

Application No: 11/2833C

Location: Land South West Of, THE GREEN, MIDDLEWICH, CHESHIRE, CW10 0EB

Proposal: Outline Application for 68 Residential Dwellings Over 2.25 Hectares, Access from The Green with Some Matters Reserved

Applicant: Muller Property Group

Expiry Date: 31-Oct-2011

SUMMARY RECOMMENDATION

Approve subject to S106 Legal Agreement and Conditions.

MAIN ISSUES

**Planning Policy And Housing Land Supply
Affordable Housing,
Amenity
Ecology,
Landscape and Tree Matters,
Drainage And Flooding,
Infrastructure,
Highway Safety And Traffic Generation.**

REFERRAL

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

1. SITE DESCRIPTION

The application relates to 2.25ha of land, situated to the south-west side of The Green. The site lies within the Open Countryside adjacent to the Middlewich Settlement Boundary and is bordered by residential properties to its northern, southern and eastern boundaries, with open fields to the west.

The site is relatively flat although it is set at a higher level than The Green. The site is currently used for the growing of crops with hedgerows and fencing forming the boundaries to the site. There are a number of trees along the boundaries of the site. The surrounding residential development consists of bungalows fronting onto The Green with two-storey detached and semi-detached properties to the north, east and south.

2. DETAILS OF PROPOSAL

Outline planning permission is sought for up to 68 homes together with associated public open space, and highway works. Access and siting are to be determined as part of this stage of the application.

Although in outline, the Design and Access Statement provides the parameters for the development. The proposed dwellings would be two-storey in height with the street pattern based around two cul-de-sacs in a Y-shape. There would be a mix of affordable and open market housing within the site.

The site would have one vehicular access which would be taken from The Green. The proposed open space would be located on either side of the access road with properties fronting onto this public open space in a crescent shape.

2. RELEVANT PLANNING HISTORY

10/4065C	Outline Application for 68 Residential Dwellings over 2.25 Hectares. Access from The Green with some Matters Reserved – Refused 4 th February 2011
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3. PLANNING POLICIES

National Policy

PPS 1 Delivering Sustainable Development
PPS 3 Housing
PPS 7 Sustainable Development in Rural Areas
PPS 9 Biodiversity and Geological Conservation
PPG 13 Transport
PPS 23 Planning and Pollution Control
PPS 25 Development and Flood risk.

Local Plan Policy

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
GR5 Landscaping
GR9 Accessibility, servicing and provision of parking
GR14 Cycling Measures
GR15 Pedestrian Measures
GR17 Car parking
GR18 Traffic Generation
GR 22 Open Space Provision
NR1 Trees and Woodland

NR3 Habitats
NR5 Habitats
H2 Provision of New Housing Development
H6 Residential Development in the Open countryside
H13 Affordable Housing and Low Cost Housing

Regional Spatial Strategy

DP4 Make best use of resources and infrastructure
DP5 Managing travel demand
DP7 Promote environmental quality
DP9 Reduce emissions and adapt to climate change
RDF1 Spatial Priorities
L4 Regional Housing Provision
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets
EM3 Green Infrastructure
EM18 Decentralised Energy Supply
MCR3 Southern Part of the Manchester City Region

4. OBSERVATIONS OF CONSULTÉES

Environmental Health

No objection to the above application, subject to the following comments with regard to contaminated land:

- This site is within 250m of a known landfill site or area of ground that has the potential to create gas.
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present.
- The Phase I report recommends that a Phase II investigation is required due to the presence of infilled ponds on site and the close proximity of brickfields.
- As such, and in accordance with PPS23, standard contaminated land conditions, reasons and notes should be attached should a planning permission be granted:

The following additional conditions are recommended:

1. Any external lighting of the proposed site should be submitted to and approved by the Borough Council before being installed, due to the close proximity of local residents.
2. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 09:00 to 14:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
3. Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.

3. Prior to development, detailed plans showing the location, design and materials of proposed facilities for the disposal and storage of any refuse/recyclable materials, including details of any bin stores, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and available for use prior to the development being occupied and shall be permanently retained thereafter, unless otherwise first approved in writing by the Local Planning Authority.

Sustrans

If this land use is approved by the Planning Committee they would like to comment as follows:

1. For a site of this size, they would like to see it make a contribution to improving the walking/cycling network in Middlewich to encourage more local journeys by foot or by bicycle.
2. The design of the estate should restrict vehicle speeds to 20mph or less.
3. Any green space should be designed to allow children to play on it.
4. For smaller properties, there should be adequate storage areas for buggies/bicycles.

Environment Agency

No objection in principle to the proposed development. However they request that any planning approval includes the following:

- The development hereby permitted shall not be commenced until such time as a scheme to manage the risk of flooding from overland flow of surface water has been submitted to and approved in writing by the local planning authority.
- The development hereby permitted shall not be commenced until such time as a scheme to limit the surface water run-off generated by the proposed development has been submitted to and approved in writing by the local planning authority.
- The discharge of surface water from the proposed development should mimic that which discharges from the existing site. If a single rate of discharge is proposed, this is to be the mean annual run-off (Q_{bar}) from the existing undeveloped greenfield site. If surface water is to discharge to mains sewer, the water company should be contacted for confirmation of the acceptable discharge rate. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.
- Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). SUDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SUDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands. SUDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge, and improving water quality and amenity.

- The River Wheelock is designated "main river". In accordance with the Water Resources Act 1991 and the Land Drainage Byelaws, the Environment Agency's prior written consent is required for any proposed works or structures in, under, over, or within 8 metres of the top of the river banks.

United Utilities

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

- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway / watercourse / surface water sewer and may require the consent of the Environment Agency. If surface water is allowed to be discharged to the public surface water sewerage system United Utilities may require the flow to be attenuated to a maximum discharge rate determined by United Utilities.

Cheshire Brine Board

No objection

Natural England

Natural England provides the following comments;

- This application is in close proximity to Sandbach Flashes SSSI. However, given the nature and scale of this proposal, Natural England raises no objection to the proposal being carried out according to the terms and conditions of the application and submitted plans on account of the impact on designated sites.
- If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application.
- If the proposal site is on or adjacent to a local wildlife site, e.g. Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site before it determines the application.
- This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

Amenity Greenspace

Can confirm that:

- 1) Amenity Green Space (AGS) is acceptable and a usable area of Public Open Space
- 2) No contributions for off site AGS are now required
- 3) That the AGS is to be maintained by a Management Company

Children and Young Persons Provision

As the number of dwellings has now reduced from 68 to 64 dwellings, the contribution for enhancement of Children and Young Persons provision to meet the future needs arising from the development is;

Enhanced Provision: £21,152.67

To meet the needs of the development, an opportunity has been identified for the upgrading of an existing facility at Moss Drive within 800 metres of the site, to increase its quality. The existing facility is a Local Equipped Area for Play (LEAP), located off Chadwick Road/ Moss Drive. This facility is within 800m of the entrance of the proposed development accessed via a footpath off Chadwick Road, close to the existing road called The Green.

The existing facilities at the identified site are substandard in quality (see Play Report 2009) and would benefit from improvements. This would take into account play area infrastructure, equipment including elements of DDA equipment, safer surfacing and safety inspection.

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

Housing

30% is the correct requirement, based on the revised number of units being 64 this would equate to 19.2 units, it appears the developer is offering 20 units according to the application and this would satisfy the requirement, the mix of units being 2 and 3 beds is acceptable as it will meet housing need, however the tenure split they have is 50% rent, 50% intermediate tenure - to be in line with the Interim Affordable Housing statement it needs to be 65% rent, 35% intermediate tenure.

Strategic Highways Manager

No objections

Education

No comments received at the time of report preparation.

5. VIEWS OF MIDDLEWICH TOWN COUNCIL

The Town Council recommends refusal for the following reasons:

- The location of the site is outside of the Settlement Zone Line

- The Transport Assessment has been carried out solely on The Green. However the development would have a greater impact upon the hierarchy of roads i.e. Chadwick Road, Warmingham Lane and Booth Lane.
- The development would increase the already high demand on the local social infrastructure i.e. Primary School and GP Facilities.
- The applicant, in S2.16 and S2.17 of the Supplementary Planning Information, refers to the Congleton Area Strategic Housing Land Availability Assessment and the Cheshire East Strategic Housing Land Availability Assessment. Neither of these documents has been adopted and therefore, they are not in the public domain for reference to be made.
- The application is considered to be overdevelopment for the size of the site.

6. OTHER REPRESENTATIONS

Letters have been received from 20, 29, and 41 Eardswick Road; 17, 17, 31, 33, 35 and 37 Broxton Avenue; 4, 8, 10, 14 and 18 Beeston Close, 24 and 30 The Green, 21 Livingstone Way and Otter Cottage reiterating their previous objections and making additional points as follows:

Principle of development

- Contrary to Local Plan Policy
- Loss of viable agricultural land
- The council 5 year housing plan is satisfied by nearby towns of Crewe, Sandbach and Northwich all of which have new developments.(Brownfield)
- Loss of green field land
- The councils own draft policy of releasing land for houses has set out to direct the majority of new developments towards Crewe
- Any release of Greenfield site of this nature would prejudice the overall spatial strategy for the borough and would damage the ability to develop Brownfield sites in the area with extant planning permission
- There is plenty of brownfield land in Middlewich
- New houses are being built on Warmingham Lane and possibly by the old salt factory.
- Plans for 300+ homes on the old Hays Chemical Works have been approved.

Flooding / Drainage

- The application site is above Broxton Avenue and Beeston Close and would raise drainage issues
- The natural drainage that the field supplies is important to the surrounding area.
- Problems with foul drainage
- Previous drainage reports were based on 53 homes not 68
- Foul sewer on The Green is inadequate
- Field is clay so soakaway is not possible
- There are already flooding problems in the area

Amenity

- Loss of privacy
- Increased noise
- Increased light pollution
- Air pollution
- Loss of light to properties in Broxton Avenue
- Noise from cars would disturb occupants of The Green

Ecology

- Loss of habitat to protected species
- Impact upon the trees on the site
- Damage to trees
- Loss of trees
- Loss of foraging area for protected species
- Some of the trees to which nest boxes are to be attached are not within the site
- There is a bat box on site which may still be occupied.

Infrastructure

- Lack of open space
- Overcrowding of schools
- Impact upon local doctors surgeries

Highways

- The area of proposal and surrounding area already struggles to cope at peak times with current traffic levels.
- Highway safety
- The Green is too narrow for additional traffic
- The Green is not gritted in winter
- Pedestrian safety
- Traffic congestion
- A large number of pensioners live in the area and increased traffic would be dangerous
- Warmingham Lane and Chadwick Road are not suitable for extra traffic
- The ramp would not be gritted and cars leaving the site could slide into those parked on The Green.
- The ramped access on to the proposed site does not seem to be any wider.
- There is no pavement continuation from the proposed development on to The Green.
- The pavement ends at the end of the proposed new ramped access road and pedestrians have to exit the proposed site on to a road junction
- The number of vehicle movements stated in the application should be called into question.
- An ambulance would struggle to get passed a parked vehicle on The Green. A fire engine would not be able to access

Other matters

- Loss of property value

- Loss of view
- Loss of outlook and privacy
- Large number of empty homes in Middlewich
- The position of the proposed mews style houses and garaging at the eastern corner would be out of character with existing properties on Beeston Close etc
- Increased crime
- The building site will attract anti-social behaviour
- Subsidence
- There are alternative sites in the area which are more suitable for residential development
- Open Space has not increased or improved and is still bisected by the access road.
- In view of the government's stance to allow local communities to be allowed to say how they want their local area to be developed all of the people's views from this and the previous application (10/4065c) should have a great bearing on any local council decision
- Planning 10/4065C was exactly the same as this new planning application and was heavily opposed by local residents and Fiona Bruce M.P. The developer has appealed against the decision and the appeal is not being heard until October 2011. This new application needs to be refused as it would make the appeal process for planning applications a farce if it was approved.

A personal objection has been received from Fiona Bruce MP. The objection relates to the following points:

- Residents are very concerned about the potential increased traffic and the maintenance of roads which are not gritted in wintery conditions.
- The proposed site is elevated approximately 1.5 metres above Broxton Avenue and Beeston Close Street level which already causes drainage issues in wet weather. Any loss of natural drainage would cause flooding.
- Infrastructure already struggles to cope at peak times and would undoubtedly get worse.
- Furthermore, the Local Plan 2005 noted that *'Middlewich has experienced significant growth in recent years which it is unlikely to be able to sustain without considerable investment in infrastructure and facilities'*.
- Similar brownfield developments in the vicinity remain unsold.
- Driving along The Green is already very difficult at peak times, and even with the proposed road alterations, residents are concerned that such issues will deteriorate.
- The development will greatly impact on the natural light of properties and increase the amount of noise in the area.
- There is already a lack of space at local schools with children being educated out of the area. Such a development would only make this situation worse

7. APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement (Produced by Barrie Newcombe Associates)

This Design and Access Statement includes the following summary;

- The proposed development makes effective use of a currently promoted site which is immediately available for development
- Quality of the site layout, privacy distances, mass and scale are appropriate to the setting
- The housing mix (including affordable housing units) will create an environment suitable for encouraging 'mixed communities'

Transport Assessment (Produced by Singleton Clamp & Partners and dated July 2011)

This report makes the following conclusions;

- The investigations lead Singleton Clamp & Partners to consider that the site is reasonably located and offers a reasonable choice of mode of transport other than the private motor car
- The traffic associated with the proposals can be safely accommodated on to the local highway network
- The access on to The Green has been considered by the highways officer and is considered to be appropriate to accommodate the site generated traffic
- It is therefore concluded that there can be no overriding highways objection to the proposals

Arboricultural Appraisal (Produced by Shields Arboricultural Consultants and dated August 2010)

- Four trees are considered to be Category A trees (high quality and value)
- Four trees are considered to be Category B trees (Moderate quality and value)
- Four trees are considered to be Category C trees (low quality and value)
- Three trees are identified for Removal
- To facilitate this development one category C tree is identified for removal

Ecological Report (Produced by Curious Ecologists and dated April 2010)

This ecological report gives the following results and recommendations;

- All trees and hedgerows were surveyed for signs of nesting birds. The hedgerows, mature standards and adjacent broad-leaved plantation are all potential bird nesting sites
- There were no buildings on the site to provide suitable habitat for roosting bats. However some of the mature trees on, or just outside, the boundaries had cavities present which could provide roost sites
- There were no ponds and no suitable refuges for Great Crested Newts on the site. The public open space to the north of the site did have suitable habitat (a pond and terrestrial refuges) and a search carried out in the pond revealed the presence of GCN eggs
- Badgers appear to use the site for commuting but there was little evidence of foraging activity
- No evidence of any other protected species has been found
- Any work should be carried out outside the bird breeding season
- The presence of GCN in a nearby pond triggers the need for further surveys to establish population levels. These should be carried out by a suitably licensed ecologist in accordance with Natural England guidelines

- If any of the mature trees surrounding the site are to be felled or pruned they should first be checked for the presence of bats by a suitably licensed ecologist

Great Crested Newt Survey (Produced by Andy Harmer Ecology Services)

- Great Crested Newt (GCN) presence and breeding evidence was discovered in a pond to the north of the site
- As the peak count of GCN's reached a single female only, the population is regarded as small. The eggs located could be the result of a single female

Great Crested Newt Mitigation Strategy (Produced by Tyler Grange and dated January 2011)

- A small population of GCNs is known to occur in a pond situated some 65m to the north of the Site.
- The main body of the site comprises recently sown grassland that is considered to be inhospitable habitat for GCNs. However, some small areas of hedge / rough grass headland present on the peripheries of the Site will be affected and these may provide suitable terrestrial habitat for GCNs.
- Details of proposed ecological mitigation for GCNs have been provided to ensure that the development proposals do not result in any adverse impacts to GCNs. These include: the provision of replacement terrestrial habitat within a landscape / ecological mitigation buffer strip; and prior to construction, relocation of GCNs from habitats potentially affected by the development to suitable habitats within the buffer strip.
- Due to the risks posed to GCNs by the proposed development it is recommended that the capture and relocation works and subsequent destruction of approximately 974m² of intermediate terrestrial habitat is undertaken under an EPS development licence from NE and that the recommendations provided within this Strategy are used as the basis for the application.
- Provided that the recommendations of this Strategy can be successfully implemented, it is considered that the development proposed would not be detrimental to the favourable conservation status of GCNs within their natural range and would, help to maintain population of the species within the locality. Thus taking this into account the mitigation proposed the development would be conformity with relevant legislation and national and local planning policies relating to protected species.

Phase 1 Site Investigation Report (Produced by ARJ Associates and dated August 2010)

A Phase 1 contamination desk study assessment for the proposed residential development at the site has been provided. The report is based on environmental setting and features of the site as well as previous usage.

Flood Risk Assessment (Produced by AJR Associates and dated October 2010)

This report makes the following conclusions and recommendations;

- The site is located within Environment Agency Flood Zone 1 and has a low annual probability of being flooded from fluvial and tidal sources
- Surface water from the proposed development can be managed by a drainage system. There are 3 options described in the report to discharge surface water to the ground or to

the nearby watercourse. The drainage system can be designed to meet SUDS, EA and UU requirements to limit flow from the site to Greenfield rates and to allow for future climate change

- The implementation of the following mitigation measures will ensure that flood risks to and from the proposed development are addressed;
 - Finished ground floor levels in residential dwellings to be 150mm above ground floor level
 - Flood risk to north, south and east can be addressed by ensuring all hardstanding areas are drained away from neighbouring land
 - Land drainage should be provided along east and south-east where the site is higher than the neighbouring garden. In these areas proposed development levels should not be higher than the existing ground level
 - Surface water drainage of the proposed development should and can be managed to mitigate any risk of flooding from the site. The drainage should be designed prior to construction stage.

Planning Statement (Produced by Harris and Lamb)

- The Planning Application has been resubmitted because since the Council's Decision notice was issued on 3rd February 2011, with 3 Reasons for Refusal there have been material changes in circumstances which leads the Applicant to believe that the matters raised in the Decision notice have now been overcome.
- In this Report they explain the changes in circumstances which have occurred and these can be summarised as follows.
 - Reason for refusal - no.1
 - The 5 year housing land supply continues to be an issue in Cheshire East as has been recently confirmed by both the Council, the Secretary of State and an independent Inspector
 - The shortfall is more critical than when the Application was originally considered by the Council. The Councils DIPP which was relied upon to override the 5 year housing land supply presumption in favour, has been found to have only limited weight and should not be used as part of the determination process.
 - It is noteworthy that the Council has recently decided not to use the DIPP in issuing a decision on a major housing site in Congleton.
 - The Council can be assured that if permission is granted, any decision to do so would be in accordance with RSS policy RDF2 which supports further developments at key service centres. Middlewich can be described as a key service centre.
 - Reason for Refusal no. 2 – Amenity Greenspaces and Childrens' Play Area
 - The applicant believes that following further survey work, there is in fact a significant surplus of amenity Greenspaces in the area to the extent that on site provision is not required in accordance with Council policy
 - In terms of children play area, a suitable contribution to capital and maintenance can be provided by the Applicant.
 - Reason for Refusal No.3 - Low Cost market Housing

- Further information has been provided by the Applicant, which demonstrates there is an adequate supply of low cost market housing in the local area.
 - The Council has already decided not to contend this issue.
- The site is suitable for development as has been confirmed by an independent inspector at the 2003 Local Plan Inquiry and the Council's own assessment of this site in 2009 and 2010 SHLAA documents.
 - There are no other material issues which suggest that planning permission should be withheld. Accordingly they would respectfully require that planning permission be granted in order that the site can be released to contribute to the remedying of the Council's 5 year housing land supply shortfall, to contribute to affordable housing and also to avoid the time and resources which would otherwise be diverted towards a Public Inquiry.

8. OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline, with siting and access to be determined at this stage, the main issues in the consideration of this application are the suitability of the site, for residential development having regard to matters of planning policy, housing land supply, affordable housing, amenity, ecology, landscape, layout drainage and flooding, infrastructure, highway safety and traffic generation.

At the meeting of the 26th January 2011, the Strategic Planning Board considered an identical outline application. The Board resolved to refuse the application for three reasons.

Firstly, the scheme proposed new residential development in the open countryside, contrary to established local plan policy and the Council's Interim Policy on Release of Housing Land. The proposal was also deemed to undermine the spatial vision for the area, which seeks to direct the majority of new development towards Crewe.

Secondly, the proposed public open space would be positioned in an unsuitable location within the site and would be lacking in terms of provision.

The third reason for refusal dealt with a lack of low cost open market housing which is defined as housing sold at or below the lower quartile price for the market.

This application is intended to address the previous reasons for refusal.

Planning Policy and Housing Land Supply

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H.6 and PS.8 state that only development which is essential for the purposes of:

- agriculture,
- forestry,
- outdoor recreation,

- essential works undertaken by public service authorities or statutory undertakers,
- for other uses appropriate to a rural area.

will be permitted.

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

“in accordance with the plan unless material considerations indicate otherwise”.

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

National policy guidance (PPS3) states that Local Authorities should manage their housing provision to provide a five year supply. Paragraph 71 of PPS3 states that:

“where Local Planning Authorities cannot demonstrate an up to date five year supply of deliverable sites, for example where local Development Documents have not been reviewed to take into account policies in this PPS or there is less than five years supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in this PPS including considerations in Paragraph 69.”

The recently published draft National Planning Policy Framework, which will replace PPS3, has reiterated this requirement and states that Local Planning Authorities should:

“identify and maintain a rolling supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. The supply should include an additional allowance of at least 20 per cent to ensure choice and competition in the market for land”.

In respect of the current housing land supply position within Cheshire East, the Council intends to continue to rely upon the figures contained within the Regional Spatial Strategy until such time as the LDF Core Strategy has been adopted. The RSS proposed a dwelling requirement of 20,700 dwellings for Cheshire East, as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. The Council’s Cabinet has decided that the Council will continue to use the RSS housing requirement figure for a minimum of 1,150 net additional dwellings to be delivered annually, pending the adoption of the LDF Core Strategy. Correspondence from Government Office for the North West confirms that in order to establish the appropriate housing requirement for Cheshire East, the district figures included in the published Regional Spatial Strategy (RSS) should to be added together to give the new unitary authority requirement.

At the time of the previous application relating to The Green was considered housing land supply was estimated to stand at approximately 4.58 years. However, the current supply of deliverable sites is now likely to be approximately 3.65 years supply. This equates to a shortfall of approximately 2600 units.

To be considered 'deliverable', PPS 3 advises that housing sites must be:

- 'available',
- 'suitable'
- 'achievable'

In other words, there is a reasonable prospect that housing will be delivered on the site within 5 years.

The Council is already taking steps to improve housing supply ready for the recovery, but in line with the Community's aspirations. An Interim Planning Policy for the Release of Housing Land was adopted by full Council in February 2011 with the intention that it be used in the determination of planning applications. This policy allows for the release of appropriate Greenfield sites for new housing development on the edge of the principal town of Crewe and encourages the redevelopment for mixed uses, including housing, of previously developed land within settlements. This focus on Crewe follows the approach to growth and development within the Council's Community Strategy which was adopted following widespread consultation. The Community Strategy and Interim Planning Policy are material considerations in the consideration of this application.

The policy is now bearing fruit, with applications now received on the north side of Crewe at Coppenhall East and Barrows Green – and at Crewe Road Shavington in the south. Further applications are also known to be in the pipeline. Collectively these applications provide capacity for some 1200 additional homes.

Consequently, whilst the SHLAA identifies a shortfall against a housing land supply, there are factors to show that supply is improving across the Borough and that it is not land supply that is the primary factor in constraining housing completions. As such, this suggests that other considerations should properly be taken account of in the assessment of the application.

Spatial Vision

Members may recall that at the meeting of the Strategic Planning Board on 6th October 2010, a report was considered relating to Issues and Options for the Local Development Framework Core Strategy, which outlined 3 options for apportioning growth across Cheshire East. Although each of the options is different, the common theme between them is an emphasis on growth in Crewe. Therefore, whilst the options are under consideration, and there is uncertainty as to which option will be taken forward, it is appropriate that any Greenfield development required to make up a shortfall in housing land supply should be directed to Crewe. PPS1 2005 in *The Planning System: General Principles* at para. 14, states that:

"Emerging policies in the form of draft policy statements and guidance can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review, and the circumstances which led to that review may be need to be taken into account."

Paragraph 69 of PPS 3 states that in determining planning applications, local planning authorities should have regard to a number of criteria, including, inter alia:

“ensuring the proposed development is in line with planning for housing objectives reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives e.g. addressing housing market renewal issues.”

Paragraph 72 of PPS.3, states that LPA's should not refuse applications solely on the grounds of prematurity. However, PPS1 also deals with the question of prematurity to an emergent plan and advises that, in some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a Development Plan Document (DPD) is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect is so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD.

Consequently, the previous application relating to this site was refused on the grounds that it was not considered to be “suitable” as it is located on the periphery of Middlewich, rather than Crewe. It was considered that it would undermine the spatial vision for the area and wider policy objectives as it would be contrary to the general thrust of the Core Strategy Issues and Options which directs the majority of new development towards Crewe, as well as the Council's Draft Interim Planning Policy on the Release of Housing Land and Policies RDF1 and MCR3 of the North West of England Plan Regional Spatial Strategy to 2021, which articulate the same spatial vision.

It was considered that this would be contrary to advice in PPS3 and PPS1, which states these emerging policies are material considerations. For these reasons, the Housing Land Supply arguments advanced by the applicants were considered to be insufficient to outweigh the general presumption against new residential development within the Open Countryside, as set out in the adopted development plan.

Recent Appeal Decision – Hind Heath Road, Sandbach

However, Members will be aware of the decision by Strategic Planning Board to refuse an outline planning application for the development of up to 269 dwellings at Hind Heath Road, Sandbach. Following a Public Inquiry, an Inspector recommended that the appeal be allowed. However, the appeal was recovered for the Secretary of State's determination who subsequently dismissed the appeal.

The decision of the Secretary of State placed much emphasis on the housing land supply of the town of Sandbach itself. The town of Sandbach has a 5-year supply requirement of 375 dwellings. The 2010 SHLAA identifies that around 600 dwellings would be delivered over the 5 years. At the Inquiry, the Council revised its figure to 410, whilst the appellant argued that around 280 dwellings would be delivered. The Secretary of State agreed with the Council's revised estimate as being more accurate and that there was sufficient land in Sandbach to meet the 5 year requirement.

In their supporting Planning Statement, the applicant's agent states that they have reviewed housing land availability in Middlewich and have found that there is a shortfall in provision, although it is not quantified. What is clear, however, is that the Secretary of State's decision to overturn his Inspectors recommendation of approval, and dismiss the Appeal at Hindheath Road was based on the particular circumstances of that site and of the town of Sandbach. It cannot automatically be applied to planning applications in other towns, or used to support refusals of such applications.

With regard to the recently adopted Interim Planning Policy, little weight was given to this by both the Planning Inspectorate and the Secretary of State, although there was no debate about applications that would be submitted in its wake. Whilst the spatial objectives of prioritizing Crewe as a focal point for development is noted, it was concluded that there would be scope for development in the other towns of the Borough.

At paragraph 161 of his report, the Inspector states:

"whilst the spatial objectives of the development plan and other economic plans seek to prioritize Crewe, there is still scope for new development in a town such as Sandbach."

He goes on to state at paragraph 163 that:

"Furthermore, and notwithstanding the Councils desire to see Crewe as the focus for housing development, there is no dispute that Sandbach and Crewe are two separation housing markets. As such, new open market houses built in Sandbach are not likely to be in direct competition with those built in Crewe."

It is considered that these conclusions can equally be applied to Middlewich.

With regard to the weight to be attached to the Interim Planning Policy he concludes at paragraph 165 that:

"As the Core Strategy for Cheshire East is still at a very early stage of its preparation, having not been subject to any refinement through the consultation process and with no preferred option having been identified, the Core Strategy Issues and Options can only be given very limited weight at this stage. As for the IPP, Council officers recognized in reporting this document to their Strategic Planning Board that it can only carry limited weight and I see no reason to conclude otherwise. "

In his Decision Letter, the Secretary of State:

"Accepts the Inspectors conclusions that whilst the spatial objectives of the development plan and other economic plans seek to prioritise Crewe there is scope for new development in a town such as Sandbach and accepts that the appeal scheme in terms of size, is consistent with the spatial objectives of the development plan."

The issue of regeneration was also considered. The Regional Spatial Strategy places an emphasis on development using existing buildings and previously developed land within settlements with an indicative target set of 80%. The Council considered that if the appeal proposals were developed then only 59% of housing building in the 5-year period would be

on PDL. The Inspector considered that this would not cause material harm to the regeneration proposals. However, the SoS did not agree with that conclusion and stated that if that proposal was to go ahead, then it would make it extremely difficult for committed brownfield sites to be developed.

The Secretary of State also considered that the shortage of local employment, the distance between the site and the town centre and the limited options available for sustainable public transport weighed against the proposed development.

Recent Appeal Decision – Elworth Hall Farm, Sandbach

A further Appeal Decision has been received following a public inquiry into a decision to refuse a housing development at Elworth Hall Farm, on identical grounds. In this case the inspector concludes:

“The various LDF options for the spatial distribution of growth do not exclude housing away from Crewe – indeed in each case Crewe would take only about 37% of all growth. I appreciate that various other policy documents issued by the Council support the promotion of Crewe. However, to my mind the way in which the IPP exclusively focuses development in the town (with the exception of town centre scheme and regeneration areas) does not reflect the spatial vision in either the RSS or the emerging LDF. This means I can afford it only limited weight.”

The inspector also attached considerable weight to the fact that the site had been identified in the SHLAA as deliverable (i.e. ‘available’, ‘suitable’ and ‘achievable’). He considered that:

“The SHLAA had been prepared under a robust methodology and should be afforded significant weight. Based on the evidence before me, it appears to have been compiled in accordance with nationally recognised good practice and has been accepted by the Council presumably after proper consideration and with due regard to the direction of its policy. Consequently I have no basis to put aside its overall finding that this is a suitable site for housing.”

The application site at The Green is identified in the SHLAA as available, achievable deliverable and, subject to an appropriate policy change in respect of its designation as open countryside, it is considered to be suitable in all other respects.

Conclusion

The implication of these appeal decisions is that:

- Whilst weight can be afforded to the IPP in directing development towards Crewe, it has limited weight in preventing development elsewhere
- Little weight should be attached to the emerging Core Strategy, due it is early stage in preparation and - whilst there is an emphasis on development within Crewe and that in all the proposed options Crewe takes the largest share - there is scope for new development in other towns in the Borough.

- Significant weight should be attached to the SHLAA where it has identified sites as being deliverable for housing.
- The argument used by the Secretary of State to ultimately refuse the Hind Heath Road appeal, only applies in the particular circumstances of Sandbach and cannot be translated to a site in Middlewich.
- There appears to be a distinction between the way in which Inspectors and the Secretary of State have viewed small scale additions to the urban area which have limited impact and major urban extensions. Elworth Hall Farm, like the site currently under consideration at The Green is a small site almost surrounded by other houses and a logical 'rounding off' of the existing settlement. Hind Heath Road, by contrast was a much larger incursion of built development into the surrounding open countryside.

In the light of these decisions, it is now considered that a refusal of planning permission for this site on the housing land supply grounds previously quoted would no longer be sustainable.

Affordable Housing

The applicants point out that the lack of a deliverable five-year housing land supply also impacts on the supply of affordable housing.

The proposed development would provide 30% affordable housing in the form of 2 and 3 bedroom properties. The applicant states that the provision of 20 affordable homes should be viewed in the context that only 123 affordable properties were built across the entire former Borough of Congleton in 2008/09 and that the 20 units equates to approximately one-sixth of the entire total for this period.

It is acknowledged that the site will provide 30% affordable housing. However, it should be noted that this is the minimum policy requirement within Local Plan Policy H13 and is expected of all new developments, including those within the Settlement Boundary and on Brownfield sites where there is a presumption in favour of new development. It is acknowledged that viability arguments have been accepted in respect of some Brownfield sites, where the immediate regeneration of those sites has been seen to outweigh the need for affordable housing. However, it is not considered that by default this renders a scheme which provides the minimum amount of affordable housing in order to be Policy H13 compliant, so exceptional as to warrant a departure from the Local Plan in respect of development within the open countryside.

The Draft Interim Statement on Affordable Housing and the SPD on Affordable Housing require that:

'In addition to the requirement for affordable housing, the Council will look for a minimum of 25% of the total housing units on such sites to be unsubsidized low-cost market housing, although the nature of the site, economic considerations, the level of affordable housing provision, its location and nearby provision will be taken into consideration in determining the exact level of provision'.

The third reason for refusal of the previous scheme dealt with a lack of low cost open market housing which is defined as housing sold at or below the lower quartile price for the market.

In response to the third reason for refusal, the appellants have commissioned a consultant (arc4) to carry out a Housing Market Assessment for Middlewich. The report draws on the Council's own Strategic Housing Market Assessment (SHMA) as well as evidence gathered from Estate Agents and a review of house price trends and property transactions.

Whilst there is substantial and clear policy relating to low cost housing in the adopted Local Plan, SPD 6 'Housing and Mixed Communities', the Interim Affordable Housing Statement and PPS3, all these documents provide for the existing mix of housing in the locality to be taken into account in reaching a decision as to whether low cost housing is required in a particular development proposal.

The Cheshire East SHMA does not consider specifically the need for low cost housing. However, drawing on data underpinning the SHMA, the Appellant's report provides evidence that there is already a good supply of low cost housing in the Middlewich and consequently that there is good reason not to provide low cost housing on the appeal site.

These conclusions are based on the fact that Middlewich already has a considerable number of 'low-cost' market houses (i.e. at or below the lower quartile price) when compared with the demand for other open market accommodation. The analysis suggests that there are 33 more low cost market houses than the market demands on an annual basis and an additional new build supply is likely to weaken the existing market for low cost homes.

In light of these conclusions, and having taken advice from Counsel, Officers considered that the Council should no longer contend the view that low cost housing should be provided on the site. Accordingly, Members may recall, that a report was placed before Strategic Planning Board at its meeting on 27th July 2011 recommending that that the Strategic Planning Board resolve to withdraw the third reason for refusal in respect of low cost market housing. This resolution was subsequently passed by Board and therefore it is considered that this reason for refusal has already been resolved.

Amenity

The site is bounded to the south by open countryside. Existing residential development bounds the site on all other sides with residential properties fronting Eardswick Road to the north, Broxton Avenue to the east and Beeston Close and Bunbury Close to the south. The final design of the dwellings is a reserved matter but the siting is to be determined at this stage. The proposed layout demonstrates that the site can be developed, whilst maintaining the separation distances between existing and proposed dwellings is considered to be acceptable. It should also be noted that the site would be developed at density of 30 dwellings per hectare and it is considered that this density would allow the development to be brought forward without impacting upon residential amenity.

Concerns have been raised in relation of noise pollution, air pollution and light pollution caused by the development. The Environmental Health Department has been consulted and

raised no objection to the development on these grounds. As a result, it is not considered that these issues would warrant the refusal of this application.

Ecology

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

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is:

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection:

- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- a licensing system administered by Natural England.

Local Plan Policy NR2 (Statutory Sites) states that proposals for development that would result in the loss or damage of any site or habitat which supports protected species will not be permitted. Furthermore the developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop the site.

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

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species:

"Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to:

“Refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

Great Crested Newts

Great Crested Newts have been recorded breeding at a pond a short distance from the proposed development. A Great Crested Newt Mitigation Strategy has been submitted and this document assesses the impacts of the proposed development upon this protected species together with mitigation/compensation proposals.

The application site supports only limited terrestrial newt habitat. In the absence of mitigation the proposed development will have a relatively low impact upon Great Crested Newts through the loss of limited terrestrial habitat. The works however pose the risk of killing or injuring any animals present on site when the works are undertaken.

In order to compensate for the loss of great crested newt habitat, the applicant has proposed the management/enhancement of the landscape/ecological buffer on the western boundary of the site. In order to mitigate the risk of newts being killed / injured during the works, the applicant's ecologist has proposed the capture and exclusion of newts from the site using standard 'best practice' methodologies.

It is considered that the proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of Great Crested Newts.

Bats

A number of trees on site have been identified as having potential to support roosting bats and initially it was not clear whether these trees would be removed as part of the proposed development. If removal was proposed, a detailed bat survey should have been undertaken and, if any evidence of roosting bats was recorded mitigation/compensation proposals would have been required. However, an amended layout was submitted which would mean that the tree on the site which has the potential to support a bat roost would now be retained. As a result the Council's Ecologist is satisfied that the development can be achieved without having a detrimental impact upon bats.

Breeding Birds

The use of conditions in relation to the timing of the works and details of mitigation measures could be used to ensure that the development would not have a detrimental impact upon breeding birds.

Hedgerows

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. It appears likely that there will be some loss of hedgerow to facilitate the proposed access. If planning consent is granted, the remaining hedgerows should be enhanced by 'gapping up' as part of the landscaping scheme for the site.

Landscape

The site is approximately 2.25 Hectares and is located to the south-west of The Green in Middlewich. The site is set at a higher level than The Green and is relatively flat. At the time of the case officer's site visit, the site was in agricultural (arable) use. It is bounded by residential development to the north, south and east. To the west lies agricultural land and the site is bounded by trees and hedgerow.

The principle immediate views of the site are from the surrounding residential properties immediately adjacent to the boundaries; with the main public viewpoints being taken from The Green (glimpsed views are available from the residential areas to the north, south and east).

The site has no national protective landscape designation. Notwithstanding existing development to the north, south and east, it has an open character of managed agricultural land. The development proposed would inevitably alter the landscape character of the area although the harm this would cause could not be considered as a reason for refusal for the proposed development.

Trees

The submitted tree survey assesses the tree on and overhanging the site and gives the trees the following ratings:

- Four trees are considered to be Category A trees (high quality and value)
- Four trees are considered to be Category B trees (Moderate quality and value)
- Four trees are considered to be Category C trees (low quality and value)
- Three trees are identified for Removal

It may be possible to construct the development with adequate root and crown spread protection for most of the retained trees in accordance with BS 5837. The arboricultural implications statement indicates root protection areas would be breached for at least 3 specimens. (T1, plot 67, T4 plot 64, T6 plot 59). In addition, as proposed, the rear gardens of several plots to the south of the site would be shaded by mature trees on the southern boundary and several of the plots on the northern boundary would have tree canopy over a substantial proportion of the gardens (plots 13, 14, 20, 21, 22, 59, 63, 64 & 67). In several cases to the south of the site, trees are in poor condition, but are located off site so are outside the applicant's control (plots 9, 20, 21 and 22). It is also considered that as the tree belt to the west matures and increases in height, its influence on properties to the west of the site will increase. In such circumstances the future retention of trees could be compromised.

Although concerns have been raised in relation to trees, on balance, it is considered that the impact upon these trees would not warrant the refusal of this application.

Drainage and Flooding

As part of this application, United Utilities have raised no objection to the proposed development.

In terms of flooding, a Flood Risk Assessment has been provided by the applicants and this has been forwarded to the Environment Agency. The Environment Agency have assessed the FRA and raised no objection to the development subject to the imposition of planning conditions. It is therefore considered that the development would not raise any significant flooding/drainage implications that would warrant the refusal of this application.

Design

The surrounding development comprises a mixture of ages and architectural styles, ranging from single-storey properties to two-storey properties. Notwithstanding this, there is consistency in terms of materials with most walls being finished in simple red brick; some properties incorporate render and cladding. The predominant roof forms are gables although some are hipped and most are finished in grey concrete tiles.

Although external appearance and design are reserved matters, siting is to be determined at this stage and plans have been provided to show how the site would be laid out.

The main public views would be when viewing the site from both ways along The Green. The front of the site has been set back from the junction of the application site with two areas of public open space located to either side of the access. Nine dwellings would be sited to the front of the site and these would overlook the areas of public open space. It is considered that this entrance to the site would be appropriate and would provide an attractive open setting to the entrance of the site.

Internally the site would be arranged around 2 cul-de-sacs which would include turning heads at each end. It is considered that the internal layout appears over-engineered and would not comply with the guidance contained within Manual for Streets. This issue is also discussed within the highways section below and the issue has been raised with the applicant's agent. An update will be provided in relation to this issue.

Loss of Agricultural Land

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, there are national policy guidelines set out in Planning Policy Statement 7 (PPS7) which highlights that the use of such land should be taken into account when determining planning applications alongside other sustainability considerations, including biodiversity and the protection of natural resources. This guidance also advises local planning authorities that areas of poorer quality land should be used (grades 3b, 4 & 5) in preference to higher quality land.

In this instance Natural England have confirmed that the land is Grade 3 but have no information as to whether the land is Grade 3A or 3B. As a result it is not possible to reach a conclusion as to whether the development would result in the loss of the best and most versatile agricultural land. The case officer has requested that the applicant's agent provides an assessment of the quality of the agricultural land and an update will be provided.

Open space

As initially proposed the scheme included the provision of public open space to the front of the site which would be divided into two parcels of land by the proposed access into the site. The public open space provision would have had an area of 1264sq.m. There is a deficiency of existing provision of amenity greenspace accessible to the proposed development and therefore it was calculated that the area required on site arising from the development would be 2,450sq.m. The development did not provide this quantity of public open space and this deficiency formed a reason for refusal.

However, a revised layout plan has been submitted showing a reduction in the number of units to 64. This has allowed the area of amenity space to the south eastern side of the access road to be enlarged considerably and as a result the required amount of public open space has now been provided.

Notwithstanding the above, the location of the POS that has been proposed was previously considered to be unsatisfactory as it was adjacent to the main feeder and inlet road to the development. The Council's Supplementary Planning Guidance Note for provision of Public Open Space in New Residential Developments 5.2 states new provision should be:

'Preferably centrally located' and 'the open space should not adjoin a main road or estate distributor road, which is expected to carry a significant amount of traffic'.

As a result Amenity Greenspace has requested that:

'the location of the POS is re considered.'

Although the location of the open space to either side of the access road remains, the enlargement of the south eastern portion by over 100% has created a useable public open space of much greater quality and suitability for informal play. Furthermore, the location of open space to the front of the site would enhance the setting of the proposed dwellings and those which already exist fronting on to "The Green" which currently represents a particularly narrow and enclosed space around the bend in the road from which the site access would be taken.

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

To meet the needs of the development, an opportunity has been identified for the upgrading of an existing facility at Moss Drive, to increase its capacity. The existing facility is a Local

Equipped Area for Play (LEAP), located off Chadwick Road/ Moss Drive. This facility is within 800m of the entrance of the proposed development accessed via a footpath off Chadwick Road, close to the existing road called The Green.

The existing facilities at the identified site are substandard in quality and the applicant has agreed to provide a financial contribution for capital works for the upgrade of its play area in accordance with Council standards. The applicant has also confirmed that it is their intention to set up a management company to maintain the onsite open space and in this context they would not be required to make a contribution to the Council for the on-going maintenance of the on-site amenity green space.

Therefore, subject to compliance with the amended plans and the applicant entering into a Section 106 Agreement to secure the financial contribution and the establishment of the management company, it is considered that the refusal reason relating to Open Space has been satisfactorily overcome.

Highway Safety and Traffic Generation

The application is outline only with access to be determined at this stage and a Transport Statement has been produced in support of this application.

The proposed access to the site would be located on the southern side of The Green. As the access would be located on the outside bend of the road, visibility at the site entrance is good. This view is accepted by the Strategic Highways Manager who has not raised any objection to the proposed development in terms of the safety of the proposed access.

The submitted Transport Statement identifies that the proposed development would add between 47 vehicles per hour and 57 vehicles per hour to The Green at peak times. The supporting statement then goes on to state that this equates to around 1 vehicle per minute during peak hours on The Green which is considered to be insignificant. In terms of Chadwick Road, the statement states that the proposed development would equate to 1 vehicle every two minutes on average at peak times and that this would be insignificant. These results are accepted by the Strategic Highways Manager who was consulted on the previous application and raised no objection in terms of increased vehicular movements at the site.

The Strategic Highways Manager is currently examining the revised proposed internal layout of the site and an update on these matters will be provided as part of the Strategic Planning Board Meeting.

Infrastructure

Local residents have expressed concerns in respect of the impact of the development upon local infrastructure including schools, health and leisure facilities.

The Council's Education Department have been consulted as part of the previous application and have stated that the existing schools in the area should be able to accommodate the additional pupils from this development and therefore no Section 106 Developer contribution would be required.

Ground Conditions

A consultation response has been received from the Cheshire Brine Board this recommends which raises no objection to the proposed development.

9. CONCLUSIONS

It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing. Previously, the proposal was not considered to be “suitable” as it is located on the periphery of Middlewich and would be contrary to the Council’s agreed position to manage the supply of housing land as set out in the Council’s draft Interim Policy on the Release of Housing Land, which directs the majority of new development towards Crewe.

However the housing land supply situation is worse than previously thought and the implication of recent Appeal decisions is that little weight should be afforded to the IPP which directs development towards Crewe and there is scope for new development in other towns in the Borough. Significant weight should be attached to the SHLAA where it has identified sites as being deliverable for housing. The argument used by the Secretary of State to ultimately refuse the Hind Heath Road appeal, only applies in the particular circumstances of Sandbach and cannot be translated to a site in Middlewich. In the light of these decisions, it is now considered that a refusal of planning permission for this site on the housing land supply grounds previously quoted would no longer be sustainable.

Following the receipt of amended plans and the successful negotiation of a suitable Section 106 package, the proposed development would provide adequate public open space and the previous reason for refusal has been overcome. Furthermore, the applicant has provided additional information to demonstrate that there is no requirement to provide low cost market housing as part of the scheme in order to achieve a mixed and balanced community in the locality and Strategic Planning Board has previously resolved to withdraw this reason for refusal.

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

10. RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to Secure:

- **30% affordable housing (20no. 2 and 3 bed units), split on the basis of 65% social rent and 35% intermediate tenure as per the requirements of the interim planning statement.**
- **£21,152.67 for the upgrading of an existing children’s play facility at Moss Drive (not be ‘time limited’)**

- **Provision for a management company to maintain the on-site amenity space**

And the following conditions

- 1. Standard Outline**
- 2. Submission of reserved matters**
- 3. Amended plans**
- 4. Contaminated land investigation**
- 5. Submission and approval of external lighting**
- 6. Hours of construction**
- 7. Details of pile driving operations**
- 8. Submission of details of bin storage**
- 9. Scheme to manage the risk of flooding**
- 10. Scheme to limit surface water runoff**
- 11. Discharge of surface water to mimic that of the existing site**
- 12. Sustainable Urban Drainage System,**
- 13. Only foul drainage to be connected to sewer**
- 14. Provision of bat and bird nest boxes**
- 15. Retention of important trees**
- 16. Submission of Comprehensive tree protection measures**
- 17. Implementation of Tree protection**
- 18. Timing of the works and details of mitigation measures to ensure that the development would not have a detrimental impact upon breeding birds.**
- 19. Hedgerows to be enhanced by 'gapping up' as part of the landscaping scheme for the site.**
- 20. Development to proceed in accordance with proposed Great Crested Newt mitigation measures**

