

Application No: 11/4545C

Location: LAND OFF THE GREEN, MIDDLEWICH, CHESHIRE, CW10 0EB

Proposal: Residential Development Comprising 63 Dwellings (Including 30% Affordable Housing) and Associated Highways, Landscaping and Public Open Space

Applicant: Muller Property Group and Persimmon Home

Expiry Date: 22-Mar-2012

#### **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**

Full planning permission is sought for 63 homes together with associated public open space, access and highway works. There would be a mix of affordable and open market housing within the site, with affordable units making up 30% of the total development.

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.

## **3. 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 <sup>th</sup> February 2011   |
| 11/2833C | Outline planning permission is sought for up to 68 homes together with associated public open space, and highway works. – Approved 9 <sup>th</sup> January 2012 |

## **4. 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

## **5. OBSERVATIONS OF CONSULTEES**

### **Environment Agency**

In the absence of an acceptable Flood Risk Assessment (FRA) the Environment Agency OBJECT to the grant of planning permission and recommend refusal on this basis for the following reasons:

- The Flood Risk Assessment (FRA) from ARJ Associates (Ref 1854 FRA1 Rev A dated 6/10/2010) submitted with this application does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25). The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.
- In particular, the submitted FRA fails to:
  - *Calculate the Greenfield runoff rate and volume using the loH124 formula and as per CIRIA SUDS Manual. The rate and volumes given in section 4 have been estimated using Micro Drainage, but no details have been provided. Our calculations using the FEH CD Rom v3 give a Qbar value of 2 l/s/ha.*
  - *Section 4.8 states that "Scheme 3 has been agreed in principle with United Utilities...". However, the correspondence given in Appendix 2 from United Utilities clearly states that they do not accept surface water runoff into their network. Our soil maps indicate that the site is of clayey nature and as such soakaway is an unlikely option.*
- Therefore, the EA request that the drainage proposals is reviewed in more detail by investigating infiltration techniques first and foremost, then the use of ponds/swales and only consider an outfall into the adjacent watercourse as the last option.
- Cheshire East Council should note that, as the Lead Local Flood Authority (LLFA) under the Flood and Water Management Act 2010, is responsible for the management of surface water flooding. Therefore, the EA consider that full planning permission should only be granted to the proposed development once the surface

water management has been fully considered considering the existing flooding problems highlighted by United Utilities.

- The EA will be happy to comment further once the above points have been satisfactorily addressed.

### **United Utilities**

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

- The site is drained in complete accordance with the strategy submitted, which ultimately states that all surface water flows generated by the new development will discharge to soak-away or watercourse only.
- A separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current Water Supply (Water Fittings) Regulations 1999.
- The level of cover to the water mains and sewers must not be compromised either during or after construction.
- United Utilities encourages the use of water efficient designs and development wherever this is possible, e.g. installing the latest water efficient products, such as a 4.5l flush toilet instead of the 6l type; minimise run lengths of hot and cold water pipes from storage to tap/shower areas; utilising drought resistant varieties of trees, plants and grasses when landscaping; install water efficient appliances such as dishwashers, washing machines.

### **Cheshire Brine Board**

- The Board have responded to the previous similar application and has no reason to change it's view, that it makes no objection to this application.

### **Natural England**

- No comments received at the time of report preparation.

### **Amenity Greenspace**

- No comments received at the time of report preparation.

### **Strategic Highways Manager**

- No comments received at the time of report preparation.

### **Education**

- No comments received at the time of report preparation.

### **Environmental Health**

- No comments received at the time of report preparation.

## **6. VIEWS OF MIDDLEWICH TOWN COUNCIL**

The Town Council recommends refusal in keeping with its comments to the previous application of the site:

- 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.
- The Town Council would recommend that should the application be considered for approval the area of Amenity land labelled “area 2” be amended to show at least 50% of the area as Play area for the site.

## **7. OTHER REPRESENTATIONS**

Letters have been received from 6, 10, 14 and 20 Beeston Close; 33 Broxton Avenue; 24, 29, 30, and 41 The Green; 29, 39, 41 and 57A Eardswick Road, Middlewich making the following points:

### **Site History**

- A similar, unsuitable application was made and rejected in 2010 (10/4065C) and the appeal was sensibly withdrawn before it could be heard. This application has now been made for the same area of Green Belt and it carries with it the same concerns over the development of greenbelt, wildlife, infrastructure and practicality that resulted in the initial application being rejected.
- With the recent application and rejected appeal being followed so soon by this new and very similar application, there may be confusion in the local community regarding the formal position. It is suggested that further public engagement may be beneficial in gauging the true level of objection to this development and that the letters of objection to the previous application be reconsidered when this application is processed.
- The above objections have only been heightened by the application to build additional houses along Warmingham Lane.

### **Principle of Development**

- The proposal contravenes planning legislation as set out by the local Borough policies PS8 and H6
- The land proposed for development is currently designated as Green Belt. Any release of land of this nature for development should not be permitted unless there are significant overriding reasons. Not only are there significant brownfield sites nearby that are suitable for development but permitting Green Belt land to be used for housing

before the brownfield sites have been used would damage the ability to develop the brownfield sites in the future.

- There are plenty of Brown Belt sites e.g. RHM factory and sports field, which have better access to Middlewich
- There are already a number of other sites with approved plans on brownfield sites which will provide a significant number of new homes to a town that is already over-subscribed with no real potential of improving the existing networks due to the layout of the town.
- Since the initial application, additional brownfield sites have become available in Middlewich and the surrounding areas which present significant opportunities for development. These would not involve the use of green belt land and would have a significantly reduced impact on wildlife. Have the Council ensured that use of these sites has been fully explored before this green belt site is considered?
- Should this proposal go ahead it only serves to demonstrate that the plan for Middlewich is to turn it into a glorified and supersized housing estate.
- Brownfield sites are available for redevelopment in the surrounding area of Sandbach Holmes Chapel and Crewe.
- Plans have been approved for 300+ houses on the site of the Hays Chemical Works so why do we need another 63 dwellings and there has been no change since the last application and no public consultation by the developers.

### **Availability of Empty Properties**

- Considering the number of houses empty in Middlewich which are not selling and the great number of houses due to be built further down Warmingham Lane, there is no need for further housing, especially on this beautiful small site full of very old trees, and wildlife.
- Middlewich is not short of housing, affordable or otherwise; there are at least 300 affordable properties available in the immediate vicinity of Middlewich that are currently un-sold (source: Globtrix.com 29th October 2010). Furthermore, planning permission has been sought for a significant number of houses off Warmingham Lane, only a few hundred yards from the site of this application.
- There are enough unsold properties in the town without the need to build on a Greenfield site.

### **Infrastructure**

- There is concern about the ability of Middlewich facilities and infrastructure to deal with any increase of population.
- If this proposal went ahead could the doctors and dentists cope with the extra volumes on the basis that a proposal for a new medical centre was rejected and schools are already overstretched?
- The area of the current proposed development and the surrounding area already experiences significant traffic levels, particularly at peak times. The access roads to the proposed site are on routes to both primary schools and high schools and an additional volume of cars coming in and out would, in my opinion, make the area far more dangerous for pedestrians, especially young children.

- There are not enough social amenities and other facilities to cater for the existing population of the town.

## **Neighbour Amenity**

- When the plan was in its original form Muller Homes were turned down. Then when they applied again with a slightly different plan, residents objected yet again, but this time they were allowed.
- Although the plan this time is slightly different again, these houses are a nightmare to neighbours. Residents bought their houses in a quiet location overlooking the peaceful field so they would not be overlooked. They were advised that it was a Greenfield site and not Brownfield and therefore would not be built on. This is why they bought their houses.
- Many residents are retired and bought the houses and bungalows so they would be in a peaceful place.
- Homes will be devalued so even if residents tried to sell, whilst the building is being done they would not stand a chance. They could not legitimately say that they had an open aspect at the rear of our homes anymore.
- The noise will be terrible whilst building, both with loud radios from the builders which always happens and the excavation and building roads and houses.
- Residents will be totally overlooked by three bedroomed houses.
- The plan is not correct, as the shown tree at the bottom of the garden of 10 Beeston Close is only a trunk, which means the proposed houses that will be positioned at the dividing fence line, will be able to see into the bedrooms at that property. This will affect their privacy, as they purchased the Bungalow only 18 months ago because of the outlook and privacy.
- No detail has been given as to how the land being developed will be delineated. At the moment the rear fence at 14 Beeston Close has been erected short of the actual area of the boundary (marked by a wire fence). This was done to enable it to be erected without affecting the existing May Tree. The occupiers wish to preserve the actual boundaries so that their land will not be encroached upon.
- There is a walkway to the rear of 57A Eardswick Road for the sole use of 57A Eardswick Road and the neighbour at no. 57, which is accessed via 57A Eardswick Road. The occupier would like to request that a condition is placed on the application to disallow gates or other methods of access are not placed in the boundary fences of the new properties as he has no desire for a public thoroughfare through his property.
- The proposed properties would be higher than those on the adjacent Beeston Close and Broxton Avenue and are proposed to be built only 60 feet way. This would have a detrimental effect on the amount of light reaching these properties, resulting in increased noise and light pollution. The height and close distance of these new properties would result in a significant loss of privacy for occupiers of the houses adjacent to the proposed development.
- People who have invested their money in a decent quiet place to live are no longer considered it seems. Residents hope and pray sense prevails and the Council does not give permission. People matter not just money and more and more buildings in Middlewich. The site on Warmingham Lane is a far more viable prospect for a housing estate.

## Site Access

- The access for the proposed site is flawed.
- Over 150 people would be using it day and night.
- There is only one access point
- The Green is a service road developed for the houses on The Green that were built in the 1950's
- The current width of the road does not allow a van to pass an average size family car. Emergency vehicles, refuse trucks, etc would not be able to access the proposed site if a vehicle or a skip was positioned on The Green.
- The Green is too narrow a road and there is no real potential there either to accommodate larger vehicles such as fire appliances, refuse collection vehicles etc.
- The proposal to widen the road and to also make a 2m pavement is also flawed. this is because
  - The verge that would have to be redeveloped to the north east of the site (exiting left from the site) is currently hedgerow and mature oak which also forms the border of existing neighbouring properties. This hedgerow forms a natural screen which would become an intrusive walkway to these properties. The road and the pavement cannot be widened...there is nowhere to go. This was not considered during the original Muller application.
  - The verge that would have to be redeveloped to the north east of the site (exiting right from the site) is not owned by the Council, highways or indeed the current landowner of the proposal.
  - It is also questionable who owns the existing verge at the entrance to the proposed site. The fence which marks the boundary leaves and 2m verge of grass. This fence has been in place since the 1950's. The residents of The Green have serviced this piece of land since the late 1950's.
  - Currently, a van would not be able to pass an average size saloon car on The Green  
Therefore, even with the proposed widening a fire engine (2.55m width) would not be able to pass a skip or parked car (1.7m) to access the site. This combined is a grand total of..6.2m. If the pavement is widened to 2m then it has to reduce the road by 0.3m (existing pavement is 1.7m). The current road is 4.8m wide. There is nowhere to get the extra width from.
  - Finally, the proposed entrance is elevated from The Green up in to the proposed site. The natural surface water runoff would either cause problems to the property facing on the green or pool up due to inadequate existing drainage on The Green.
- Warmingham Lane and the surrounding roads such as Chadwick Road and Long Lane are already suffering from heavy traffic use. There is a safety issue to the local children who attend at the primary school and the roads are used as a rat run to avoid traffic on Booth Lane onto Lewin Street to get into Middlewich itself.
- The roads in the town centre are overloaded.
- The proposed entrance to the estate would not be suitable as the road is too narrow and would also be disruptive and a danger to the elderly residents living there.



## **Trees**

- At least 10 large oak trees border the proposed site and the root infrastructure of these trees would be compromised by the foundations of the new build properties.
- Next to 39, Eardswick Road, in the development field there are two large mature oak trees. From the plans the trees will be affected by the development. The trees are not safe in their current state & with the development this will make the trees more unsafe. With their overhang of branches they are unsafe to the new development & 39, Eardswick Road.

## **Drainage**

- As this land is prone to be waterlogged, residents are concerned that this will affect adjoining properties to the site.
- The Environment Agency has correctly objected to this proposal due to the inadequate Flood Risk Assessment...something that has been allowed to slip under the Planning Board's radar yet again.
- Local residents have raised this important issue over the last applications by Muller for this proposed site.
- Residents know the ground is impermeable; the gardens (to the East of the site) suffer excess water runoff from the site after periods of rain.
- The ground is clay heavy.
- The drainage system for surface water and foul on the green is inadequate,
- Muller assured residents that the plan was to sink water storage tanks under the proposed sites road system which would drain all surface in to the nearby River Wheelock. This should be stated in the application.

## **Wildlife**

- The field and hedges are habitats for wildlife and would be impaired.
- Furthermore, foxes and badgers also evident at proposed site together with bats and wild birds; species that are rare, declining and/ or protected by law.

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

- Tree Protection Method Statement
- Flood Risk Assessment
- Phase 1 Contaminated Land Report
- Arboricultural Impact Assessment
- Phase 1 Habitat and Protected Species Report
- Design and Access Statement
- Highways Technical Note
- Foul and Surface Water Drainage Statement
- Planning Statement
- Great Crested Newt Mitigation Strategy
- Great Crested Newt Survey

## **9. OFFICER APPRAISAL**

### **Main Issues**

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, or for other uses appropriate to a rural area will be permitted.

However, Members may recall that at its meeting on 28<sup>th</sup> September 2011, Strategic Planning Board approved an outline application for up to 68 homes together with associated public open space, and highway works. Whilst it was acknowledged that the proposal would be contrary to Policy NE.2 of the adopted Congleton Borough Local Plan First Review which seeks to restrict new residential development in the Open Countryside, the Council did not have a 5 year housing land supply and, in accordance with the advice given in PPS3 it must consider favourably suitable applications for housing. The application was considered to be “suitable” and accordingly, under the provisions of PPS3, the application was approved.

This proposal, is a full planning application for 63 dwellings. Although a slightly smaller number of dwellings is now proposed, the site boundaries remain the same. The granting of the previous planning permission established the acceptability in principle of residential development on this site and given that the previous permission can still be implemented, this application does not present an opportunity to re-examine those issues. The main issues in the consideration of this application are the acceptability of the revised scheme in terms of affordable housing, amenity, ecology, landscape and tree matters, drainage and flooding, infrastructure, highway safety and traffic generation.

### **Affordable Housing**

The application is for 63 units in Middlewich where there is a requirement for 30% affordable housing on the site. 19 units of affordable housing are being offered and therefore this meets the required percentage.

The SHMA 2010 shows that for Middlewich there is a requirement for 280 new affordable units between 2009/10 – 2013/14, which equates to a net requirement of 56 new affordable units per year, made up of 13 x 1bed, 8 x 2bed, 30 x 3bed and 6 x 1/2 bed older persons units. Furthermore, Cheshire Homechoice, which is used as the choice based lettings method of allocating affordable rented accommodation across Cheshire East, indicates that there are currently 242 applicants who require housing in Middlewich. These applicants require 50 x 1beds, 95 x 2 bed, 61 x 3bed and 11 x 4 bed units. 25 applicants did not specify the number of bedrooms they required.

The tenure mix of the affordable units being offered by the applicant is 12 affordable rent and 7 intermediate tenure. This meets the requirements of the Affordable Housing Interim Planning Statement which makes provision for a tenure mix of 65% social rent and 35% intermediate tenure.

The overall mix breaks down as follows: 4 x 2 bed and 8 x 3 bed for affordable rent and 7 x 3 bed for intermediate tenure. This is acceptable as it meets relevant housing need for the area as set out in the SHMA 2010, which shows overall highest need for 3 beds in Middlewich, although the evidence from Cheshire Homechoice applicants shows the highest need for rented accommodation in Middlewich is currently for 2 bed units.

With the exception of the 2 bed units it is not clear on the site plan where it is proposed the affordable units are located. The Affordable Housing Interim Planning Statement (IPS) requires that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration. This can be secured through the Section 106 Agreement.

The Affordable Housing IPS also requires that normally the affordable housing should be provided no later than occupation of 50% of the open market units. The outline decision included a condition that all the affordable units would be available by the time of occupation of the 30<sup>th</sup> open market unit. This is considered to be acceptable by the Councils Housing Section and will be replicated to any permission granted for this scheme.

The Affordable Housing IPS states that “in all cases where a Registered Social Landlord is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996.” It is therefore the Housing Section’s preferred option that the developer undertakes to provide the affordable rented units through a Registered Provider who are registered with the Tenant Services Authority to provide social housing. This can also be secured through the Section 106 Agreement.

## **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 Council’s Supplementary Planning Guidance (SPG) recommends that minimum distances of 21.3m be maintained between principal elevations and 13.7m between a principal elevation and a flank elevation. With regard to the relationship between the proposed dwellings and the existing properties in those roads listed above, the recommended minimum distances will be achieved with the following three exceptions. The rear elevation of proposed plot 9 to will be 17m from the rear elevation of 16 Beeston Close. The separation distance between the rear elevation of proposed plot 1 and the rear of 31 Broxton Avenue, as well as the distance between the dwelling on plot 64 and the rear of 23 Eardswick Road will also be approximately 17m. However, in all of these, the measurements are taken at the closest point and the separation distances increase to approximately 21m, when measured at the furthest point. Furthermore, the elevations in question do not face each other directly, which further limits the potential for loss of privacy and light.

To turn to the levels of residential amenity to be provided within the development, the recommended minimum distances of 21.3m and 13.7m will be achieved in all cases with the exception of the separation distance between the gable of Plot 28 and the rear elevation of plots 43 and 44, which will be reduced to approximately 10m. However, given that the gable

of Plot 28, will obscure only part of the rear elevation of both the other two dwellings, it is not considered that the standard of amenity afforded to the proposed properties would be compromised to such an extent as to warrant a refusal on amenity grounds.

The Councils SPG advocates the provision of 65sq.m of private amenity space for all new family dwellings. All of the proposed plots will include significantly more than 65sq.m, with the smallest garden area being approximately 84sq.m.

With regard to noise pollution, air pollution and light pollution caused by the development, although no response has been received from the Environmental Health Department, they were consulted on the previous application 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 of Habitats and Species Regulations 2010 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

A small population of Great Crested Newts was recorded breeding at a pond a short distance from the proposed development. The application site supports only limited terrestrial newt habitat.

In the absence of mitigation the proposed development will have a relatively low impact on Great Crested Newts through the loss of terrestrial habitat; the works do 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.

The Council's Ecologist has examined the proposals and commented that if planning consent is granted the proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of Great Crested Newts.

If planning consent is granted the proposed mitigation must be secured by means of a condition or Section 106 Agreement as appropriate.

### Bats

The tree survey indicates that a number of trees on the southern boundary should be pruned/removed as they present a health and safety risk. The Ecologist has stated that if it is necessary to remove or significantly prune any mature trees then they must be subject to a bat survey. If such a survey is undertaken, it should be submitted to the Local Planning

Authority along with any mitigation required prior to the granting of any planning permission. The applicant's agent has stated that all mature trees will be retained on site and this appears to be confirmed by the submitted plans. The trees on the southern boundary identified on the tree survey as being in poor health are outside the site boundary and in third party ownership. Consequently, the developers have no intention to remove them, as they fall outside their control.

### 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. It is immediately adjacent to the settlement boundary of Middlewich. The site is set at a higher level than The Green and is relatively flat and is currently in agricultural 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 principal 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.

There are a number of mature hedgerow trees located along the north, east and southern boundaries, as well as a strip of more recent planting along the western boundary of the site. These form the only features of any landscape significance within the application area. They are important in terms of the visual amenity of the area, as well as linking the landscape character to the wider agricultural landscape beyond the settlement boundary.

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, particularly given that, through granting the previous approval, the Council has accepted the loss of this area of open countryside to residential development. The Council's Landscape Officer is of the opinion that the proposals would not

have a significant landscape or visual impact and therefore offers no objections to this application.

## **Trees**

The submission includes an arboricultural impact assessment dated 29 July 2011 which makes reference to a layout plan 835-110 rev E. This plan relates to a different layout (associated with the previous application on the site) and the findings do not therefore reflect the implications of the current proposals. The tree crown spreads from the tree survey are not accurately reflected on the site layout and are therefore misleading. The tree survey needs to be updated to reflect the proposed layout and a layout plan (minimum 1:500 Scale) should be provided with true tree crown spreads and root protection areas identified. It appears that the layout could have a more detrimental impact on trees than that approved under 11/2833C. The trees located on the southern boundary of the site are likely to create extensive areas of shade over a number of the proposed properties. Whilst it may be possible to develop the site without compromising these trees, the long term viability is questionable. However, only with updated information will it be possible to fully evaluate the impact of the current proposal on trees. These issues have been brought to the attention of the developer, and amended plans / additional information were expected at the time of report preparation. A further update on this matter will be provided for Members prior to their meeting.

A proposed landscape plan and a method statement for the protection of trees have been submitted. However, the issues identified above, could have implications for these documents. Notwithstanding the above points, the Council's Landscape Officer has commented that the landscape proposals indicated on plan 414601A appear to be reasonable in principle. However, in view of the possibility of an amended layout being required to address tree issues, the proposals may also need to be amended.

## **Drainage and Flooding**

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

In terms of flooding, the Environment Agency has objected to the application because a Flood Risk Assessment has not been provided by the applicants. However, an FRA was undertaken in respect of the previous application and this has been brought to the attention of Environment Agency and revised comments were awaited at the time of report preparation. Previously, the Environment Agency, having assessed the FRA, 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**

With regard to the layout of the site, 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. Six 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. The properties are orientated in such a way that active frontage is provided to either side of both new roads and a sense of enclosure and overlooking is provided to both of the turning heads. This is similar in character to much of the surrounding development, particularly the more modern housing estate to the south. The density and spacing between the dwellings is also similar to that of the adjoining development.

To turn to elevational detail, 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.

The proposed dwellings are 2 stories in height which reflects the more recent developments in the surrounding area. The properties are traditional gabled and pitched roofed dwellings which incorporate many features such as canopy porches and window head details that add visual interest to the elevations and are similar to other properties in the vicinity. Similar designs have been employed on the neighbouring developments at and it is considered that the proposed dwellings would be appropriate for the site and in keeping with the character of the surroundings.

### **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. However, given that the principle of developing this site for residential use has already been established through the granting of the previous permission, which could still be implemented, notwithstanding the actual grading of the land, it is not considered that this could be introduced as a reason for refusal at this stage.

### **Open space**

The size, shape and location of the proposed on-site open space provision are identical to that shown on the previously approved scheme. This was previously, considered to be adequate to serve a development of 68 homes and it therefore follows that it will also be sufficient to cater for 63 new dwellings, in terms of provision of general amenity greenspace.



With regard to Children and Young Persons Provision, following an assessment of the existing provision accessible to the proposed development, carried out as part of the previous application, if permission 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 was 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 consequently the applicant agreed to provide a financial contribution for capital works for the upgrade of its play area in accordance with Council standards. It is recommended that the same requirement should be placed upon any revised permission, and this would be secured through the Section 106 Agreement.

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 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 revised proposal is acceptable in Open Space terms.

## **Highway Safety and Traffic Generation**

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. The comments of the Strategic Highways Manager were awaited at the time of report preparation. However a similar access arrangement was proposed as part of the previously approved scheme and the Strategic Highways Manager did not raised any objection to the proposed development in terms of the safety of the proposed access.

The Transport Statement submitted in support of the previous application identified that the proposed development would add between 47 vehicles per hour and 57 vehicles per hour to The Green at peak times. The statement went on to state that this equates to around 1 vehicle per minute during peak hours on The Green which was 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 also be insignificant.

These results were 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. Given that the current proposal is for a smaller number of units on the site, it considered that the highway impact will be less than that of the approved scheme. Therefore, it is not considered that a reason for refusal based on traffic generation could be reasonably introduced at this stage.

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**

The Councils 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**

The previous outline planning permission granted in January 2012, established the acceptability in principle of residential development on this site and given that the previous permission can still be implemented, this application does not present an opportunity to re-examine those issues.

The application makes provision for an adequate level of affordable housing and public open space, which can be secured through an appropriate Section 106 Agreement. The proposal is considered to be acceptable in terms of its impact upon residential amenity, and ecology. Although formal comments were awaited from the Environment Agency it is considered that the development will not have any adverse impact on drainage / flood risk. The proposal will not have any greater impact in terms of access arrangements / traffic generation on the surrounding roads than the approved scheme, and subject to no objection being raised by the Strategic Highways Manager, is considered to be acceptable in terms of the safety of the internal highway layout. It therefore complies with the relevant local plan policy requirements in these respects.

Whilst it is not considered that there would be any additional impact on the wider landscape than the approved scheme, at a detailed level, the tree survey needs to be updated to reflect the proposed layout and a layout plan (minimum 1:500 Scale) should be provided with true tree crown spreads and root protection areas identified. It appears the layout could have a more detrimental impact on trees than that approved under 11/2833C. Only with updated information will it be possible to fully evaluate the impact of the current proposal on trees.

Accordingly is recommended for approval, subject to the tree issue being resolved, and relevant conditions and legal agreement.

## **10. RECOMMENDATION**

**APPROVE subject to:**

- **The receipt of updated information to fully evaluate the impact of the current proposal on trees, no adverse impact being identified and no objection being received from the Landscape Officer on tree grounds**
- **No objection from the Strategic Highways Manager**

- **No objection from the Environment Agency**
- **A Section 106 Legal Agreement to Secure:**
  - **19 affordable units split on the basis of 12 affordable rent and 7 intermediate tenure (comprising 4 x 2 bed and 8 x 3 bed for affordable rent and 7 x 3 bed for intermediate tenure) to be made affordable in perpetuity, units to be tenure blind and pepper potted. All units to be provided by occupation of 30<sup>th</sup> open market unit; Affordable rent to be provided through an RSL**
  - **£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**
- 2. Plans**
- 3. First Floor window in east gable of Plot 3 to be obscured glazed**
- 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. Site to be drained in accordance with submitted statement. All surface water to go to soakaway / watercourse. 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**
- 21. Implementation of Landscaping Scheme**
- 22. Submission / approval and implementation of materials**
- 23. Submission / approval and implementation of access construction details**
- 24. Provision of car parking**
- 25. Submission / approval and implementation of revised scheme of Boundary treatment**

