development would be higher than with the most recent use of the site, it does not appear that this increase will be so significant that, in itself, it would be unduly detrimental, in terms of noise, pollution or traffic generation.

In the light of the Noise Impact assessment, Environmental Protection have raised no objection in terms of noise, vibration or other nuisance issues, subject to the approval and implementation of

noise mitigation measures. It should also be borne in mind that the lawful use of the commercial premises is a car repair garage which itself would be uncontrolled in terms of hours of operation or potential queuing of traffic on the street at busy times.

It is therefore considered, subject to the suggested mitigation the proposed development would not result in any harm to amenity in terms of visual intrusion, loss of light, overshadowing or loss of privacy.

The site cabin placed adjacent to the boundary with residences to the south, and the proposed noise screening, would not be of a scale that they would cause harmful visual intrusion or overshadowing. A neighbouring occupant has made reference to intrusive lighting in use at the site, however no lighting details were submitted with the application and should permission be granted such details would need further approval.

### **Highways Implications**

The Strategic Highways Manager has considered the traffic data submitted by the area PCSO and residents and advises that he has no concerns in terms of the capacity of the site to accommodate customer vehicles or resulting queueing off-site, or in terms of congestion or highways safety arising from the change of use of the site.

### **Drainage**

United Utilities have advised that vehicle washes should be equipped with run-off interceptors in order to comply with the surface water disposal hierarchy set out in the NPPG. CEC Flood Risk Management likewise advised that run-off should be collected and disposed of to prevent pollution, should permission be granted this guidance would be attached as an informative. The application notes that water will be collected by an ACO drain and water interceptor.

### **Design**

Given the minimal new physical development proposed, the proposal is not considered to raise significant design issues. The site cabin, and the spray screen and extended boundary wall proposed as noise mitigation measures (subject to design details to be approved by condition) are considered to be appropriate in appearance given the commercial nature of the site and its existing character. The new fascia signs are included in this application but will be subject to separate advertisement consent approval.

### **Environmental Role Conclusion**

For the reasons noted above, the proposed development, subject to the suggested conditions would not cause a loss of amenity to neighbours in terms of noise and disturbance. Furthermore the proposal is not considered to have any adverse highways impact.

### **ECONOMIC ROLE**

The proposed development would protect existing local employment opportunities by allowing for the continued operation of an existing business providing 11 full-time equivalent jobs.

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

### **SOCIAL ROLE**

The proposal is considered neutral in social terms.

## **PLANNING BALANCE**

The site is within the Settlement Zone Line of Sandbach, where there is a presumption in favour of development. From an economic sustainability perspective, the scheme will allow for the retention of an existing business, protecting the Sandbach local economy.

From an environmental and social perspective, it is considered that proposal would be acceptable in its impact upon local amenity, highway safety, and traffic generation.

The proposal is considered to be a sustainable form of development which, subject to provision of noise mitigation measures as recommended by the Environmental Health Officer, would comply with the relevant local plan policies and would not compromise key sustainability principles as set out in national planning policy.

Therefore there is a presumption in favour of the development and accordingly it is recommended for approval, subject to conditions.

## **RECOMMENDATIONS**

**APPROVE** subject to the following conditions:

- 1. Approved Plans**
- 2. Hours of operation**
- 3. Details of acoustic mitigation scheme to be submitted within one month of approval**
- 4. Acoustic mitigation scheme implemented within two months of approval of details, and retained for the duration of the use**
- 5. Submission and approval of lighting details**

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



Application No: 18/0317C

Location: LAND NORTH OF HIND HEATH ROAD, SANDBACH

Proposal: Outline planning application for up to 50 dwellings, new planting & landscaping, car parking, vehicular access point and associated ancillary works

Applicant: Kodiak Land

Expiry Date: 25-Apr-2018

### **SUMMARY**

The proposed development would be contrary to Policy PG6 of the CELPS, Policy PS8 of the Congleton Borough Local Plan and Policy PC3 of the SNP and the development would result in a loss of open countryside. Cheshire East can demonstrate a 5 year supply of deliverable housing sites.

The application site falls within an Area of Separation as defined by the SNP under Policy PC1. In this case the proposed development would result in further coalescence between Wheelock Village and Ettiley Heath. Only the cluster of dwellings onto the southern boundary of the site would remain within the area of separation and separate the two individual settlements of Wheelock Village and Ettiley Heath. This development would result in the two settlements merging and would cause significant harm.

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

The development would have a neutral impact upon education, POS provision and LEAP, drainage/flood risk, trees, residential amenity/noise/air quality and landscaping could be secured at the reserved matters stage.

The submitted plans show that a buffer would be provided to the Wheelock Rail Trail which is adjacent to the site and this would be secured via a planning condition should the application be approved. There is considered to be insufficient information in relation to protected species as part of this application.

The development is considered to be unacceptable in principle. In addition, insufficient information has been submitted with the application in relation to contaminated land, historic hedgerows and to demonstrate that a safe and suitable access can be achieved for this development.

As a result the application is recommended for refusal.

### **RECOMMENDATION**

**REFUSE**

**PROPOSAL**

This application seeks outline planning permission for the erection of up to 50 dwellings at land North of Hind Heath Road, Sandbach. This application seeks approval of the access only with all other matters reserved.

The submitted plan shows that the development would provide a single point of access to the south-west of the site onto Hind Heath Road and a pedestrian access would be provided onto the Wheelock Rail Trail to the north-east.

**SITE DESCRIPTION**

The application site measures 2.22 hectares and consists of grassland with existing field boundary hedgerows. The site is currently used as an unregulated overflow car park for Sandbach United Football Club.

To the east of the site is the Wheelock Rail Trail which is tree lined and set at a lower level to the application site. The football pitches associated with Sandbach United are located beyond the Wheelock Rail Trail with an area of car-parking to the north of the site. Sandbach Cricket Club is located to the north-west of the site to the opposite side of Hind Heath Road with agricultural land to the east west and south-west of the site.

The nearest residential properties are to the south-east of the site and form a cluster of converted barns and two detached dwellings known as Highfields and Big Hind Heath Farm.

### **RELEVANT HISTORY**

The site has no relevant planning history.

### **NATIONAL & LOCAL POLICY**

#### **Cheshire East Local Plan Strategy (CELPS)**

PG1 – Overall Development Strategy  
PG2 – Settlement Hierarchy  
PG7 - Spatial Distribution of Development  
SC4 – Residential Mix  
CO1 - Sustainable Travel and Transport  
CO4 – Travel Plans and Transport Assessments  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE 1 - Design  
SE 2 - Efficient Use of Land  
SE 3 - Biodiversity and Geodiversity  
SE 4 - The Landscape  
SE 5 - Trees, Hedgerows and Woodland  
SE 6 – Green Infrastructure  
SE 8 – Renewable and Low Carbon Energy  
SE 9 – Energy Efficient Development  
SE 13 - Flood Risk and Water Management  
IN1 – Infrastructure  
IN2 – Developer Contributions

#### **Congleton Borough Local Plan First Review**

The relevant Saved Policies are:

PS8 - Open Countryside  
NR4 - Non-statutory sites  
GR6 - Amenity and Health  
GR7 - Amenity and Health

GR9 - Accessibility, servicing and provision of parking  
GR14 - Cycling Measures  
GR15 - Pedestrian Measures  
GR16 - Footpaths Bridleway and Cycleway Networks  
GR17 - Car parking  
GR18 - Traffic Generation  
NR3 - Habitats  
NR5 - Habitats

### **Sandbach Neighbourhood Plan**

PC1 – Areas of Separation  
PC2 – Landscape Character  
PC3 – Policy Boundary for Sandbach  
PC4 – Biodiversity and Geodiversity  
PC5 – Footpaths and Cycleways  
HC1 – Historic Environment  
H1 – Housing Growth  
H2 – Housing Layout  
H3 – Housing Mix and Type  
H4 – Housing and an Ageing Population  
H5 – Preferred Locations  
IFT1 – Sustainable Transport, Safety and Accessibility  
CW1 – Amenity, Play, Recreation and Outdoor Sports  
CW3 – Health  
CC1 – Adapting to Climate Change

### **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

### **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  
Interim Planning Statement Release of Housing Land  
Cheshire East Design Guide

### **CONSULTATIONS**

**CEC Strategic Housing Manager:** No objection

**CEC Flood Risk Manager:** Conditions suggested

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

9 x £11,919 x 0.91 = £97,617.00 (primary)

8 x £17,959 x 0.91 = £130,742.00 (secondary)

1 x £50,000 x 0.91 = £45,500.00 (SEN)

Total education contribution: £273,859.00

**Natural England:** Statutory sites – no objection. For advice on protected species refer to the Natural England standing advice.

**CEC Strategic Highways Manager:** Insufficient information has been submitted with regards to providing a safe access for all users and an objection is raised.

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

**CEC Environmental Health:** Object due to insufficient information in relation to contaminated land.

Conditions suggested in relation to Dust Control, Travel Plan, Low Emission Gas Boilers and Electric Vehicle Infrastructure and an informative has been suggested in relation to hours of construction.

**CEC Public Open Space:** This development requires 1000sqm each of children's play, AGS and GI Connectivity. The buffer planting and proposed drainage pond can form part of the GI but there is still a requirement of 2000sqm of Children's play space and AGS combined.

Whilst the development Framework plan shows the "potential" for a children's play area and refers to this in several places, the Illustrative Masterplan shows the area as proposed tree planting. A play facility is required but ideally should be centrally located along with the amenity green space for informal recreation.

In line with Policy SC2 for Indoor and Outdoor Sport and Policy SC1 Leisure and Recreation a contribution of £1000.00 per family dwelling is sought.

**CEC Indoor Recreation:** A S106 Contribution of £9,100 will be required to provide additional health and fitness equipment at Sandbach Leisure Centre.

**NHS England:** No comments received.

**Cheshire Brine Subsidence Board:** The board is of the opinion that the site is within an area that has previously been affected by brine subsidence and future residual movements cannot be completely discounted. The board recommends therefore, that precautions are incorporated within the design of a proposed development.

**CEC PROW:** Request a number of requirements in relation to the Wheelock Rail Trail as follows;

- Dwellings should have an active frontage and face towards the Wheelock Rail Trail
- Provision of boundary treatment along the Wheelock Rail Trail to minimise the likelihood of unofficial connections
- A contribution of £11,827 towards lighting of the Wheelock Rail Trail with maintenance cost of £861.37

- A contribution of £54,000 towards the surfacing of the Wheelock Rail Trail between the site and Elworth Road

In terms of connections to Hind Heath Road the developer should also be required to provide connection to the shared use footway/cycleway opposite the site at the north-western extent of the site frontage in order to meet the desire lines for pedestrians and cyclists in either direction along that road.

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

**Sandbach Town Council:** Object to the application on the following grounds;

- This development is within an area of separation shown in figure 3 of the Sandbach Neighbourhood Development Plan. Development in this area would close the area of separation which contravenes Policy PC1 of the Sandbach Neighbourhood Development Plan.
- The site is outside the settlement zone line, as defined in Policy PC3 of the Sandbach Neighbourhood Development Plan. This also contravenes Policy PG6 of the Cheshire East Local Plan and retained policy PS8 from the Congleton Borough Local Plan which define and limit development in the Open Countryside.
- This development would have a negative effect on the movement of wildlife from Wheelock rail trail (reference area J, figure 5 Sandbach Neighbourhood Development Plan) which contravenes Policy PC4 of the Sandbach Neighbourhood Development Plan
- Sandbach has already identified sites to meet its allocation as part of the Cheshire East Council Local Plan Strategy and 5 year Housing Supply.
- Furthermore, Members are very disappointed that the developer hasn't incorporated any of the Town Council's comments, especially relating to the increase in traffic (and the safe management of it) and the effect on air quality after requesting a meeting with Members. Hind Heath Road appears to remain unlit which will be dangerous on an increasingly busy road, a problem which is compounded by the fact that the proposed access is on the inside of a bend which combined with the topography limits visibility. The proposed development is at a point on Hind Heath Road with no footpath on either side of the narrow road, with no safe access or crossing point to the recently constructed footpath/cycleway behind the hedge on the opposite side of the road.
- Any proposal to light this section of Hind Heath Road, the Wheelock Rail Trail or the new footpath/cycleway would emphasise the intrusion into the area of separation and disturb local wildlife.
- Members are concerned that The Brine board is of the opinion that the site is within an area that has previously been affected by brine subsidence and future residual movements cannot be completely discounted.

### **REPRESENTATIONS**

Letters of objection have been received from 65 local households raising the following points:

#### Principle of development

- There are enough new developments in Sandbach
- Should be kept as green fields
- This is not a strategic site within the CELPS and is unplanned
- The CELPS housing requirement for Sandbach is 2750 dwellings and 3250 dwellings would be provided exceeding the requirement

- The site is within the open countryside and outside the settlement boundary
- Contrary to the Neighbourhood Plan
- The development is contrary to the CELPS
- Loss of green gap separating Wheelock and Ettiley Heath
- Bungalows are needed for the elderly
- The proposed dwellings will not be affordable to local people
- Loss of the Area of Separation
- The development provides no benefits to local residents
- Loss of hedgerow to provide the access and visibility splays
- Sandbach is becoming unsustainable due to housing growth
- Cheshire East now has a robust 5 year housing land supply

### Highways

- Increased congestion in Sandbach
  - The applicants traffic data is from September 2016 and is out of date as it does not include the development sites at Ettiley Heath and Elworth
  - Hind Heath Road is used as a rat run
  - Hind Heath Road cannot take any further traffic
  - The site access has inadequate visibility
  - Increased parking on the road
  - The existing roads are suffering from potholes
  - Hind Heath Road is a narrow country lane
  - Problems when there is an accident on the M6
  - Hind Heath Road suffers flooding
  - Cars speed along Hind Heath Road and the access should be designed for higher speeds
  - An alternative overflow carpark for the football club is required
  - There is no continuous cycle route to the town centre
  - The access is on a bend
  - It would be better to use the existing access to Sandbach Football Club
  - Access to Lillyput Nursery is difficult
  - Loss of overflow parking for the nursery
  - Traffic control is needed along Hind Heath Road
  - Additional street lighting should be provided
  - Better public transport links are needed to Sandbach Station
  - The submitted Transport Statement is inadequate
  - The proposed access is not safe
  - Pedestrian facilities along Hind Heath Road are not safe
  - Public transport provision in the area is overstated
- Swept path analysis demonstrates that HGV movements cannot be made without crossing both lanes of the carriageway – this is not safe
- The proposal to provide Vehicle Activated Signage is contrary to planning law as it is not necessary
  - Insufficient parking in Sandbach Town Centre
  - No proposals have been put forward to increase the number of car parking spaces for Sandbach Town FC
  - The proposed access is located on a blind bend
  - The harm outweighs any benefits of this scheme

### Green Issues

- Loss of wildlife
- Impact upon the landscape
- The development will close off views from the Wheelock Rail Trail
- Impact upon air quality
- Impact upon the peaceful Wheelock Rail Trail
- There should be no additional lighting on the Wheelock Rail Trail
- Loss of habitat
- Additional tree planting is required

#### Infrastructure

- Impact upon the character and appearance of the area
- Schools are overcrowded
- Dentists and Doctors are full
- The drainage infrastructure cannot cope and is constantly blocked
- A token contribution to an Astro turf pitch will do little to provide lasting help to already stretched local Schools and Doctors
- Harm to the Wheelock Rail Trail Site of Biological Importance
- Sandbach needs a lifestyle Centre like Crewe
- Lack of leisure centre in Sandbach

#### Other Issues

- The brine board have stated that the area has been previously affected by brine subsidence and future movements cannot be discounted.
- Difficulty in selling houses in Sandbach
- Limited pre-application consultation has taken place
- The owners of the stables will not allow for additional car-parking to be accessed via the access point to Lilliput Nursery

An objection has been received from Sandbach Woodland and Wildlife Group which raises the following points;

- The SWWG has as its core purpose *"To develop our role of care for the environment by ensuring the conservation of woodland and associated open areas in and around Sandbach, maintaining its wildlife importance whilst ensuring the benefits of some access for the whole community."*
- The proposed development contravenes many of the key policies and issues covered in the Sandbach Neighbourhood Plan (2016), Namely:
  - o To preserve existing farmland, publicly accessible open spaces and green spaces surrounding the town
  - o To maintain and protect the Areas of Separation which separate the distinct village settlements of Sandbach, Elworth, Ettiley Heath, Wheelock and Sandbach Heath
  - o To protect and improve the existing natural wildlife habitats and wildlife corridors
- In addition the proposed development would have a severe detrimental impact on the local wildlife living nearby (primarily the Wheelock Rail Trail)
- If, in spite of objections, the proposed development were to go ahead, the SWWG would expect to see substantial Ecological Mitigation and Enhancement, to be in line with those proposed by Cheshire East's Principal Nature Conservation Officer: *"Any future reserved matters application to be supported by a strategy for the incorporation of features to enhance the biodiversity value of the proposed development. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats, gaps in garden fences to*

*facilitate the movement of hedgehogs, brash/deadwood piles, a wildlife pond and native species and fruit tree planting.*

- An objection has been received from Sandbach Footpath Group which raises the following points;
- The proposed development is on slightly higher ground than the Wheelock Rail Trail and consequently would be a blot on the landscape, detracting from the pleasure of walking or cycling along the Rail Trail. The Rail Trail is very popular for family outdoor excursions, giving the benefit of reasonably fresh air, sunshine, relative peace, and pleasure, some of which would be reduced or negated if the development were to go ahead.
  - The Wheelock Rail Trail is designated as a Site of Biological Importance by Cheshire Wildlife Trust. This planning proposal would degrade and damage that designation.
  - In the proposed Transport Statement, for 18/0317C, it mentions the walking distance to facilities in Sandbach, but the opportunity of making a link from the Wheelock Rail Trail via the Abbeyfields site to Middlewich Road, as shown in a previous planning applications 17/3915c and 17/3916c, has not been considered.

## APPRAISAL

### Principle of Development

The site lies largely in the Open Countryside as designated by Policy PG6 (Open Countryside) of the CELPS and Policy PS8 of the Congleton Borough Local Plan 2005. Policy PG6 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.

Policy PC3 (Policy Boundary for Sandbach) of the Sandbach Neighbourhood Plan (SNP) states that new development will be supported in principle within the policy boundary (Sandbach), but outside of the boundary, where the application proposal lies, only a limited number of developments will be permitted. New dwellings as sought are not listed as one of these permitted developments, and therefore the scheme would be contrary to SNP Policy PC3.

The application site falls within an Area of Separation as defined by the SNP under Policy PC1. This policy aims to maintain the established pattern of development and the distinctive identities of Sandbach, Elworth, Ettiley Heath, Wheelock and Sandbach Heath. Policy PC1 states that within the Areas of Separation developments which would result in further coalescence in the Areas of Separation will not be permitted.

In this case the proposed development would result in further coalescence between Wheelock Village and Ettiley Heath. Only the cluster of dwellings onto the southern boundary of the site would remain within the area of separation and separate the two individual settlements of Wheelock Village and Ettiley Heath. This development would result in the two settlements merging and would cause significant harm.

It is important to note that there is a relevant appeal decision as part of application 14/3892C (200 dwellings at Land off Crewe Road, Sandbach) – Appeal Dismissed by the SoS – This site was also located outside the Settlement Zone Line and within the Area of Separation (Policy PC1). The SoS agreed with his Inspector that the SNP was *‘immediately out-of-date’*, however

the SoS then went on to conclude as part of his planning balance that the development would result in the *'erosion of the strategic gap would have the effect of increasing the perception of settlements beginning to merge'* and that this environmental harm would outweigh the benefits.

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**

On 27 July 2017, the Council adopted the Cheshire East Local Plan Strategy. This followed an extensive public examination led by an independent and senior Planning Inspector.

The Inspector's Report on the Local Plan was published on 20 June 2017 and signalled the Inspector's agreement to the Plans policies and proposals. The Local Plan Inspector confirmed that, on adoption, the Council was able to demonstrate a 5 year supply of housing land. In his Report he concludes:

*"I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years"*

The Inspector's conclusion that the Council had a 5 year supply of deliverable housing land was based on the housing land supply position as at 31 March 2016.

Following the adoption of the Local Plan Strategy, the Council released its annual Housing Monitoring Update, in August 2017. It sets out the housing land supply as at 31 March 2017 and identified a deliverable housing land supply of 5.45 years.

On 8 November 2017, an appeal against the decision of the Council to refuse outline planning permission for up to 400 homes at White Moss Quarry, Alsager (WMQ) was dismissed due to the scheme's conflict with the Local Plan settlement hierarchy and its spatial distribution of development.

However, in his decision letter, the WMQ Inspector did not come to a clear conclusion whether Cheshire East had a five year supply of deliverable housing land. His view was that it was either slightly above or slightly below the required 5 years (4.96 to 5.07 years). In this context, the Inspector engaged the 'tilted balance' set out in the 4<sup>th</sup> Bullet point of paragraph 14 of the National Planning Policy Framework (NPPF). This introduces a presumption that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

On 4 January 2018, an appeal against the non-determination of an outline planning permission for up to 100 homes at Park Road, Willaston was dismissed due to conflict with Local Plan policies that sought to protect designated Green Gap, open countryside and rural character. The Inspector also took the view that the housing land supply was either marginally above or below the required 5 years (4.93 to 5.01 years). On this basis, he adopted a ‘precautionary approach’ and assumed a worst case position in similarly engaging the ‘tilted balance’ under paragraph 14 of the Framework.

The Council is continuing to update its evidence regarding housing land supply to ensure that decisions are taken in the light of the most robust evidence available and taking account of recent case law. The Council believes it can demonstrate a five year supply and will accordingly be presenting further updated evidence at the forthcoming Stapeley Inquiry.

For the purpose of determining current planning applications it is therefore the Council’s position that there is a five year supply of deliverable housing land.

### Location of the Site

The justification to Policy SD2 of the CELPS includes distances to facilities to serve the development and is identified below;

Public Transport	
Bus Stop	500m
Public Right of Way	500m
Railway Station	2km where geographically possible
Open Space	
Amenity Open Space	500m
Children’s Playground	500m
Outdoor Sports	500m
Public Park and Village Green	1km
Services and Amenities	
Convenience Store	500m
Supermarket	1km
Post Box	500m
Post Office	1km
Bank or Cash Machine	1km
Pharmacy	1km
Primary School	1km
Secondary School	1km
Medical Centre	1km
Leisure Facilities	1km
Local Meeting Place / Community Centre	1km
Public House	1km
Child Care Facility (nursery or crèche)	1km

The site is between Wheelock, Ettiley Heath and Sandbach Town and is located in close proximity to the approved residential developments off Hind Heath Road, Abbeyfields and Lodge Road. All of the nearby residential developments were considered to be sustainably located and the same conclusion applies to this site.

## **Housing Mix**

Paragraph 50 of the Framework sets out that Council's should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. They should also identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.

Policy SC4 of the submission version of the Local Plan requires that developments provide an appropriate mix of housing (however this does not specify a mix). This is echoed within the SNP Policies H3 (Housing Mix and Type) which states that housing should be designed to provide a mix of houses to meet identified need (e.g. affordable housing, starter homes and provision for housing an ageing population) and Policy H4 (Housing and an Ageing Population) which states that developments will be supported that provide suitable, accessible houses

A condition could be imposed to secure a mix of house types at the reserved matters stage.

## **Affordable Housing**

This is an outline application for up to 50 dwellings and there is a requirement for 30% of dwellings to be provided as affordable dwellings. In order to meet the Council's Policy on Affordable Housing there is a requirement for 15 dwellings to be provided as affordable dwellings.

The SHMA 2013 shows that the majority of the demand in Sandbach annually until and including 2018 is for 18 x one bedroom, 33 x two bedroom, 18 x three bedroom and 9 x four bedroom general needs dwellings. The SHMA also shows a need for 11 x one bedroom and 5 x two bedroom dwellings for older persons. These can be via Bungalows, Flats, Cottage Style Flats or Lifetime standard dwellings.

The current number of those on the Cheshire Homechoice waiting list with both Sandbach and Wheelock as their first choice is 374. This can be broken down to 162 x one bedroom, 143 x two bedroom, 58 x three bedroom and 11 x four+ dwellings. On this site a mix of 1, 2, 3 and 4 general needs dwellings and 1 and 2 bedroom older persons dwellings would be acceptable.

As part of this development 10 units should be provided as Affordable rent and 5 units as Intermediate tenure. The exact mix and location of the affordable dwellings can be detailed in the Reserved Matters application.

The affordable housing provision will be secured as part of a S106 Agreement.

## **Public Open Space**

The Design and Access Statement submitted with this application states that the development would provide 0.56 hectares of green infrastructure.

This development requires 1000sqm each of children's play, Amenity Green Space (AGS) and Green Infrastructure (GI) Connectivity. The buffer planting and proposed drainage pond can form part of the GI but there is still a requirement of 2000sqm of children's play space (a LEAP) and AGS combined. These features can be conditioned to secure the details at the Reserved Matters stage.

The Playing Pitch Strategy identifies the adjacent Sports facilities as a “hub” for Sandbach. New developments should not be required to address an existing shortfall of provision. However they should ensure that this situation is not worsened by ensuring that it fully addresses its own impact in terms of the additional demand. In line with Policy SC2 for Indoor and Outdoor Sport and Policy SC1 Leisure and Recreation a contribution of £1000.00 per family dwelling is sought.

## Education

An application of 50 dwellings is expected to generate 9 primary aged children, 8 secondary aged children and 1 SEN child.

In terms of primary school education, the proposed development would be served by six local primary schools.

From the table below which it can be seen that by 2021 there will be a shortfall of 22 spaces within the local primary schools and on this basis a contribution of £97,617 will be required to mitigate the impact of this development upon local primary provision.

Primary Schools	PAN Sep 17	PAN Sep 18	NET CAP May-17	any Known Changes	PUPIL FORECASTS based on October 2016 School Census				
					2017	2018	2019	2020	2021
Elworth CofE Primary School	45	45	315	315	334	366	391	415	431
Elworth Hall Primary School	30	30	210	210	175	178	185	184	186
Offley Primary Academy	60	60	420	420	375	385	383	378	376
Sandbach Primary Academy	15	15	105	105	103	111	117	117	118
St John's CofE Primary School	25	25	175	175	154	166	171	170	169
Wheelock Primary School	45	45	315	315	303	325	328	332	334
<b>Total Schools Capacity</b>				<b>1,540</b>					
<b>Developments with S106 funded and pupil yield included in the forecasts</b>				<b>195</b>					
<b>Developments pupil yield not included in the forecasts</b>									<b>133</b>
<b>Pupil Yield expected from this development</b>									<b>10</b>
<b>OVERALL TOTAL</b>	<b>220</b>	<b>220</b>	<b>1,540</b>	<b>1,735</b>	<b>1,444</b>	<b>1,531</b>	<b>1,575</b>	<b>1,596</b>	<b>1,757</b>
<b>OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP</b>					<b>291</b>	<b>204</b>	<b>160</b>	<b>139</b>	<b>-22</b>

In terms of secondary schools, the development would be served by Sandbach High and Sandbach School and the proposed development would generate 8 new secondary places which cannot be accommodated (see table below). As there are capacity issues at these local schools the education department has requested a contribution of £130, 742.

Secondary Schools	PAN Sep 17	PAN Sep 18	NET CAP May-17	any Known Changes	PUPIL FORECASTS based on October 2016 School Census						
					2017	2018	2019	2020	2021	2022	2023
Sandbach High School and Sixth Form College	210	210	1,074	1,074	1,169	1,236	1,329	1,390	1,418	1,420	1,452
Sandbach School	210	210	1,050	1,050	1,028	1,045	1,095	1,139	1,153	1,137	1,132
<b>Total Schools Capacity</b>				<b>2,124</b>							
<b>Developments with S106 funded and pupil yield included in the forecasts</b>				<b>284</b>	<b>Please Note: All figures quoted exclude any allowance for 6th Form Pupils</b>						
<b>Developments pupil yield not funded and not included in the forecasts</b>											<b>135</b>
<b>Pupil Yield expected from this development</b>											<b>8</b>
<b>OVERALL TOTAL</b>	<b>420</b>	<b>420</b>	<b>2,124</b>	<b>2,408</b>	<b>2,197</b>	<b>2,281</b>	<b>2,424</b>	<b>2,529</b>	<b>2,571</b>	<b>2,557</b>	<b>2,727</b>
<b>OVERALL SURPLUS PLACES PROJECTIONS</b>					<b>211</b>	<b>127</b>	<b>-16</b>	<b>-121</b>	<b>-163</b>	<b>-149</b>	<b>-319</b>

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.

This will be secured via a S106 Agreement should the application be approved.

### **Health**

A number of the letters of objection raise concerns about the impact upon health provision in this area. In this case there has been no request for a contribution from the NHS and on this basis the impact upon health care provision is considered to be acceptable.

### **Residential Amenity**

In this case the Congleton Borough SPG requires the following separation distances:

21.3 metres between principal elevations

13.8 metres between a non-principal and principal elevations

In this case the layout and orientation of the proposed dwellings has not been provided at this outline stage. The impact upon the adjacent dwellings to the south-east of the site will be determined at the reserved matters stage.

### Noise

The applicant has submitted a noise screening report in support of the application. The report suggests that additional mitigation measures may not be required however this is still to be investigated further as part of the Reserved Matters stage. It must be noted that Hind Heath Road has increased with volume of traffic due to development in the area and so a noise assessment is required to be undertaken to confirm current statements.

The assessment must assess road traffic noise from Hind Heath Road on the proposed development and be assessed in accordance with BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. The conclusions of the report and any proposed mitigation must be submitted too and approved by the local planning authority at the Reserved Matters stage.

### Contaminated Land

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 former railway line bounds the northerly site boundary. This area has the potential to be contaminated and may pose a risk to future occupants. The Environmental Health Officer has stated that she would expect to see a minimum of a Phase I Preliminary Risk Assessment for contaminated land submitted with any planning application for this site.

As no contaminated land information has been submitted to support the application insufficient information has been submitted with the application, in order to adequately assess the impact of the proposed development having regard to contaminated land. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with material planning considerations.

## Air Quality

Policy SE12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality whilst Policy H2 of the SNP states that development should not cause unacceptable air pollution. This is in accordance with paragraph 124 of the NPPF and the Government's Air Quality Strategy.

This outline proposal is for the residential development of up to 50 dwellings. This scheme is considered to be significant it does not require an air quality impact assessment. However there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular the impact of transport related emissions on Local Air Quality.

Sandbach has two Air Quality Management Areas and, as such, the cumulative impact of developments in the town is likely to make the situation worse, unless managed.

The Environmental Health Officer has requested the following conditions in relation to air quality;

- Dust Control
- Travel Plan
- Electric Vehicle Infrastructure
- Ultra Low Emission Gas Boilers

Subject to the imposition of these conditions the impact upon air quality from this development is considered to be acceptable.

## **Public Rights of Way**

There are no public footpaths crossing the site. However the Wheelock Rai Trail is located adjacent to the boundary of this site.

The proposed development is adjacent to the Wheelock Rail Trail which is a linear country park and part of the National Cycle Network. This development would provide a link onto the Wheelock Rail Trail and this would improve the permeability of the site and allow future residents to access this recreational resource.

As stated within the ecology section of the report the Wheelock Rail Trail is identified for its ecological value within the SNP and is subject to Policy PC4. In this case it is considered that the requested contribution for lighting along the Wheelock Rail Trail would not have a significant impact upon the ecological value of the Wheelock Rail Trail as this section of the Wheelock Rail Trail already has lighting to the north west and is considered to be less sensitive to ecological impacts.

The suggested contribution to improve surfacing/lighting of the Wheelock Rail Trail is justified and would improve the sustainability of the site as well improving access via non-motorised transport options. On this basis the suggested contributions are reasonable and would be secured via a S106 Agreement.

## **Highways**

## Safe and suitable access

The new access design onto Hind Heath Road has been designed to adoptable standards (with visibility splays of 2.4m x 94m to the left and 2.4m x 56m to the right). It reflects the access design of recently approved development on Hind Heath Road and is acceptable for this development. A new 3m wide footway/cycleway on the eastern side of the access has also been proposed, with dropped kerbs to aid pedestrian/cyclist movement across Hind Heath Road.

There is a cycle route and the Wheelock Rail Trail either side of Hind Heath Road. The proposed development will provide a new access from within the proposed development onto the Wheelock Rail Trail which will encourage pedestrian and cyclist movements from existing nearby developments.

This development will increase the number of movements across Hind Heath Road. With the high design speeds and forecast vehicle flows the option of a signalised Toucan crossing on Hind Heath Road should have been investigated but this has not been carried out.

Speed surveys have been carried out on Hind Heath Road to inform access visibility splay requirements; the north bound design speed at this location is 38mph and the south bound speed is 37mph. It is not clear why dry-weather speed data rather than wet-weather speed data has been used to determine visibility requirements and the speed data has not been submitted for verification.

The visibility encroaches onto the grass verge to the south and it is not known if this verge is highway land or not. Submitted documentation regarding access and dropped kerbs also state that they are '*subject to confirmation of adopted highway land*'. This has not been confirmed by the applicant and it is not known if a safe access as proposed is deliverable.

As a result insufficient information has been submitted with regards to providing a safe access for all users.

## Network Capacity

The proposal will generate around 30 to 35 vehicle trips during the peak hour. Compared to existing and forecast vehicle flows on Hind Heath Rd this is a negligible uplift in numbers and there is no objection in terms of the traffic generation from this development.

## **Trees and Hedgerows**

### Trees

There are trees and lengths of hedgerows in the vicinity of the site with the majority of the tree cover off site along the wooded corridor of the Wheelock Rail Trail to the north. As an outline application with only access included, the full impacts of the development would only be realised at Reserved Matters stage. However it is not envisaged that the development would result in any tree losses at this stage.

### Hedgerows

On the basis of the submitted Development Framework, it appears that the proposals would require hedgerow removal on the Hind Heath Road frontage in order to allow the formation of an access and associated visibility splays.

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, a Hedgerow Removal Notice would be normally required under the Hedgerow Regulations 1997. Therefore, for completeness in the assessment and determination of a planning application, where hedge loss is involved it is considered the hedge should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if it qualifies as 'Important'. The Regulations require assessment on various criteria including ecological and historic value. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application.

In this case a Hedgerow Regulations Assessment has not been undertaken and there is insufficient information to determine this application.

### **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.”*

### Connections

*Does the scheme integrate into its surroundings by reinforcing existing connections and creating new ones; whilst also respecting existing buildings and land uses along the boundaries of the development site?*

The proposed development would have a single point of vehicular access to the off Hind Heath Road. It is intended that that the development would provide a cycle/pedestrian link from the site onto the Wheelock Rail Trail.

### Facilities and services

*Does the development provide (or is it close to) community facilities, such as shops, schools, workplaces, parks, play areas, pubs or cafes?*

The application site is highly sustainable and is within easy walking distance of the Town Centre, schools, employment, the train station, bus routes and leisure facilities. This was also found to be the case for the approved developments off Hind Heath Road, Lodge Road and at Abbeyfields.

### Public transport

*Does the scheme have good access to public transport to help reduce car dependency?*

The application site is highly sustainable and is within easy walking distance of the Town Centre, schools, employment, the train station, bus routes and leisure facilities.

### Meeting local housing requirements

*Does the development have a mix of housing types and tenures that suit local requirements?*

In terms of the affordable housing on site the mix and tenure would be agreed at the Reserved Matters stage in discussion with the Councils Housing Officer.

The Design and Access Statement submitted with this application states that the *'development will provide for a mix of house types, ranging from 2 bed to 5 bedroom houses, offering a mix of market housing from first time homes to larger family homes'*.

In this case a condition could be attached to ensure that the a satisfactory mix is provided at the Reserved Matters stage.

### Character

*Does the scheme create a place with a locally inspired or otherwise distinctive character?*

The design guide identifies that Sandbach to the east is located within the Silk, Cotton & Market Towns area of the Design Guide and Elworth and Ettiley Heath to the west is located within the Salt & Engineering Towns area of the design guide. This site is split between the two areas but given the surrounding residential development to Hind Heath Road, Abbey Road and Park Lane it is considered that the site is more closely related to Sandbach. Sandbach is identified as an example settlement within the Design SPD and the design cues for this area include the following;

- Tudor, Georgian, Victorian and Edwardian architecture are all found within the town.
- A fine grain of residential lanes/secondary streets lie immediately adjacent to the main streets.
- Streets are well overlooked.
- Streets and lanes curve up the hills into the town centre creating unfolding views.
- Strong well enclosed urban spaces.
- Town centre is surrounded by rows of terraces, beyond which is a mix of 20th Century housing suburbs and estates.
- Mature 'Garden Suburb' style housing (i.e. Park Lane)

There is a variation of house-types adjoining the site. The majority are two-storey in height although there are some single-storey units in the area (adjacent to the site and to the south east along Hind Heath Road). The dwellings surrounding the site vary from detached to semi-detached.

The perimeter block type layout is at an appropriate density (30 dwellings per hectare) as identified on the illustrative masterplans contained within the D&A Statement. On this basis it is considered that an acceptable design solution could be secured at the reserved matters stage.

### Working with the site and its context

*Does the scheme take advantage of existing topography, landscape features (including watercourses), wildlife habitats, existing buildings, site orientation and microclimates?*

The site is currently open former farmland with no existing buildings with the retention of the tree belt to the boundary with the Wheelock Rail Trail.

The only concern is the relationship to the existing dwellings adjacent to the site and the loss of hedgerow to form the access/visibility splays.

In this case the impacts upon residential amenity would be resolved at the reserved matters stage and the hedgerow implications is considered elsewhere within the report.

### Creating well defined streets and spaces

*Are buildings designed and positioned with landscaping to define and enhance streets and spaces and are buildings designed to turn street corners well?*

The illustrative masterplan shows that the proposed dwellings are generally positioned well in a loose perimeter block layout, front doors face the street, blocks turn corners effectively in a variety of ways creating good passive surveillance and they do define the streets and spaces.

### Easy to find your way around

*Is the scheme designed to make it easy to find your way around?*

The illustrative masterplan is legible and a varied and interesting layout including corner turning blocks and properly terminated views to aid navigation around the proposed development could be secured at the Reserved Matters stage. The proposal also provides pedestrian/cycle linkages to the Wheelock Rail Trail.

### Streets for all

*Are streets designed in a way that encourage low vehicle speeds and allow them to function as social spaces?*

There is a clear hierarchy of streets identified within the submitted D&A Statement which identifies the 3 types of highway within the development. These streets could be designed in detail to slow vehicular traffic and provide a safer environment for pedestrians and cyclists.

### Car parking

*Is resident and visitor parking sufficient and well integrated so that it does not dominate the street?*

The illustrative masterplan shows that parking would be provided within curtilage to the side and rear of the proposed dwellings. The D&A Statement then goes identifies that '*where street parking is present, it will be broken up into blocks of a maximum of 5 bays separated by kerb buildouts. Areas of on street parking will be softened by tree and shrub planting*'.

### Public and private spaces

*Will public and private spaces be clearly defined and designed to be attractive, well managed and safe?*

The illustrative masterplan shows that all areas of public open space are well overlooked and would feel safe. With regard to private space, every house has a private but independently accessible rear garden that is clearly defined and most homes also have gardens to the front.

### External storage and amenity space

*Is there adequate external storage space for bins and recycling as well as vehicles and cycles?*

The illustrative masterplan shows that all houses have adequately sized rear gardens with external access that are suitable for the storage of refuse and recycling bins as well as potentially cycles.

### Design Conclusion

On the basis of the above assessment it is considered that the proposed development does score well and on this basis it is considered that the design of the development is acceptable and would comply with the Cheshire East Design guide.

### **Land Levels**

The application is in outline form and no and levels details have been provided. If approved a condition could be imposed to require the details at the reserved matters stage.

### **Landscape**

A Landscape and Visual Appraisal has been submitted as part of the application, this indicates that it has been based on the Guidelines for Landscape and Visual Impact Assessment, third edition (GLVIA3).

The appraisal identifies the National Character Area (NCA) – Shropshire and Staffordshire Plain and that in the Cheshire Landscape Character Area that the site is situated in the East Lowland Plain, and specifically in the Wimboldsley Character Area (ELP 5). The appraisal also identifies the character of the application site as being gently undulating agricultural land with hedgerow field boundaries, located towards the southern edge of Sandbach, bound to the south by Hind Heath Road and to the north by the Wheelock Rail Trail.

The appraisal identifies that this landscape has no designations and that it is well managed agricultural land with hedgerows and hedgerow trees, in overall good condition, but offers a low value. The appraisal identifies that the landscape effects at construction will be Major/Moderate adverse and following completion as Moderate adverse on the site and the immediate context, reducing to Minor adverse at after 10 years. The visual appraisal offers 11 viewpoints and indicates that at the construction stage for receptors adjacent to the site the effects will be Major/Moderate adverse, and Minor adverse for receptors at a greater distance. The appraisal indicates that after the construction phase the visual effects for the nearby property will be Moderate adverse, minor adverse for the nearby section of the Wheelock Trail and minor adverse for users of roads.

The visual appraisal has been based on the retention of existing landscape features and the overall enhancement of the site through the additional woodland planting, hedgerow provision and habitat creation; consequently the visual effects may be as identified if the proposals are similar to those shown on the Development Framework Plan.

The appraisal identifies that the site is located within the open countryside, Policy PG 6 – Open Countryside seeks to protect open countryside from urbanising development. It recognises the intrinsic character and beauty of the countryside, which is consistent with one of the core planning principles in paragraph 17 of the Framework. Policy PG 6 only permits development in the Open Countryside for certain essential or limited purposes appropriate to the rural area, and that in this

regard identifies that particular attention should be paid to design and landscape character so the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced. Since the submitted appraisal identifies that the landscape and visual effects will remain adverse, even after a number of years, it is not clear how the proposed development will either preserve or enhance the appearance and distinctiveness of the Cheshire East countryside; as such the development does not appear to conform with Policy PG 6.

### **Ecology**

#### Statutory designated Sites

This proposed site falls within Natural England's SSSI impact risk zone for developments of this type. In this case Natural England has been consulted and raised no objection to this application.

#### Non-statutory Sites

The Wheelock Disused Railway Local Wildlife Site (identified by Policy PC4 of the SNP) is located immediately adjacent to the northern boundary of the application site. To ensure that the Local Wildlife site is not compromised by the proposed development a buffer of open space/semi natural habitat must be provided and a suitable buffer is shown on the submitted Development Framework. If planning consent is granted the provision of this buffer must be secured by means of a planning condition.

#### Hedgerows

Native species hedgerows are a priority habitat and a material consideration. Whilst it appears feasible to retain the majority of the existing hedgerows on site, the proposed access point will result in the loss of a section of existing hedgerows.

If outline planning permission is granted it must be ensured that any unavoidable losses of hedgerow are compensated for by means of replacement planting at the detailed design stage.

#### Bats

Whilst the application site offers limited opportunities for roosting bats, bats are likely to commute and forage around the site to some extent. To avoid any adverse impacts on bats resulting from any lighting associated with the development a condition should be attached requiring any additional lighting to be agreed with the LPA.

#### Other Protected Species

One of the representations received from a local resident has referred to a sett for a protected species on the boundary of the site. This has not been picked up within the supporting Ecological Appraisal and the case officer has requested that a supplementary assessment is undertaken to check if there is an actual sett on site and its status. At the time of writing this report an updated Ecological Appraisal had no been received.

#### Ecological Mitigation and Enhancement

This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development. If planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy.

### **Flood Risk/Drainage**

The application site is located within Flood Zone 1 (low probability of river/tidal flooding) according to the Environment Agency Flood Maps. However there is a pocket of surface water risk located within the site boundary (this is shown to be retained as part of the drainage strategy for the site). As the site is greater than 1 hectare in size a Flood Risk Assessment has been submitted in support of this planning application.

The submitted FRA identifies that it is proposed to limit overall flows to greenfield runoff rates with flows to be attenuated onsite within an attenuation basin located in a low area of the site along the frontage with Hind Heath Road.

The Councils Flood Risk Management Team has raised no objection to this application subject to the imposition of planning conditions.

### **Brine Subsidence**

The Cheshire Brine Subsidence Board has stated that the site is within an area that has previously been affected by brine subsidence and future residual movements cannot be completely discounted. The Brine Board recommends that precautions are incorporated within the design of the proposed development and this matter will be dealt with at the Building Control stage with an informative attached to any approved development.

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

### **CIL Compliance**

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, the area of open space/LEAP is identified on the submitted plans. It is necessary to secure these works and a scheme of management. This is directly related to the development and is fair and reasonable.

The Playing Pitch Strategy identifies an existing shortfall of provision. To ensure that this situation is not worsened and to mitigate the impact in terms of the additional demand. In line with Policy SC2 for Indoor and Outdoor Sport and Policy SC1 Leisure and Recreation a contribution of £1000.00 per family dwelling is sought. This is necessary, directly related to the development and fair and reasonable.

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

The suggested contribution to improve surfacing of the Wheelock rail Trail is justified and would improve the sustainability of the site as well improving access via non-motorised transport options. On this basis the suggested contribution of £54,000 is necessary and would be secured via a S106 Agreement.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010 and a Deed of Variation will be required to the original S106 Agreement.

### **PLANNING BALANCE**

The proposed development would be contrary to Policy PG6 of the CELPS, Policy PS8 of the Congleton Borough Local Plan and Policy PC3 of the SNP and the development would result in a loss of open countryside. Cheshire East can demonstrate a 5 year supply of deliverable housing sites. However, it should be noted that even in the absence of a 5 year supply of housing land the harm resulting from the development would be such that it would significantly and demonstrably outweigh the benefits of the development.

The application site falls within an Area of Separation as defined by the SNP under Policy PC1. In this case the proposed development would result in further coalescence between Wheelock Village and Ettiley Heath. Only the cluster of dwellings onto the southern boundary of the site would remain within the area of separation and separate the two individual settlements of Wheelock Village and Ettiley Heath. This development would result in the two settlements merging and would cause significant harm.

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

The development would have a neutral impact upon education, POS provision and LEAP, drainage/flood risk, trees, residential amenity/noise/air quality and landscaping could be secured at the reserved matters stage.

The submitted plans show that a buffer would be provided to the Wheelock Rail Trail which is adjacent to the site and this would be secured via a planning condition should the application be approved. There is considered to be insufficient information in relation to protected species as part of this application.

In this case insufficient information has been submitted with the application in relation to contaminated land, historic hedgerows and to demonstrate that a safe and suitable access can be achieved for this development.

As a result the application is recommended for refusal.

**RECOMMENDATION:**

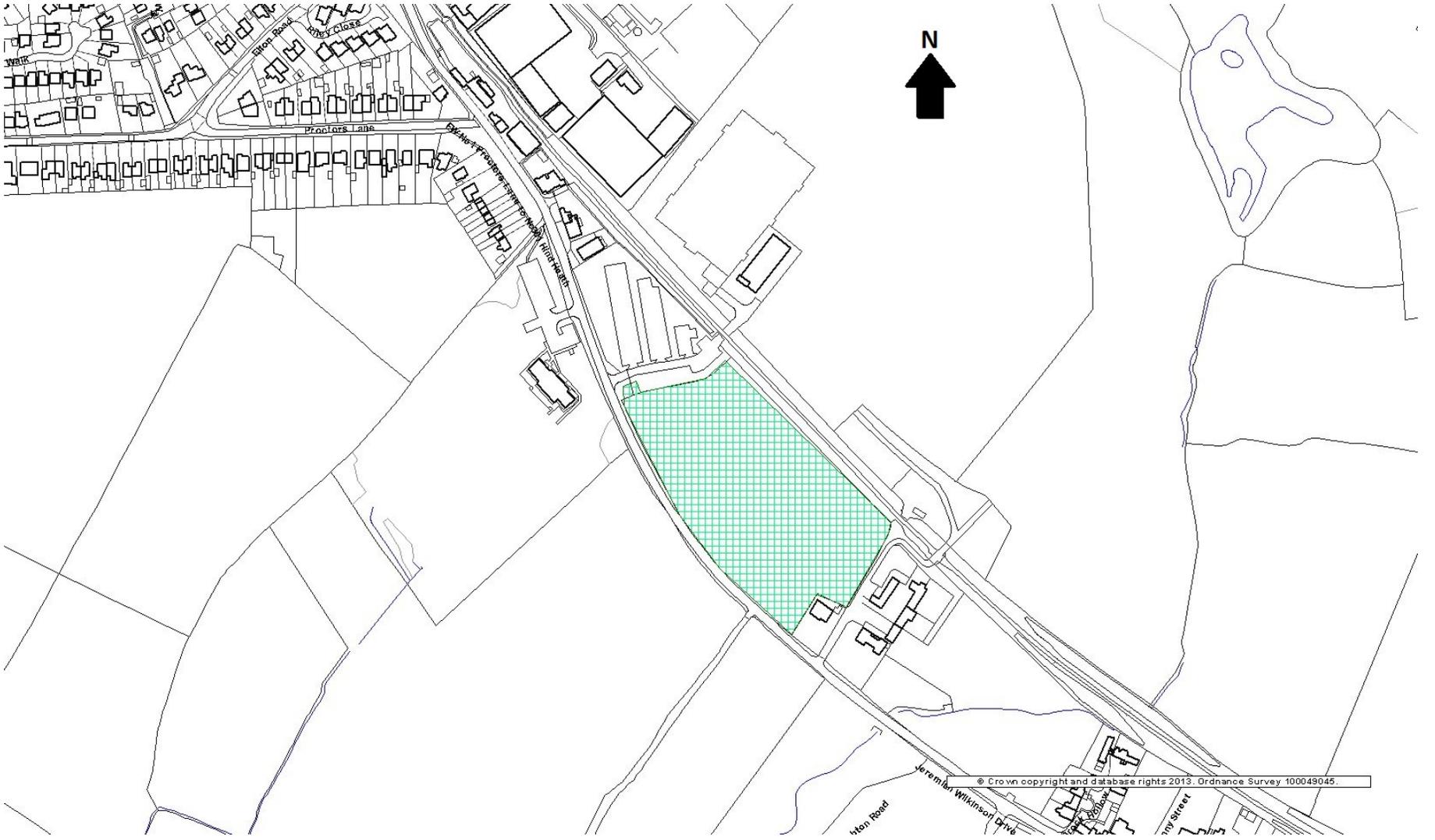
**REFUSE for the following reasons;**

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside contrary to Policies PG6 (Open Countryside) of the CELPS, PS8 (Open Countryside) of the Congleton Borough Local Plan and PC3 (Policy Boundary for Sandbach) of the Sandbach Neighbourhood Plan and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. Furthermore the development is located within an Area of Separation and would result in the coalescence of Ettiley Heath and Wheelock Village. The proposed development would therefore be contrary to Policy PC1 (Areas of Separation) of the Sandbach Neighbourhood Plan.**
- 2. The Local Planning Authority considers that insufficient information has been submitted with the application in order to adequately assess the impact of the proposed development having regard to contaminated land and the proposed residential use which is a sensitive end use. The proposed development is contrary to Policy SE12 of the CELPS and guidance contained within the NPPF.**
- 3. The Local Planning Authority considers that insufficient information has been submitted with the application in order to adequately assess the impact of the proposed development having regard to hedgerows on this site. The proposed development is contrary to Policy SE5 of the CELPS and guidance contained within the NPPF.**
- 4. The Local Planning Authority considers that insufficient information has been submitted with the application in order to adequately demonstrate that safe and suitable access can be achieved to this site. The proposed development is contrary to Policies SD1, SD2 and CO1 of the CELPS, Policy GR9 of the Congleton Borough Local Plan and Policies PC5 and IFT1 of the Sandbach Neighbourhood Plan and guidance contained within the NPPF.**
- 5. The Local Planning Authority considers that insufficient information has been submitted with the application in order to identify the impact upon protected species together with any required mitigation. The proposed development is contrary to Policy SE3 of the CELPS, Policy NR2 of the Congleton Borough Local Plan and Policy PC4 of the Sandbach Neighbourhood Plan and guidance contained within the NPPF.**

**In order to give proper effect to the Board`s/Committee`s intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.**

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

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
  - The numbers, type, tenure and location on the site of the affordable housing provision
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. Provision of Public Open Space and a LEAP (5 pieces of equipment) to be maintained by a private management company
3. Primary School Education Contribution £97,617, Secondary School Education Contribution of £130,742 and a SEN Contribution of £45,500
4. Contribution of £54,000 towards the surfacing of the Wheelock Rail Trail, £11,827 towards lighting of the Wheelock Rail Trail and £861.37 towards maintenance
5. Contribution of £1000 per family dwelling for the provision of outdoor/indoor sport



Application No: 17/2114C

Location: THIMSWARRA FARM, DRAGONS LANE, MOSTON

Proposal: Removal of condition 1 to make permission permanent and non personal and variation of condition 2 and condition 5 to increase to 3 pitches (total of 7 caravans) on 15/5650C

Applicant: Mr P Cosnett

Expiry Date: 06-Apr-2018

## SUMMARY

Planning permission is sought to remove condition 1, and variation of conditions 2 and 5 of application 15/5650C which restricts the site to a personal permission and a temporary permission. The site currently has temporary permission until September 2018.

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. 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 37 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available to the applicant, 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 travellers. The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal.

At the time of the original application, the Inspector on appeal 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 (Planning Policy for Traveller Sites) 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 word "very" has now been inserted before "strictly limit" in the PPTS presumably to increase the protection given to open countryside locations, such as the application site. Since the adoption of the CELPS the identified need has been quantified, however additional sites will not be allocated until SADPD (Site Allocations and Development Policies Document) of the local plan is adopted, and therefore 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 four years was appropriate.

The most recent temporary permission on the site was granted in 13<sup>th</sup> September 2016 and runs until 14<sup>th</sup> September 2018. The permission therefore has 5 months remaining. At this time it is expected that the first draft of the SADPD will be published for consultation in the first half of 2018. It is therefore unlikely to be adopted before the current temporary permission expires. It is therefore considered that adding an additional 3 years to the permission would allow sufficient time for a suitable site to come forward for permanent use with in the SADPD.

Turning to the occupancy of the site being restricted to the identified family members; the Inspector stated that the temporary period of 4 years would cater for the appellants short term need and provide the Council reasonable time to deliver site allocations. The Inspectors decision stated that *'the occupancy must be limited to gypsies and travellers to reflect the fact that planning permission is justified in this case by an unmet need for gypsy/traveller pitches. However, the general need for pitches is so significant that there can be no justification for a personal restriction of use to the Appellant and his dependants.'* It was a later permission which restricted the site to a personal permission.

The circumstances of the applicant 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. 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 and therefore it would be acceptable to remove it in this instance.

It is therefore considered that, although the permanent approval of the site is unacceptable, condition 1 should be varied to allow occupation of the site by any gypsy / traveller, and the temporary time frame retained but extended to 14th September 2021, the approved plans condition 2, amended and condition 5 amend to allow 3 pitches, with 7 caravans in total on the site.

### **SUMMARY RECOMMENDATION**

**Temporary approval subject to conditions**

### **REASON FOR REFERRAL**

This size of planning application would usually be determined under delegated powers, however this application has been called in Southern Planning committee by Cllr Wray for the following reasons.

*'I wish to call in this application at the request of the parish council, should it be recommended for approval.*

*Grounds:*

- 1. Considerable public interest and concerns*
- 2. Conditions applied originally should remain for the reasons given at that time.'*

## **PROPOSAL**

The application seeks permission for the removal of condition 1 to make permission permanent and non personal and variation of condition 2 and condition 5 to increase to 3 pitches (total of 7 caravans) on 15/5650C.

Condition 1 states

1. The use hereby permitted shall be carried on only by the following: Mr & Mrs Pat Cosnett, Sylvia Smith, Mary Cosnett and Isaac Price, Patrick Cosnett (Junior) and spouse, and their respective resident dependents, and the use of the land as a residential caravan site shall be discontinued and the relevant part of the land, other than the approved stable block, septic tank and hardstanding, restored to its former condition on or before 14 September 2018, in accordance with a scheme of work submitted to and approved in writing by the local planning authority.

Condition 2 states

2. The development hereby approved relates to details of development as shown on the approved plans: 1:2500 location plan (dated 21 September 2011) and the 1:500 layout plan both received by the local planning authority on 14 December 2015, and 1:100 stables floor plan and elevations scale both received by the local planning authority on 22 September 2013 for permission 11/3548C except insofar as such details may be inconsistent with any conditions attached hereto when such condition shall prevail.

Condition 5 states

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

## **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 permission for two pitches with 4 caravans and a stable block.

## **RELEVANT HISTORY**

09/2358C – Retrospective Application for Change of Use from Agricultural Land to a Site for a Mobile Home for Occupation by an English Traveller who has Ceased to Travel Due to Ill Health and long Standing Disability – Refused 17<sup>th</sup> March 2011

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<sup>rd</sup> February 2012 – appeal allowed 14<sup>th</sup> September 2012

12/3847C – Change of use of land to use as a residential caravan site for two gypsy families, including laying of hardstanding and driveway – Refused 8<sup>th</sup> January 2013 – appeal withdrawn

13/0516D – Discharge of Conditions 5 & 9 of Application 11/3548C – approved 28<sup>th</sup> February 2013

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 with conditions 6<sup>th</sup> October 2015

15/5650C – Variation or removal of Condition 5 on application 14/3086C – approved with conditions 13<sup>th</sup> September 2016

### **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.

#### **Cheshire East Local Plan Strategy (CELPS)**

SD1 Sustainable Development in Cheshire East  
SD2 Sustainable Development Principles  
SE1 Design  
SE2 Efficient Use of Land  
SE4 The Landscape  
SC7 Gypsies and Travellers and Travelling Showpeople  
CO1 Sustainable Travel and Transport  
CO4 Travel Plans and Transport Assessments  
PG6 Open Countryside  
IN 1 Infrastructure

#### **Congleton Borough Local Plan First Review 2005**

The relevant Saved Policies are:

- GR6 (Amenity and Health)
- GR7 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H7 (Residential Caravans and Mobile Homes)

**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:**

**Highway Authority** – No objections

**Natural England** – No comments

**Strategic Infrastructure Manager** – No objections

**Cheshire Brine** – No objections

**National Grid** – No Objection

**Environmental Protection** – Concerns raised over the applicants status, the variation of condition is linked to the wrong application, issues raised with regards to compliance with previous conditions, no evidence submitted for the need for more pitches on the site.

**Moston Parish Council** – (full comments available to view on the website)

[19<sup>th</sup> February 2018] – Object to amended scheme

- Applicant was aware of the constraints regarding the number of caravans and temporary nature of the site when purchasing the site,
- The site is within the open countryside
- Concerns raised over increasing the site by a further 3 caravans as the increase in caravans would have a significant urbanising impact on the open countryside
- An adjoining site was refused in November 2017 for the impact on the open countryside contrary to Policy SC7, PG6 and SE1 of the CELPS and Policy H of the Planning Policy for Traveller Sites,
- The Peter Brett report discounts the site for permanent use
- Concerns raised over gradual intensification of the site, originally permitted for 1 temporary pitch
- Conditions have not be discharged on 15/5650C

- A permanent base should be sought in a more sustainable location
- The temporary approval is based on the specific needs of Mr Cosnett and his family and therefore should remain restricted.
- Parish Council accept extension to temporary permission given there is still a need
- Adjacent site, Meadow View (17/5117C) was recently refused by Southern Planning Committee to grant a permanent or enlarge the gypsy site without named residents in this unsustainable location.

[10<sup>th</sup> May 2017] - Object to the proposal

- Object to the Principal of development
- The site lies within the open countryside which amounts to a degree of conflict with saved Local Plan Policies H8, GR1 and GR2, the PPTS and NPPF
- Concerns raised with the increase by a further 3 caravans
- Additional caravans will have a significant urbanising impact on the open countryside
- The site is unsustainable and this has been accepted by the Planning Inspectorate,
- There has been no change in circumstances to warrant arriving at a different conclusion
- The site is discounted for permanent permission in the Peter Brett Associated study
- No Policy support for permanent pitches
- September 2016 site was increased to two pitches, however conditions have not been discharged,
- The applicants should seek a permanent base closer to facilities
- The site was permitted as temporary specifically for the applicant and his family this should remain the case
- The Parish Council do not object to a further extension of time of the site permission given the current unmet need however object to a permanent permission on the site
- Permanent permission on this site may set a precedence for other permanent site on this area of land

**Warmingham Parish Council** - Warmingham Parish Council expressed their concerns about the removal of Condition 1 and the variation of Condition 5 on 14/3086C. The Parish Council believe the original planning conditions should remain and be enforced

### **REPRESENTATIONS**

Approximately 8 letters of representation have been received, including a letter of objection from Fiona Bruce MP objecting to the proposal on the following grounds:

- Agree with the comments raised by Moston Parish council
- Land should be returned to agriculture once the current permission lapses
- Nothing has changed since the temporary permission was granted and therefore the site is still not suitable for permanent occupation,
- Intensification of development is inappropriate in this location
- Contrary to the Cheshire Gypsy, Traveller and Travelling Showpeople Accommodation assessment 2014 report

- Peter Brett Report states 'the site is unsuitable as a location for permanent or any additional development'
- Site should not be approved for permanent permission
- 

### **APPRAISAL**

#### **Principle of Development**

Policies within the development plan, in conjunction with national planning guidance and advice in Planning Policy for Traveller Sites, accept that outside Green Belt areas, rural settings, where the application proposal is located (Open Countryside), are acceptable in principle for gypsy and traveller caravan sites.

Whilst the need for gypsy and traveller accommodation is a consideration (considered below), both development plan policies and Government guidance require, in addition, consideration of the impact on the surrounding area, neighbouring amenity, highway safety, the need to respect the scale of the nearest settled community and also the availability of alternatives to the car in accessing local services. These matters are assessed as part of the application proposal's sustainability where environmental, social and economic matters are considered.

#### Demonstrable Need

Within para.24 of the Planning Policy for Traveller Sites (PPTS) (2015), it is advised that in assessment of planning applications, a number of issues should be considered including; a) *the existing level of local provision and need for sites.*

The Cheshire Gypsy, Traveller & Travelling Showpeople Assessment was completed in March 2014. In Cheshire East, the assessment identified an overall need for permanent residential pitches.

The existing identified need in Cheshire East is for 32 pitches between 2013-2018 (5-years), a further 17 pitches between 2018-2023 (10 years) and a further 20 pitches between 2023-2028 (15 years), bringing the total need to 69 pitches.

With regards to addressing this identified need;

- 24 Pitches have been granted at Booth Lane, Middlewich;
- 4 pitches approved at Land East of Goby Road, Crewe;
- 4 pitches at The Oaks, Smallwood;
- 9 transit pitches and 1 permanent pitch – council transit site
- 4 pitches have been granted at Betchton Gardens, Betchton

This brings the total approvals for permanent pitches within the above timeframe to; 37 pitches. This meets the 5-year need to 2018; however, there remains a need for a further 27 pitches up to 2028, which the application proposal would help to meet.

The most recent temporary permission on the site was granted in 13<sup>th</sup> September 2016 and runs until 14<sup>th</sup> September 2018. The permission therefore has 5 months remaining. At this time

it is expected that the first draft of the Site Allocations and Development Policies Document (SADPD) will be published for consultation in the first half of 2018, this document should allocate sites for Gypsy and Travellers. However, it is therefore unlikely to be adopted before the current temporary permission expires. It is therefore considered that adding an additional 3 years to the temporary permission would allow sufficient time for a suitable site to come forward for permanent use with in the SADPD.

### 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.

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'*.

### **Sustainability**

The PPTS (August 2015) states that travellers sites should be sustainable economically, socially and environmentally and states that Local Authority planning policies should;

- a) Promote peaceful and integrated co-existence between the site and the local community;
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services;
- c) Ensure that children can attend school on a regular basis;
- d) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- e) Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well being of any travellers that may locate there or on others as a result of new development;
- f) Avoid placing undue pressure on local infrastructure and services;
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;
- h) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability

The PPTS has an intention, amongst other things, to create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education and health and welfare provision. The document clearly

acknowledges that *'Local Planning Authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated within the development plan'* (paragraph 25). However, it does not state that gypsy/traveller sites cannot be located within the Open Countryside.

The document 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. It is widely recognised that gypsies and travellers are believed to experience the worst health and education status of any disadvantaged group. 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 encampment. Furthermore, the application site should not be located in an area at high risk of flooding. These are all matters to be considered in the round when considering issues of sustainability.

The Inspectors who considered the appeals on this site and the adjacent sites identified that most facilities are beyond the 1.6kms specified in the local plan (which was specified in Policy H8 of CBLP – now deleted), however, 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. Policy SC7 of the CELPS does not specify a distance but states that in considering applications, '(i) Proximity of the site to local services and facilities' should be taken account of.

It has been accepted in a number of applications on this area and it is considered that the site is in an unsustainable location.

### **Impact on the Character and Appearance of the Open Countryside**

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 (para 25).

Paragraph 26 of the PPTS requires local authorities to attach weight to the following matters:

- a) Effective use of previously developed (brownfield), untidy or derelict land;
- b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) Not enclosing with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

In his decision letter, when granting the original permission on this site (11/3548C), the Inspector concluded that, *'overall, the presence of a mobile home and touring caravan on the appeal site would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside and that, should there be no mitigating circumstances, the general effectiveness of countryside protection policies could be undermined by a grant of*

*planning permission. Accordingly, I find there to be a degree of conflict with saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF.*

Permission was granted under 15/5650C to increase the number of pitches from 1 to 2 and allow four caravans on the site, two only to be static. It was considered that limited harm to the character and appearance of the countryside has resulted from the presence of the two pitches, which would remain in the event that the permission was made permanent. It is considered that an additional 3 caravans on the site would not significantly increase the impact on the open countryside, as the extent of hard standing will be largely the same as existing with a small rounding off of an existing internal grassed area within the site. The site is surrounded by hedges from the road frontage and therefore the impact of additional caravans on the site will be limited.

However, there would therefore still be some conflict with the local plan and national policy in the PPTS and NPPF. Given the nature of the Moston area, 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. Furthermore, 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 1.

### **Amenity**

Saved Policy GR6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

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. With regards to environmental disturbance, the Council's Environmental Protection Officer has reviewed the proposal and advised that they have no objections to the proposed development in regards to amenity impact.

### **Highway Safety**

The Strategic Infrastructure Manager notes that this application is to make permanent the existing use and for a small increase in the number of caravans on site, accessed off the rural and unclassified road of Dragons Lane.

Site access visibility is adequate and there have been no recorded traffic accidents in the vicinity of the access over the last 5 years indicating no existing safety concerns.

As such, no objections on highway safety grounds are raised.

## **HUMAN RIGHTS AND SAFEGUARDING CHILDREN**

Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1998 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children.

Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Furthermore, the Planning Authority is required, under section 149 of the Public Sector Equality Act 2010, in the exercise of its functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The protected characteristics include:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The duty to have regard to the three aims listed above applies not only to general formulation of policy but to decisions made in applying policy in individual cases.

Based on the information provided, no significant issues are raised in this regard.

## Conclusion and recommendation

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. 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 37 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available to the applicant, 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 travellers. The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal.

At the time of the original application, the Inspector on appeal 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 (Planning Policy for Traveller Sites) 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 word "very" has now been inserted before "strictly limit" in the PPTS presumably to increase the protection given to open countryside locations, such as the application site. Since the adoption of the CELPS the identified need has been quantified, however additional sites will not be allocated until SADPD (Site Allocations and Development Policies Document) of the local plan is adopted, and therefore 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 four years was appropriate.

The most recent temporary permission on the site was granted in 13th September 2016 and runs until 14th September 2018. The permission therefore has 5 months remaining. At this time it is expected that the first draft of the SADPD will be published for consultation in the first half of 2018. It is therefore unlikely to be adopted before the current temporary permission expires. It is therefore considered that adding an additional 3 years to the

permission would allow sufficient time for a suitable site to come forward for permanent use with in the SADPD.

Turning to the occupancy of the site being restricted to the identified family members; the Inspector stated that the temporary period of 4 years would cater for the appellant's short term need and provide the Council reasonable time to deliver site allocations. The Inspectors decision stated that 'the occupancy must be limited to gypsies and travellers to reflect the fact that planning permission is justified in this case by an unmet need for gypsy/traveller pitches. However, the general need for pitches is so significant that there can be no justification for a personal restriction of use to the Appellant and his dependants.' It was a later permission which restricted the site to a personal permission.

The circumstances of the applicant 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. 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 and therefore it would be acceptable to remove it in this instance.

It is therefore considered that, although the permanent approval of the site is unacceptable, condition 1 should be varied to allow occupation of the site by any gypsy / traveller, and the temporary time frame retained but extended to 14th September 2021, the approved plans condition 2, amended and condition 5 amend to allow 3 pitches, with 7 caravans in total on the site.

### **RECOMMENDATION**

#### **APPROVED WITH CONDITIONS;**

- 1. Temporary permission until 14<sup>th</sup> September 2021**
- 2. Approved plans**
- 3. The site shall not be occupied by any persons other than gypsies and travellers as defined by the Planning Policy for Traveller Sites Approved plans**
- 4. Landscaping scheme to be submitted**
- 5. No more than 3 pitches, with 7 caravans and no more than 3 static caravans**
- 6. No external lighting installed unless first approved in writing**
- 7. Details of the colour and staining of the external surfaces of the stable block**
- 8. Manure shall be kept or stored on the site**
- 9. Within 3 months of the permission foul and surface water drainage shall be submitted**
- 10. No vehicle over 3.5 tonnes shall be stationed, parked or stored on 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.**



Application No: 17/2211N

Location: WHITTAKERS GREEN FARM, PEWIT LANE, HUNSTERTON, CHESHIRE, CW5 7PP

Proposal: Agricultural Building to Provide Grain Store (resubmission of 16/2930N)

Applicant: Mr F.H. Rushton

Expiry Date: 30-Nov-2017

### Summary

The site is located in the open countryside. Agricultural buildings are permitted where they are required for and ancillary to the use of the land for agricultural purposes and essential to the agricultural operation, and maintain the economic viability of the holding. The building should also be satisfactorily sited and designed so as to have no detrimental impact on the character and appearance of the open countryside, the amenity or neighbouring properties and local highway network, protected species and conservation habitats.

The proposed development is acceptable in principle and would not have a significantly detrimental impact on the character and appearance of the open countryside. Furthermore, the siting and use would not result in an adverse impact on the amenities of neighbouring development or present any adverse impact on the local highway network. The proposal therefore complies with Policies SD1 and SD2 (Sustainable Development), SE1 (Design), BE.1 (Amenity), and PG6 (Open Countryside) of the Cheshire East Local Plan Strategy 2017; and policies BE.2 (Design Standards), and NE.14 (Agricultural Buildings Requiring Planning Permission) of the Borough of Crewe & Nantwich Replacement Local Plan 2011.

**RECOMMENDATION:**  
**Approve subject to conditions**

### DEFERRAL

This application was deferred at the Southern Planning Committee on 10<sup>th</sup> January 2018 for:

- A Committee site inspection to enable Members to assess the impact of the development
- Further information on the proposed fuel type
- Further information on the highways impact from fuel importation
- Further justification of the size of the building

- Production information with respect to the crops on the holding

The reasons for deferral are addressed at the end of this report.

### **CALL IN**

The application has been called in to Committee by Cllr Clowes on behalf of Doddington and District Parish Council on the following grounds:

- 1) Both consented buildings had the same dimensions and were to store grain produced on the farm. The constructed building is 175m<sup>3</sup> larger in volume and given it would have been on order prior to construction, this represents a deliberate intention to ignore the approved plans.
- 2) The adjacent green waste site (which is also operated by the applicant) has vehicle number restrictions (endorsed at appeal) to protect the amenity of local residents and ensure the safety and amenity of users of the PROW along the access track and through the site.
- 3) Historical concerns raised by highways officers regarding use of Pewit Lane by large green waste vehicles resulting in weight limits on vehicles and construction of passing bays. Subsequent appeals on the green waste site were dismissed due to the effects of increased vehicles on roads and villages in the area; and a subsequent dedicated access road for green waste vehicles was constructed which the vehicles are now required by condition to use. This proposal represents a new business venture immediately adjacent to the green waste site. The grain transportation will involve additional HGV traffic which will create additional detrimental impacts on surrounding lanes, residential amenity and the enjoyment of the Countryside by walkers using the Public right of way through this site. Appeal Inspectors have consistently stated that the '20 in and 20 out' vehicle movements to the site and on the access tracks must not be exceeded.
- 4) Cumulative impacts of the two neighbouring uses must be taken into account, and the current and future sustainability of the local highways network must be better understood. The Grain Store construction traffic using Pewit Lane caused congestion, damage to the verges, hedges and drainage ditches and use of the lane must be limited.
- 5) Concerns over the degradation of Bridgemere Lane, note that CEC highway engineers are conducting a highway safety assessment of the road.
- 6) Given the size of the farm holding and volume of dried grain able to be produced, the building is significantly larger than required and there is concern there will be third part grain imported which would significantly increase vehicle numbers.

### **DESCRIPTION OF SITE AND CONTEXT**

The application site forms an agricultural field located within the Open Countryside as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011. The farming enterprise is an arable operation and comprises a large area of fields. The application site itself is located off an existing track which accesses a Green Waste composting site which is immediately adjacent to the proposed building and is also operated by the applicant. A landscape bund is sited between the site and the green waste operation. A strip of landscaping is also located adjacent to the track to the east of the site.

### **DETAILS OF PROPOSAL**

Permission was granted in November 2016 for an agricultural building for the storage and drying of grain (Ref: 16/2930N) and this was subsequently implemented. The building that has been constructed has different dimensions and design to that shown on the approved plans, being lower in height but larger in length and area. This application therefore seeks to regularise these amendments.

The building that has been constructed measures 36.5m in length and 20.4m in width. Two lean-to additions have been constructed on the southern and western elevation (the overall width with the 'lean-to' is 23m). The building has a height of 6.1m to the eaves and 8.8m to the ridge. The elevations are constructed from composite cladding and plastic coated single skinned, with the roof constructed from fibre cement roof sheets. The building incorporates four roller shutter doors at 5m by 5.2m and four personnel doors as well as vented roof and side vents, and roof lights. An external area of hardstanding adjoining the eastern elevation has also been constructed.

The building includes an internal boiler to dry the grain to be stored and an external flue of 10m height and 300mm diameter which would be situated to the south west of the building in one of the lean to structures. There is no change to the specification of the boiler from that approved under permission 16/2930N.

The proposed building is 6.7m longer than previously approved under 16/2930N and slightly wider by 0.4m (3m wider with the inclusion of the lean to) and would result in an increase of 175m<sup>2</sup> in floorspace. The building is however lower in height by 1.9m.

No change is proposed to the intended use of the building approved under 16/2930N, and the applicant advises that the new design/layout provides a more purpose built and efficient building for grain storage.

### **RELEVANT HISTORY**

- 16/2930N – Agricultural building to provide grain store. Approved November 2016.
- 11/4249N – Agricultural building to provide grain store. Approved January 2012.

There is planning history on the agricultural holding itself with conversion of traditional buildings to dwellings, to fill in hollows/depressions in fields, also a long planning history relating to green waste composting site adjacent to application site.

### **POLICIES**

#### **Cheshire East Local Plan Strategy**

SD 1	Sustainable Development in Cheshire East
SD 2	Sustainable Development Principles
SE 1	Design
EG1	Economic Prosperity
PG6	Open Countryside

**It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27<sup>th</sup> July 2017. There are however policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.**

### **Saved policies of the Crewe and Nantwich Borough Local Plan (CNLP)**

BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Parking and Access)  
NE.14 (Agricultural Buildings Requiring Planning Permission)

### **National Planning Policy**

National Planning Policy Framework  
National Planning Practice Guide

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

**Highways:** No objection

**Environmental Health:** No objection subject to conditions/informatives relating to hours of construction, contaminated land, air quality and permitting requirements.

**Public Right of Way:** No objections subject to informatives concerning the safe use of, condition and protection of footpath No. 22 Hunterston.

**Doddington and District Parish Council:** Object to the application. In addition to the matters raised in the call-in request, the Parish council would like the application refused on the following grounds (this is a summary; the full content of the objection can be viewed on the Council website).

- Building is larger than previous and includes a large amount of ancillary equipment which could have been accommodated easily within the original size building.
- Unsuitable location (evidence by long planning history on adjacent green waste site) and unsustainable location due to unsuitable highway network, highway safety and residential amenity.
- Potential for increased and larger vehicles. Cumulative effects of vehicles from green waste site and this proposal should be assessed in terms of impact on highway network and residential amenity.
- Pewit Lane is unsuitable for HGVs in terms of junction layout, visibility, carriageway width, and results in hazards for vulnerable road users due to poor visibility/carriageway width. Concerns over drainage and structural integrity of the bridge. Previous CEC highway engineer concerns and associated appeal decisions over green waste HGV traffic and subsequent requirement for the use of the dedicated access track for green waste vehicles is highlighted.
- Planning appeal decisions on the green waste site recognise the harm to residential amenity from the green waste vehicles.
- Importation of grain from outside the farm holding should be restricted.

- Plans are inaccurate and do not include access onto Pewit Lane or the link to the building. Changes to approved development were pre-planned and are significant.
- If approved, request conditions restricting grain importation, requiring use of dedicated green waste access track for vehicle movements, a cap number of vehicle movements on access track to current permitted limit (cumulative with green waste site movements), hours of vehicle movements and use of grain store to mirror those on green waste site and no vehicle movements on bank holidays, control spread of external lighting, replication of conditions from permission 16/2930N.

**Hatherton and Walgherton Parish Council:** Object to the application as it is considered to impact on the parish, particularly in regard to HGV movements along the narrow lanes to this site, which already cause considerable damage and danger to other road users. The Parish Council endorse the material planning grounds set out in detail in call in submission by the local ward councillor.

In addition to the proposed building appearing too large for storage/drying of grain produced solely within the farm, it was noted that the building seems structurally unsuitable for grain storage/drying.

### **OTHER REPRESENTATIONS**

A summary of the representations received is outlined below. The full copy of all representations is available to view on our website.

#### **Local ward member**

- Strategic Highways views should be obtained; they are already considering how best to maintain Bridgemere Lane which is severely damaged by HGV traffic to the Green Waste Site and other vehicle movements.(Although little other HGV traffic is able to use this Lane beyond the Green Waste site due to a 7.5t weight restriction past Bridgemere Primary School.)
- Additional traffic generated by the Green Waste site along Pewit Lane was a significant reason for refusal in earlier applications - hence the need for dedicated access road and restrictions on vehicle movements.
- Given the existing insurmountable traffic issues in this highly rural location on fragile road infrastructure, the existing restrictions on green waste vehicle movements (verified by previous Appeal Inspectors) must apply to traffic from the grain store to ensure cumulatively the movements do not exceed the existing permitted levels on the green waste permission.
- Reference is made to the matters raised in the reasons for the Call-In request of this application.
- Concern over site layout. Clear land ownership plans are needed. The access point and gateway to the grain building on a spur from the access track should be shown on the plans.

Full copies of all representations can be viewed on the website.

### **OFFICER APPRAISAL**

#### **Principle**

The principle of an agricultural building for the storage and drying of grain of similar design and dimensions and in the same location to this proposal has already been established by virtue of permission 16/2930N.

The circumstances relating to permission 16/2930N remains the same in that:

- This relates to an existing farming enterprise;
- There are no existing buildings on the holding that can be used to dry and store grain;
- This would prevent the need to export grain offsite to be dried;
- Allows the farm to be responsible to weather conditions to optimise the harvest;
- Provides financial benefits and reduce carbon footprint in transporting the crop to be dried before being sold.

The proposal is therefore considered to be relevant to agriculture and justified, as required by Policy NE.14 (Agricultural Buildings Requiring Planning Permission) of CNBLP. The proposal should therefore be considered against the other criteria of Policy NE.14 and other Local Plan Policies.

The main issues therefore are the impact that the proposals would have on the character and appearance of the open countryside, the impact on the amenity of neighbouring properties, users of the public rights of way network and the local highway network.

### **Character, appearance and visual impacts**

Policy NE.14 of CNLP and policy SE1 of CELP require new buildings to be satisfactorily sited and adopt a design which is sympathetic to the surrounding character of the area. Equally policy BE.1 (Amenity) of the CNLP requires new development to ensure there are no unduly detrimental effects on the amenity of nearby residents from visual intrusion. This is reflected in the provisions of the NPPF.

There is no change to the location of the building as approved under permissions 16/2930N and 11/4249N. The building is located at the southern extent of the agricultural holding adjacent to the existing green waste facility which comprises of a concrete yard with concrete bays, a temporary building and open windrows of compost surrounded on the northern boundary by an earth bund. The green waste site is considered to be a brownfield site. Whilst the proposed building would be isolated from the main farmhouse, its location directly adjacent to the green waste facility means that it is situated adjacent to the source of fuel for the proposed boiler and the proposal would be largely set against the backdrop of the waste site. It has previously been accepted that the siting of an agricultural building in this location would not cause significant detrimental harm on the character and appearance of the Open Countryside and the same conclusion is drawn in the case of this application.

Should the building be located in proximity to the main farmhouse, this would introduce an agricultural development in close proximity to other dwellings adjacent to the farmhouse which are outside of the ownership of the applicant. There is potential for adverse detrimental impacts on these sensitive receptors arising from this unless mitigation is adopted which could in turn affect the ability of the applicant to use the building for agriculture.

There are limited views of the building from public vantage points around the site. From footpath FP22 on the track towards the site, the existing vegetation provides some partial screening. From the south views of the building would be largely screened by the existing waste facility and the established line of mature trees which aligns the northern boundary of the green waste facility. To the west there are no public vantage points in the immediate vicinity (the closest being over 1km) and to the north there would be long distance partial views (approximately 380m) due to the vegetated field boundaries. The proposals would not be prominent in the street-scene or wider open countryside.

Given the distance to the nearest dwellings, and in view of the factors outlined above, no adverse visual impacts on the amenity of nearby residents are anticipated. A planning condition is recommended for the provision of a scheme of landscaping which would provide partial screening, especially for any long distance views to the north and west; equally a condition is recommended requiring the building to be removed within 6 months of cessation of its use in order to prevent a proliferation of unused agricultural buildings.

Concern has been raised by objectors over the increase in size of the building. The proposal is considered to represent an appropriate scale of development on a farming unit in this location and the design and materials are typical of modern agricultural buildings in a rural area, reflecting similar architectural style of other agricultural buildings in the local area. The proposals are therefore considered acceptable in respect of its design and scale.

The proposal is therefore considered to accord with policy BE.1 and NE.14 of CNLP and policy SE1 of CELP.

### **Amenity**

Policy BE.1 (Amenity) of the CNLP requires new development to ensure no unduly detrimental effect on the amenities of nearby residential properties from (amongst others) environmental disturbance or pollution and traffic generation.

The impact of a new building for the storage and drying of grain on the amenity of sensitive receptors in this location has already been deemed acceptable by virtue of permissions 16/2930N and 11/4249N. In respect of impacts from noise and disruption, given the distance to the nearest sensitive receptor, no adverse effects are anticipated and no objections are raised by the Environmental Protection Officer.

With respect to air quality, Policy SE12 of CELP states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 124 of the NPPF and the Government's Air Quality Strategy. The NPPF also makes it clear that local planning authorities (LPA) should focus on whether the development itself is an acceptable use of land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under the pollution control regimes, and LPA's should assume these regimes will operate effectively. In this regard, it is noted that the operation of the biomass boiler would be regulated by a permit under the Environmental Permitting Regulations.

When assessing the impact of a development on Local Air Quality, the Council has regard to (amongst other things) the Council's Air Quality Strategy, the Air Quality Action Plan, Local

Monitoring Data and the EPUK Guidance “Land Use Planning & Development Control: Planning for Air Quality May 2015).

The Environmental Protection Officer notes that there is the potential for localised pollution associated with the proposed biomass boiler, particularly nitrogen dioxide and particulates. It is therefore essential that a sufficient stack height is achieved to provide adequate dispersal of airborne pollutants. A Biomass information form has been submitted which has allowed a screening check of the minimum boiler stack to ensure adequate dispersion and the Environmental Protection Officer considers this to be acceptable subject to securing planning conditions in respect of stack height, controlling the fuel type, fuel storage, operation and maintenance procedures to ensure that public health is protected. Subject to imposition of these conditions and given that the biomass plant would be regulated by an Environmental Permit it is considered that this suite of controls would be sufficient to ensure there are no adverse impacts on air quality.

### **Impacts on highway and public rights of way**

Concern has been raised by objectors, the parish council and the local ward member regarding the impacts of the vehicles transporting grain on the local highway network in terms of highway safety, capacity and adequacy of the rural lanes for large vehicles; and the cumulative impacts of traffic from this proposal alongside that generated by the adjacent green waste facility.

Particular concern is raised regarding the suitability of Pewit Lane and Bridgemere Lane to accommodate HGVs, along with the impacts on vulnerable road users especially the users of the public right of way which runs partly along Pewit Lane, and impact of HGVs passing Bridgemere School. Reference is made to similar concerns raised by local people and Inspectors at planning appeals for developments at the green waste facility, and objectors note that a dedicated access track now serves the green waste site. As such they consider that all vehicles generated by this proposal should be required to use the green waste access track. They also consider that restrictions should be imposed on the number of vehicle movements so that, when combined with the green waste facility, the total vehicle movements from both sites do not exceed the vehicle movement levels set on the current green waste permission.

Planning policy does not support proposals that would generate levels of traffic that could prejudice the safe movement of traffic on surrounding roads, or have an adverse impact on neighbouring uses.

Unlike the green waste facility, this is an agricultural holding and as such there are no restrictions on the number or type of vehicle movements generated by the farm at present. The proposals are unlikely to generate any increase in vehicle movements as the applicant does not propose to import grain or fuel from outside the farm holding. The number of movements could reduce as result of this proposal as HGVs would transport the dried grain which have greater capacity than the tractor/trailers currently used. The ability to dry grain would also allow the transportation of grain to be spread throughout the year, instead of intensive concentration of movements currently experienced during harvesting. The highways officer considers that there would be no highways impact as a result of the proposal; equally the public rights of way officer notes that the proposals would not affect the public right of way; however highlights that due care and consideration must be given to pedestrians by vehicular traffic when the building is in use.

The views of the objectors are noted, however it is considered that any restriction on the number of HGVs or routing of vehicles would be unreasonable and would not meet the 'tests' in the NPPF given that this is a grain store to serve an agricultural activity as opposed to a larger scale green waste facility, and for the reasons highlighted above. Equally with respect to vehicle routing, the existing vehicles transporting grain can use Pewit Lane without any restrictions on numbers or vehicle size; and given that all green waste vehicles are required by planning condition to use the access track, there should be no opportunity for conflict on Pewit Lane with those transporting grain.

With respect to the suggestion of imposing a cumulative restriction on vehicle movements for both the green waste site and this proposal, this is not considered reasonable and is not considered to meet the 'tests' identified in the NPPF for the reasons outlined above; and given that there is no link between the two land uses aside from the use of wood to fuel the biomass boiler, and this is an agricultural grain store serving a farm holding. It is also noted that the two previous permissions for the same type of development on this site were both granted without such a restriction imposed, and similarly other agricultural buildings in the authority have not had any such restriction imposed.

In relation to the impacts of transporting fuel to the biomass boiler raised by Members of Southern Planning Committee, the applicant confirms that the fuel would all be generated from the Green Waste site situated directly to the south of the site. The anticipated trips per day associated with fuel transportation would be dependent on a number of factors including how wet the grain is, the weather conditions and how much grain is being stored and are likely to be in the region of 5 tonnes a week which equates to around one trip every two weeks. This would be delivered by tractor and trailer and all trips made would be within the applicants land holding.

It is therefore considered that given the matters identified above, there would be no adverse highway impacts arising from this proposal and no new highway impacts over and above that generated by the farm holding at present. As such, the development would accord with the approach of planning policy.

**Applicants Response to the Committees Concerns** (where not addressed in the above sections)

### **Fuel type**

The fuel would be woodchip which would comply with European fuel quality standards. The biomass boiler and fuel is controlled by an Environmental Permit which would prevent the use of any contaminated material. The NPPF makes it clear that local planning authorities (LPA) should focus on whether the development itself is an acceptable use of land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under the pollution control regimes and in this regard the impacts regarding use of woodchip in the biomass boiler are therefore addressed by other legislation.

### **Justification on the size of the building**

Members of Southern Planning Committee requested further information in respect of the justification for the size of the building. Concern is also raised by objectors that the capacity of the building exceeds the output required for the farm and could be used for third party grain imports which could present detrimental highway impacts.

Whilst the proposed building is longer in length than previously approved, it is lower in height and the overall volume is lower. Additionally this application only seeks to regularise the increase in the size of the building over that consented; which equates to an additional 175m<sup>2</sup> in floorspace.

The increased floorspace is mainly required for operational purposes as the grain would only be stored in two of the three bays. The other bay would be used for wood fuel drying/storage. A 6m wide strip at the front of the building would be required for grain tipping (to avoid potential contamination of the grain and exposure to moisture from tipping grain outside); whilst a further 6m wide strip across the rear of the building would be required for the biomass boiler. As a result, an area of 308m<sup>2</sup> would be available for grain storage which the applicant considers is proportional to their land holding. The applicant also notes that the building would not be filled to capacity in order to provide sufficient air and circulation space required to dry the grain.

A letter of support has been submitted by the National Farmers Union who note that the applicants land holding has doubled in size to 205 acres since 1972, and the grain store is required to make the farm more resilient and sound diversification opportunities are essential for a modern farming business. With regard to the size of the building, the NFU consider that it is difficult to dry grain on floor at depths over 3m and would require expensive equipment and additional electricity to cool grain which would not be economical in winter. Furthermore providing a building which could take the pressure of storing grain up to the eaves would be very expensive. The NFU advise that it would be more economical for a building with a larger floor area. The height of a grain store is also high to allow trailers room and space to tip. The NFU also note that the proposals supports strategic priority 1 in the CELP and policy EG2 of CELP which encourages the creation and expansion of sustainable farming and food production and allows for the adaption of modern agricultural practices. It is also noted that the applicant is not proposing to import grain from third parties.

### **Further information on crop production**

The applicant's agronomist advises that the farm has over the past 10 years implemented systems which have resulted in improved cropping performance. This is due to extensive use of compost and allowed them to replace inorganic based fertilisers with compost and increase soil life by the addition of organic matter to the soil. As a result they have now exceeded the average wheat and oat yields and can now achieve quality criteria for milling oats. The consultant also notes that consistency of crop yield relies on good storage. There are three separate crops and potentially three separate areas or bays within the crops store required for crop storage and it is important that crops for different markets need to be kept apart, have room to be kept cool, dry and pest free and there needs to be sufficient area in the store for crop management and movements as crop quality can easily be reduced by inadequate storage facilities.

### **Other Matters**

With respect to impacts on nature conservation whilst the development is on open agricultural land, the Nature Conservation Officer advises that there are no significant ecological impacts and as such no mitigation is identified as necessary to address any impacts from this proposal.

## **Response to Observations**

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report including the impact on the open countryside, highway safety and amenity. These issues have all been weighed in the planning balance.

A number of matters raised by objectors and the parish council concern planning appeal decisions and alleged breaches of planning control regarding the adjacent green waste facility operated by the applicant and not directly related to this planning application. As these are not related to the planning application under consideration they are not considered material planning considerations that should be given any weight in the determination of this application.

## **PLANNING BALANCE**

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

The principle of an agricultural building for the storage and drying of grain in the open countryside is considered has already been established by the previous approval and therefore considered to be acceptable. The proposal is considered to be relevant to agriculture and justified, as required by CNBLP Policy NE.14 (Agricultural Buildings Requiring Planning Permission).

It has previously been accepted that the siting of an agricultural building in this location would not cause significant detrimental harm on the character and appearance of the Open Countryside and the same conclusion is drawn in the case of this application. The proposal is considered to represent an appropriate scale of development on a farming unit in this location and the design and materials are typical of modern agricultural buildings in a rural area, reflecting similar architectural style of other agricultural buildings in the local area.

In terms of economic sustainability the proposal would assist with the modernisation of an existing farm holding, providing some economic benefits. From an environmental and social perspective, given the distance to sensitive receptors, no adverse impacts are anticipated with respect to noise and disruption; and subject to conditions concerning the design and operation of the biomass boiler, adverse air quality impacts are not anticipated.

Whilst concerns about the impacts of HGVs transporting grain on the rural highway network, increased amenity issues with HGVs and impacts of HGVs on users of the public rights of way are noted, the proposal is for an agricultural building to store grain generated by the applicant's farm holding, with no commercial importation of grain proposed. There are no restrictions on the number or size of vehicles that can transport grain from the farm at present, and the ability to dry grain enables its transportation to be spread throughout the year, rather than at harvest time; thus the impacts on the highway network could be reduced. The suggestion by objectors of restricting vehicle numbers and routing, or tie vehicle numbers in with the restrictions on the adjacent green waste site planning permission are not considered to meet the test in the NPPF for the reasons identified above. Overall therefore no adverse impacts on the highway network and users of the public rights of way are anticipated to arise from the development of an agricultural building for the storage and drying of grain.

Overall as the impacts of the development are not considered to be significant and can be mitigated against with the use of planning conditions, the application is therefore considered to constitute a sustainable form of development and is recommended for approval.

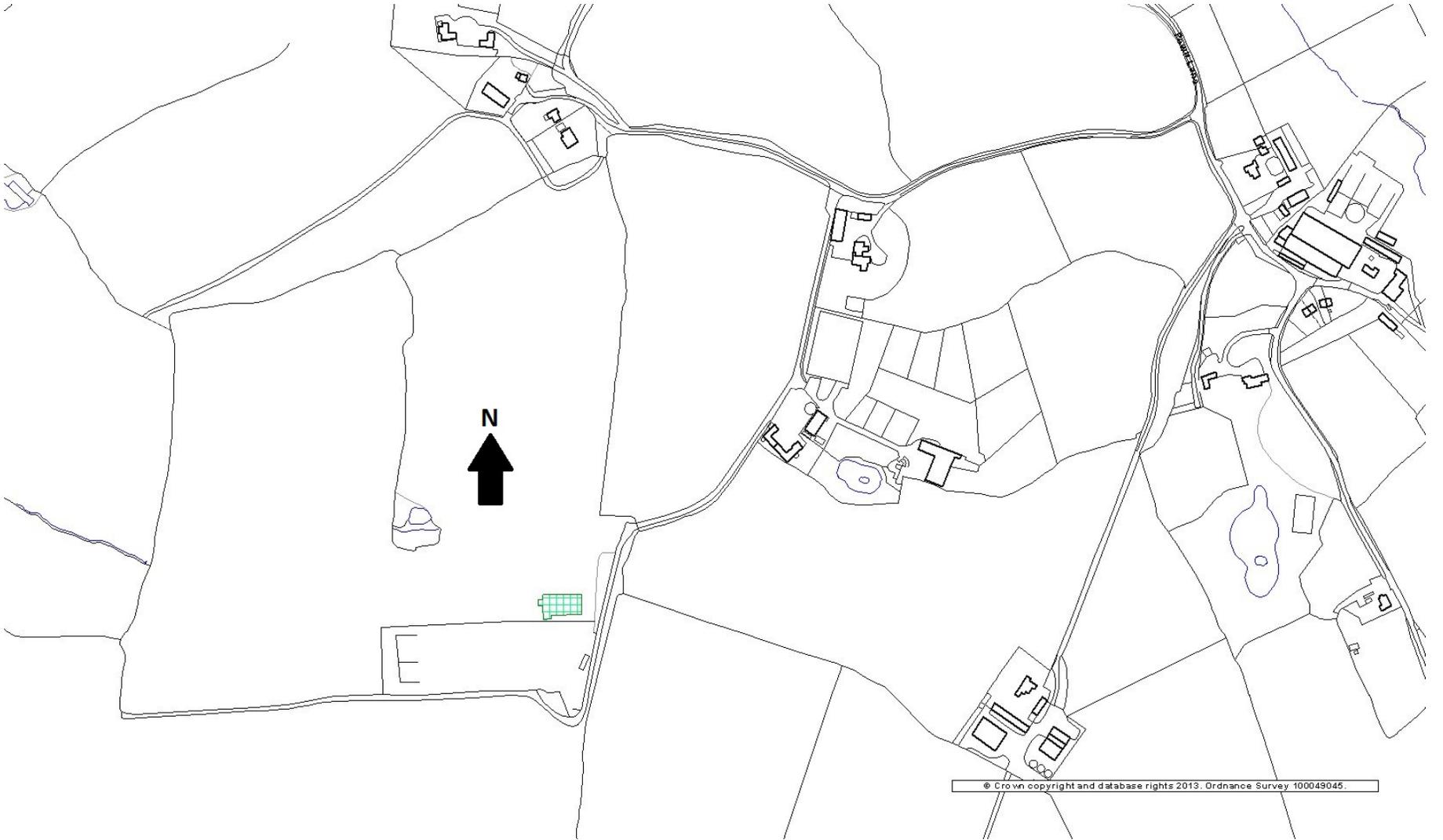
## **RECOMMENDATIONS**

**APPROVE** subject to the following conditions:

**And the following conditions:**

- 1. Development retained as per approved plans**
- 2. Materials as per submitted plans**
- 3. Restrict building to the storage of grain only**
- 4. Landscaping scheme to be submitted and approved**
- 5. Building to be removed within 6 months of cessation of use**
- 6. Stack height no less than 10m above ground and positioned as per submitted drawing**
- 7. Control over biomass boiler fuel type, fuel delivery and storage, operation and maintenance.**

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



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