

Application No: 11/2394C

Location: PACES GARAGE AND FAIRFIELDS, NEWCASTLE ROAD, ARCLID, CW11 2UE

Proposal: REDEVELOPMENT OF INDUSTRIAL/COMMERCIAL PREMISES AND TWO DETACHED GARAGES AND ERECTION OF 18 DWELLINGS (13 MARKET/5 AFFORDABLE), PROVISION OF PUBLIC OPEN SPACE AND FORMATION OF REPLACEMENT ACCESS FOR THE DWELLING FAIRFIELD.

Applicant: ROWLAND HOMES LTD AND MESSRS PACE

Expiry Date: 03-Oct-2011

SUMMARY RECOMMENDATION

Approve subject to Section 106 agreement and conditions

MAIN ISSUES

**Principle of Development
Employment Site
Impact on Arclid Quarry
Jodrell Bank
Residential Amenity
Ecology
Design and Layout
Trees and Landscape.
Access and Highway Safety.
Open Space
Affordable Housing
Drainage and Flooding
Contaminated Land
Noise and Vibration
Public Right of Way
Other Matters**

REFERRAL

Members may recall that this application was placed before the meeting of the Southern Planning Committee on 16th November 2011, at which it was resolved that the application should be APPROVED subject to: the prior signing of a Section 106 agreement to secure:

- Affordable Housing comprising 3 social rented units and 2 intermediate tenure units.
- Social rented units to be provide through an RSL
- Financial contribution of £10,000 towards speed limit reduction from 50mph to 40mph around Arclid traffic lights.
- A management company to maintain the green space on the site.
- A LEAP play area on the site.

and appropriate conditions

The section 106 agreement for this application is still to be completed, and therefore the decision has not been issued. However, during the intervening period, concerns have been raised by Tindskill's Solicitors, acting on behalf of 3 objectors to the application, namely, Mr Ron Ford, Ms Sheila Hollinshead and Ms Hazel Jackson, raising concerns with regard to the report to committee and in particular its handling of the then development plan issues surrounding the proximity to Arclid Sand Quarry.

Furthermore, since the resolution to approve the application, the National Planning Policy Framework has replaced the previous suite of PPG's and PPS's upon which Members based their resolution.

Having taken legal advice on the matter, officers are of the view that Members should be given the opportunity to reconsider their decision in the light of these additional representations and policy context and therefore a complete and updated report on the application is presented below.

1. SITE DESCRIPTION

The total site occupies an area of 0.845 Ha and is located in Arclid, Cheshire. The site sits between Newcastle Road to the East, Congleton Road to the North and the M6 to the West. Newcastle Road joins the A534, which provides direct access to the M6. The site frontage abuts Newcastle Road to the East. On the opposite side of the road lies a relatively new residential development called Villa Farm. To the West lies open countryside. To the South stands a new residential dwelling, and to the North is a small row of existing residential dwellings and Sharrock FR Ltd, an agricultural plant retailer. The site presently accommodates a crane hire and transport depot business, with a diesel fuel station and garage workshop. A car valeting and snack bar business also occupy the site.

2. DETAILS OF PROPOSAL

This application seeks approval for 13 detached, 2 semi detached and 3 mews dwellings. A replacement access will be formed into the site from Newcastle Road, with 2.4 x 120m visibility splays. The development comprises a row of terraced and semi-detached dwellings facing towards Newcastle Road at the northern end of the site frontage, and an area of

public open space at the south end of the frontage. The reminder of the dwellings are arranged around this central open space.

3. RELEVANT PLANNING HISTORY

| | | |
|---------|------|------------------------------------|
| 1114/6 | 1975 | Car repair Workshop - Refused |
| 22554/3 | 1990 | Conversion into Flats – Withdrawn |
| 22956/3 | 1991 | Change of use to office - Approved |
| 34977/3 | 2004 | Erection of 25 dwellings – Refused |

4. PLANNING POLICIES

National Policy

National Planning Policy Framework
Technical Guidance to the National Planning Policy Framework

Regional Spatial Strategy

DP1 – Spatial Principles
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
MCR4 – South Cheshire

Local Plan Policy

PS8 Open Countryside
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
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
E10 Re-use and redevelopment of existing employment sites

Minerals Local Plan

Policy 7 – Mineral Consultation Areas

Policy 54 – Future Silica Sand Extraction

Other Material Considerations

Cheshire East Interim Housing Policy

Cheshire East Interim Affordable Housing Policy

4. OBSERVATIONS OF CONSULTEES

United Utilities

No objection to the proposal subject to the following comments.

- A separate metered supply to each unit will be required at the applicant's expense
- United Utilities encourages the use of water efficient designs

Highways

- Pre-application negotiations have secured a viable internal layout for this site and a junction design with the A50 which is of an acceptable standard to the Strategic Highways Manager.
- The internal layout offers a low traffic speed design with a legible adoptable boundary.
- In traffic generation terms, when the existing generation is deducted from the proposed, the impact on the highway network will be negligible.
- The Strategic Highways Manager recommends that the following conditions and informatives are attached to any permission which may be granted for this development proposal.
- Condition:- Prior to the commencement of development the developer will provide a suite of detailed design and construction specification plans for the internal highway infrastructure and the proposed access junction, to the satisfaction of the LPA.
- Condition:- Prior to first occupation the developer will complete the proposed junction and the frontage footpaths as indicated on Rowland Dwg No. R056/1 to the satisfaction of the LPA. This will form part of the offsite highway works.
- Informative:- The developer will enter into and sign a Section 278 Agreement under the Highways Act 1980 with regard to the offsite highway works.
- Informative:- The developer will enter into and sign a Section 38 Agreement under the Highways Act 1980 with regards to the adoption of the internal highway infrastructure.

Environment Agency

- The EA are now satisfied that foul drainage could be conditioned.
- The proposed development will only be acceptable if the following measures are implemented and secured by way of a planning condition on any planning permission.
 - a scheme to dispose of foul drainage,

- If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been approved.
- The proposed development site is not considered to be located in a sensitive location with regards to controlled waters.
- The ground investigation report has identified some elevated TPH levels within soil samples, particularly in WS2, WS3, WS5B and WS6, which appears to be mainly due to heavier end TPH fractions. In addition, the investigation did not identify any significantly elevated contaminant concentrations in groundwater samples
- The package treatment plant associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies.
- Infiltration drainage should not be used on land which is known to be contaminated as this may lead to the mobilisation of pollutants.
- Approved Document Part H of the Building Regulations 2000 establishes a hierarchy for surface water disposal, which encourages a SUDS approach. Under Approved Document Part H the first option for surface water disposal should be the use of SUDS, which encourage infiltration such as soakaways or infiltration trenches. In all cases, it must be established that these options are feasible, can be adopted and properly maintained and would not lead to any other environmental problems.

Environmental Health

- Considering the scale of the proposed development the Environmental Health Division will be contacting the developer with regard to the potential for noise and dust nuisance.
- This section recommends that the following conditions are attached to any planning permission granted:
 - Details of the method, timing and duration of any pile driving operations to be submitted and approved.
 - Mitigation measures to minimise any impact on air quality and ensure dust related complaints are kept to a minimum.
 - 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, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
- The application area has a history of garage and smithy use and therefore the land may be contaminated.
- This site is currently a garage therefore there is the potential for contamination of the site and the wider environment to have occurred.
- 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 ground investigation report submitted with the application recommends further intrusive investigation in order to investigate pollutant linkages further.
- As such, and in accordance with the NPPF, this section recommends the following conditions,

- The underground tanks and associated infrastructure should be removed by a specialist contractor and any voids left unfilled to ease visual inspection for contamination, but made safe and covered
- A supplementary Phase II investigation strategy shall be designed, and approved in writing by, the Local Planning Authority (LPA).
- A supplementary Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the LPA
- If the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted to, and approved in writing by, the LPA.
- If remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, to be submitted to, the LPA
- The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the Town and Country Planning Act 1990 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

Greenspaces Officer

No comments received at the time of report preparation

Jodrell Bank

No objection subject to incorporation of electromagnetic screening measures.

Public Rights of Way Unit

- The development affects Public Footpath Arclid No. 2, as recorded on the Definitive Map of Public Rights of Way.
- Arclid FP2 is obstructed by a large building and has been unavailable for several decades. The rights of way unit are currently in contact with the landowners agent to discuss a suitable diversion proposal for the footpath.
- If the development will permanently affect the right of way, then the developer must apply for a diversion of the route under the TCPA 90 as part of the planning application.
- If the development will temporarily affect the right of way then the developer must apply for a temporary closure of the route (preferably providing a suitable alternative route). The PROW Unit will take such action as may be necessary, including direct enforcement action and prosecution, to ensure that members of the public are not inconvenienced in their use of the way both during and after development work has taken place.
- No objection subject to various informatives being attached to the decision notice.

5. VIEWS OF THE PARISH / TOWN COUNCIL

The Parish Council have considered the above application and in general are in favour of the development on this site. However, there are some genuine concerns that they have in relation to this application and all relevant to it.

1. The Building Line

The existing building line with Fairfields, The Bungalow, Wayside and No.1 Newcastle Road is not being maintained.

- a. Plots 14 to 18 open directly on to the A50. This will not encourage pedestrians to enter or egress from within the boundary of the site and may even encourage them or their visitors to park on the road (A50). Everything that can be done during the development must encourage no parking on the A50
- b. Children will be out of their front door within feet from the busy A50
- c. Plot 1 is again very close to the roadside. Some years ago there was a major fatal accident on this part of Newcastle Road and should a similar accident occur this and plots 14 -18 would be in danger from a similar incident.

The building line at the rear of the development will be further back than existing properties. Does this affect the planned developments of the local silica sand quarry?

2. Road – footpath access to the site

- a. On the east side of the A50 at Villa Farm the footpath extends half way to the crossroads and should be extended to the whole length of the A50 to the crossroads. This would improve the safety of the A50 and increase pedestrian movement to the bus stop and garage.
- b. The A50 as well as being a very fast and busy road, is also the preferred diversionary route when the M6 is closed. It would be good if there could be some road improvements gained for the parishioners as a result of this development

3. Accessibility to the site

There must be clear accessibility to the site by delivery vehicles, refuse collector and the school bus. It will be necessary for the school bus to pick up and drop off pupils from both the Villa Farm and proposed Paces Garage sites. The A50 is not suitable for children crossing. The sewage treatment tank is also on the far side of the site. This will also have to be accessible for emptying.

4. Waste Disposal

According to the plans the waste off the site will be treated by a treatment plant and then two soakaway units for the foul water. Villa Farm has a similar treatment system that is still not adopted because it is not efficient. We should learn our lesson from this and ensure that the installation is efficient. The proposal also suggests that emergency overflow will be linked to the existing drainage system to discharge into Arclid Brook – implying that an emergency situation with the treatment plant will pollute the watercourse. The Parish Council do not believe that this is acceptable. Emergencies must be catered for within the site – if necessary by sufficient further soakaways. Whilst taking into consideration this point, the Parish Council would like to refer to the Silica Sand present and still on the area mineral plan next to the site. As a national resource they would not like to this that contaminated by effluent from this site.

5. Pathway number 2

There are two conflicting ideas for this pathway at the moment. The first is the proposed new pathway as in the plans for the site but also the Public Rights of Way Team based at Crewe have issued a notice of a diversion order not in line with these at all. A possible solution would be to reinstate it to where it was originally thus not requiring a diversion but aligning plot boundaries etc. around the footpath. A further possibility is to consider a diversion affecting the whole footpath such that it could become a scenic pathway through the development and around the field behind rather than straight across the development and field.

6. The level of the site

The level of the development site must be monitored and maintained. There are lessons to be learnt from John Ford Way which was built up significantly higher than it should have been which has resulted in the new properties being higher than they should have been (in relation to existing properties) and has also resulted increased flooding of existing gardens.

7. Traffic Lights A50/A534

There is a lot of pressure on these traffic lights as already discussed with highway engineers. There is a requirement for existing residents to cross the A50 and A534 at the lights to access the garage shop. The bus stop and the post box are at the other end of the village by Villa Farm. Anything to make it easier for residents to move about within the village would be a big bonus from this development for them. The suggested installation of a pathway from Villa Farm to the crossroads would make a considerable difference for them and definitely make the village safer. This would be a planning gain for them.

8. The Green Communal Area

The plan is to install Cheshire Railings. Referring back to the danger of a rogue car hitting the corner too fast as previously referred to, would it not be prudent to protect any children playing there with at least a brick wall from the road? Before long children will easily make their way out of the development to play with children across the road and planting will not stop them.

9. Brick Walls

The Villa Farm Development is proving to work as regards the safety of children. The brick wall encases the whole site and everyone enters and egresses through the main entry. If such a brick wall should envelope this new development the same safety aspects would apply. The provision of such a wall at the new development would address the safety aspects raised in point 1 and would also hope reduce the traffic noise for the properties adjacent to the road. It would be aesthetically pleasing to the eye for everyone and safe.

10. Electricity supply

As part of providing electricity to the new site could the transformer currently situated between the two poles behind no.1 Newcastle Road, on the A50 be repositioned to a less intrusive position? The installation of the transformer caused a serious amount of upset to the owner of the property who had been unaware of the planned installation.

6. OTHER REPRESENTATIONS

Letters of representation have been received from 1, 2, 7, 10 11, 15, 18 Villa Farm Farriers Cottage, Arclid Hall Farm, making the following objections:

Principle of Development

- The site is not allocated for housing in the Congleton Borough Local Plan
- Previously the Borough Council issued report dealing with preferred options for future housing and employment development. The Council's comments in respect of the application site were "although a Brownfield site, the settlement of Arclid is considered unsuitable for further housing due to the lack of local facilities and services." Consequently the site was not included as a preferred option for housing or employment development.
- The situation has not changed and the site is still unsuitable.
- Why was Arclid hospital land not considered for this Planning Application as it is much better suited for this kind of development? The length of time it has stood with no usage is a waste when it was once a very busy hospital.

Noise and Vibration

- The proposed houses next to the A50 will suffer from both noise, and significant vibration. This is regardless of building specification. Existing residents have experienced similar problems.
- The External Noise Assessment Consultant states that the noise levels are NEC band C which should result in refusal of the application due to there being other available land for development (e.g. the old hospital site).
- There are strong concerns over the positioning of the proposed house identified as No.1 on the layout plan. This house is shown located on the front of the site and will be very close to the footpath and highway (A50 Newcastle Road). This house should be excluded from the development. The developers propose using enhanced double glazing and thickened ceilings but this will in no way stop the severe vibration that will be experienced within this house because of the heavy traffic on the road. The problem could also make the said property less saleable.
- If this property were not built the area could instead be used as a roadway/private access to Fairfield. The outcome would be that Fairfield would still retain its privacy and it would not necessitate a new additional entrance onto the very busy highway.

Highway Safety

- Due to the increased pedestrian activity that this development would bring, pedestrian crossing facilities are required - in particular for safe pedestrian access to the bus stops close to the A50/A534 crossroads. Note that these bus stops are/will be used by children going to/from schools in both Sandbach and Congleton.
- Due to the access road for the proposed new estate road, and the new access for Fairfields being in close proximity to the Villa Farm access road, suitable measures are required to ensure that there is no increase in road traffic hazards. These measures, for example could include filter lanes for turning traffic, reduced speed limit along with greater visibility of traffic on the A50, which may take the form of widening the A50.

- In conjunction with the existing Villa Farm development, the proposed new builds will create a denser residential / pedestrian area, on a main 'A' road with a high speed limit.
- With the proximity of more dwellings to the A50 Newcastle Road and the introduction of more access points to this main road, the speed limit from the Legs of Man PH to the Zest restaurant traffic lights should be reduced from 50mph to 40mph. This speed limit is regularly flouted and these will become very dangerous junctions with even more families in cars using them.
- As well as residents' cars, traffic on the estate would include delivery vans, oil tankers, school buses and sewage plant desludging tanker. Thus the roads need to be wider and include substantial turning facilities. Additional off-street parking places should be required.
- The main entrances to the affordable dwellings are proposed to open directly onto the A50. There would be extreme danger in respect of children, pets and A50 traffic. This orientation for these dwellings is inappropriate.
- There would be a high risk of accidents occurring, potentially fatal ones, as the road is used by a range of vehicles (from motorbikes to HGV's) and is located on a bend. If more houses were to be built in this location there is a higher chance that someone could be seriously injured or die - even if the limit was lowered people can still be killed, especially a child
- The current speed limit on this particular stretch of the A50 is too high at 50 MPH and there should be a reduction if the proposed residential development were to be approved. Children living on the new development would want to cross over into Villa Farm and visa versa to play with friends and there is no provision for a pedestrian crossing on the submitted plans.
- The pavements on both sides of the A50 between the Legs of Mann pub and the A50/A534 cross roads are too narrow and they are dangerously so for any increase in use by pedestrians and school children using the A38 bus service.

Infrastructure

- The village of Arclid does not have suitable facilities for more people to reside in the area, there is only one small shop which is actually an independent service station, and there are no other facilities.
- The only regular public transport is a single bus service (38) which operates hourly in a east/west direction (Congleton/Sandbach). There are no other regular transport services serving the area to other towns. In order for residents to go to work, do a weekly household shop, or go to the Doctors or Dentist, they would have to use a car which in turn increases road traffic in the area
- Sandbach and Congleton both suffer from major traffic problems why add to it by building more homes in an area with only one bus service? Cheshire East Council should be looking to only approve developments on currently unused brownfield sites such as the old Arclid Hospital site, which has a lot more potential to become a community hub and has lain bare for a number of years now, instead of developing a currently occupied commercial site and condemning the businesses that currently operate from the site to closure, and staff to lose their jobs.

Loss of privacy / amenity

- The location and outlook of the five affordable houses will invade the privacy of numbers 7 & 9 Villa Farm who are located directly across the road.
- Concern about the height of units 13 and 14, which would be next to a bungalow. There is concern about overlooking of this bungalow, particularly given that the ground level of the application site is approximately 1m higher.
- The general noise of neighbours, dogs, children cars, alarms, fumes, fire etc. Is not acceptable.
- Existing residents are still suffering impacts from the 25 houses built across the road, viewed from their front windows, which was Paces Spares.
- With this plan existing residents will be surrounded by the very things that they moved to Arclid to get away from.

Drainage / utilities

- An on-site HIPAF package sewage plant is proposed. Experience at Villa Farm and John Ford Way shows that such a solution has been extremely problematic. Planning approval should be conditional on the developer gaining definite acceptance in advance from the appropriate authority (United Utilities) that they will adopt the plant and be responsible for performance and maintenance
- The proposal does not describe heating arrangements for the dwellings. As there is no gas supply in the area, this is likely to mean oil central heating, and external storage tank locations should be added to the plans.
- The existing small electricity supply transformer (located near the ex-Chapel) is unlikely to suffice, so provision for a new substation should be included
- The Application proposes to deal with surface water and foul water drainage by the use of series of soakaways. This is considered to be totally inadequate in an area of ecological importance. The application site lies close to Arclid Brook and its immediate surrounds, which are extremely sensitive ecologically containing rare and protected species of flora and fauna and this scheme could potentially damage important habitat and directly affect these species. The application has not adequately considered surface and foul drainage and the implications of any pollution of Arclid Brook and its soundings.

Public Footpath

- There is a public right of way through the site. How is this to be dealt with in the new scheme?
- The Public Footpath (Arclid FP2) should be restored to a line much closer to its intended route (presently it is diverted around the industrial premises). A route adjacent to the proposed open space, along the estate road and out to the rear would be easily achievable and much preferable to the hidden route around the perimeter that is presently described. This would encourage the footpath to return to proper usage, e.g. for dog walking and other recreational purposes.

Impact on Existing Businesses

- Although the Paces Garage/Crane Yard business has been mentioned a couple of times, Arclid Car Wash & Valeting Services has only been mentioned barely once as an afterthought.
- According to the report made by Louis Taylor LLP, the building they currently occupy "is currently in use as a part time car wash/valeting business on a temporary basis" and that the "current owners of the site confirm that both businesses have struggled in recent years" - both of these statements are completely incorrect and entirely misleading
- This thriving small business has been ignored in the report as if it doesn't even exist. Although the report claims "that it is the owners' intention to relocate both businesses to a more appropriate location(s) within the borough" there is no agreement or proposal to do this.
- The car wash/valeting business is in no way struggling, and is in no way part time.
- Sometimes customers have to wait a week to have their car valeted
- Almost every day, and the site is almost always bustling with vehicles waiting to be washed and other vehicles being valeted.
- The application would result in the loss of this business and a service to the community.
- There is also concern about loss of jobs at Crane Hire Direct. They would be unlikely to relocate to another site. The people who run it are retirement age and likely to finish working and will not start again. Left alone it will tick along and is very busy
- We should all be supporting our local small businesses

Affordable Housing Provision

- Recently in the news there was a feature about lack of housing across the country, specifically affordable housing
- This proposal only shows the intention to build a mere 5 "affordable" houses (of which only two are 2-bedroom and three are 3-bedroom). The other 13 houses are 4/5 bedroom houses that would be out of the reach of people who, want to stay in the area when they come to buy their own property.
- As it stands in the current climate, if young people wish to purchase their own home they would be forced out of the area due to the lack of rural housing that is affordable to young adults.
- There are far too many (in the last ten years) recent builds/conversions that are far too expensive for local young adults - for example, the properties at Villa Farm (Arclid), John Ford Way (Arclid), Smallwood Forge (Newcastle Road), The Courtyard (Brookhouse Green) and in the future, the site at Smallwood Storage, Moss End Lane. All of those builds are of the three to five bedroom variety attracting prices circa £250,000 (John Ford Way, 4 bedroom), £350,000 (Villa Farm, 5 bedroom). Even what could be considered by Cheshire East Council as an affordable home is out of reach, for example, £165,000 (Sunnyside, Arclid, 3 bedroom).
- Even 2 bedroom recent builds would be far out of reach for many local young adults.
- There needs to be far more affordable housing for young local adults and this proposal does not account for this at all. Why are there not more smaller homes?
- The housing market is over saturated with 3/4/5 bedroom houses that people cannot afford to buy, why do we need more of those?

Impact on Arclid Quarry

- The quarry is of national significance supplying a significant proportion of the UK's total production of silica sand.
- Any development that adversely affects the Quarry would have an adverse affect on the local economy
- The Cheshire Replacement Minerals Local Plan sets out a Preferred Areas for Silica sand extraction and inset plan no.7 illustrates an area of preferred extension to the existing quarry.
- This area lies adjacent to and contiguous to the application site
- It is not therefore appropriate to develop the Paces garage site for housing
- Furthermore the minerals plan provides planning advice on where mineral development can take place. Policy 7 within the plan states that the Council will actively seek to safeguard mineral resources through the Mineral Consultation Areas process. The land to which the application relates lies within a mineral consultation area and should not therefore be developed for housing

Landscape / Trees

- The occupant of The Bungalow has planted trees on the boundary and has a mature willow tree on the boundary. The roots and lifespan of which may be adversely affected by the development
- All kinds of wild life come into the adjoining garden, hedgehogs, foxes, rabbits jays magpies, robins, blackbirds thrushes blue tits woodpeckers, nuthatch and occasionally a squirrel.

A letter supporting the proposal has been received from 28 Villa Farm making the following points:

- It will enhance the area and the addition of the public open space area with the trees and plantation does considerably improve the attraction and tidiness of the village.
- The existing structure is an eyesore and poorly maintained and it can be noisy especially early morning when cranes are manoeuvring.
- Fairly regularly, lorries use the frontage as an overnight stopping area. Which can be particularly disturbing in the colder months when lorries run their engines to heat their cabs late at night and very early in the mornings. It is not uncommon to have up to four lorries parked overnight at any one time.
- The plan seems to show the houses are well spaced and not over crowded.
- Pleased that they are only 2 story dwellings as the large 3 story built off Davenport Lane are out of character for the area and too tall for a rural location.
- Also planning consent for the construction of these houses would provide additional security that the 38 bus service that has been essential for people in this neighbourhood would be maintained. There would be greater urgency attached to the upgrading of the exchange to enable faster broadband

A letter has been received from Land & Property Development (Consultancy) who have been instructed to act on behalf of the freeholders of the agricultural land abutting the western boundary of the proposed development site making the following points:

- They have concerns regarding this proposal in respect of their client's interests and future interests in their property and rights.
- The development as proposed is not suitable for the location and its proximity to the proposed mining extractions which could give rise to future problems with settlement if the necessary precautions are not implemented at the planning stage.
- It is clear from the existing reports that the ground is unstable and that there are already recommendations for further ground tests carried out.
- The reports do not take into account the close proximity of the future sand extraction nor the need for a retaining barrier for ground support which could lead to an effective blight on the properties should this not be completed.
- In the event of the above precautions not being enforced it would undoubtedly lead to a substantial limitation of the extraction boundary and therefore the volume of the registered resource.
- They would therefore urge that the planning application be refused or withdrawn for further reports to be completed and for the possibility of agreements being completed prior a revised application being submitted.
- In reaching this conclusion they have also referred to the Congleton Plan First Review Inquiry dates 11th June 2002 – 21st February 2003 given by Neil A C Holt TD Barch(Hons) Dip TP DipCons RIBA MRTPI, in which he makes reference to the importance of this land in the Cheshire Replacement Minerals Local Plan as an Area of Preferred Extension to the existing Arclid Hall Farm Quarry.
- This relates to a prior application No 34977/3 dated 25th November 2002 at the previous Congleton Borough Council. In paragraph 6 of this report it states: *"In addition to the scale of the development in relation to the size of the settlement it also lies within the 250m buffer zone around Arclid Hall Farm Quarry. Whilst in view of the number of residential properties within the vicinity of the allocation any extension of the quarry would have to be accompanied by mitigation measures, the introduction of the new houses could impact on potential extraction. Whilst this in itself would not have caused me to recommend the deletion of the allocation, like the presence of the Jodrell Bank Consultation Zone, it is a factor which weighs against the residential development of the site in the overall balance."*

A letter has been received from Sloane Mead Minerals Development Consultants working on behalf of the operator of Arclid Quarry.

- Arclid quarry has been worked for 60 years and is a main producer of silica sand
- The Quarry is of national significance supplying between 8-10% of the UK's total production of silica sand and one fifth of foundry sand.
- A range of other uses include insulation, ceramics, fillers and plastics
- It makes a significant contribution to the local economy and employees around 65 people and makes use of local services and contractors as well as through business rates
- Congleton Borough Council issued a consultation document in September 2006 setting out its preferred options for future housing and employment development in the Borough. The Council then issued a report setting out all of the responses that it

received on the preferred options document. The report provided the Council's comments on each response and proposed some changes to the allocated sites. The Council's comment in respect of the Application Site was "*Although a brownfield site, the settlement of Arclid is considered unsuitable for further housing due to the lack of local facilities and services.*" Consequently the site was not included as preferred option for housing or employment development.

- Extensive and detailed drilling surveys have taken place in recent years across both the preferred area in the minerals local plan and the adjoining land. This survey proved that a high quality resource of silica sand exists. Consequently the quarry operator has made representations to Cheshire County Council to extend the preferred area (within the Cheshire Minerals Development Framework) to include additional land lying to the North West and south east.
- Allowing 18 new households much closer to the current and future silica sand extraction and processing operations could result in complaints due to potential minor environmental impacts. Furthermore, the proven silica sand resources in the adjoining land would be substantially reduced or sterilised if a Buffer Zone were required to be left between the houses and the workings in the future.

A letter has been received from the operator of the existing valeting business on the site stating that they do not object to the development but would make the following points:

- The business has been running for 5 years and it is not struggling, neither is it a part time business nor a temporary one.
- There are 5 staff at the car wash and 2 at the snack bar. The team work 6 days a week and often 7 days
- The for sale sign board is misleading as the site is a brownfield site for commercial and business use and not for housing. It is misleading also in saying that business will not be affected due to relocation.
- The valeting business has not been asked or have said that they have a new location to go to
- The Council seems to ignore the valeting business. There is no mention made in the report. It gives the impression that that the business and staff numbers are too small to be of any significance
- The team have worked hard over the past 5 years and have built up a good reputation with customers for the very high standard of work on both commercial and private vehicles
- The developers were advised that a public consultation would not be required prior to the submission of the application. Why was this so?
- The business is not struggling nor is not run on a part time basis as stated in the Louis Taylor Report
- The business has grown and continues to grow so obviously relocation would be an inconvenience.

The following letter has been received from Tinsdill's Solicitors:

Notwithstanding the advent of the National Planning Policy Framework (NPPF) it remains the position that applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise: Section 38(6) of the Planning and Compulsory Purchase Act 2004. The

importance of proper interpretation of the Development Plan has been recently highlighted by the Supreme Court's decision in Tesco Stores Limited v. Dundee City Council (2012) UKSC 13. It is necessary for an authority discharging its statutory duty with regard to the determination of planning applications to properly identify the relevant statutory provisions and then correctly interpret them. That interpretation being a matter which is not something for the Local Planning Authority to determine as it pleased from time to time but is a matter with which the Court would concern itself if the interpretation was incorrect.

The Cheshire Replacement Minerals Local Plan 1999 (MLP) is a part of the Development Plan relevant in this case. Notwithstanding the date of its adoption and in accordance with paragraph 215 of the NPPF we are of the opinion that the relevant policies of the MLP should be given full weight because they are consistent with the guidance contained in the NPPF with regard to the definition and purpose of mineral safeguarding areas (paragraph 143), the use of policies to encourage prior extraction of minerals to avoid sterilisation (paragraph 143), the weight given to the benefits of mineral extraction, the relevance of land banks and the avoidance of sterilisation (paragraph 144), and the continued importance of silica sand as a resource (paragraph 146 of the NPPF and paragraph 53 of the Technical Guidance to the NPPF).

We have noted that the report to Committee does not suggest that the MLP is out of date but purports to consider and apply its policies with regard to the proposed housing development on the land at Paces' Garage.

The relevant policies of the MLP include policy 7 and policy 54. Policy 54 addresses future silica sand extraction and in addition to identifying the maintenance of the land bank provides that any proven additional sites needed will, subject to planning permission, be provided only from areas identified on the inset maps. The inset maps include map 7 which covers the land adjacent to the site as Paces' Garage. This is, in accordance with Policy 7 of the MLP, an identified mineral consultation area within which the County Council seeks to safeguard mineral resources through the MCA process. The plan points out that:

*"As mineral resources are finite it is important that resources of economic importance are not sterilised by development and that new, sensitive development, such as residential accommodation does not encroach on those existing or potential sites to the detriment of their own amenity".
(paragraph 2.19 of the MLP)*

The plan makes clear the importance of silica sand not only in the Cheshire context but also in the national context. Silica sand resources in Cheshire are of national significance because of their importance in a number of processes. The resource is finite and as with all mineral resources can only be worked where it lies. Unlike other forms of development, such as housing development, mineral development is not in that sense footloose. The minerals must be worked where they are found if they are to be worked at all.

The Report to Committee on the Paces' Garage site correctly identifies the site as lying directly adjacent to a preferred area for mineral extraction as set out in the MLP. The

report then goes on to effectively discount the MLP by reference to a range of factors which include:

“A south eastern extension to Arclid Quarry was granted in 2010 which means that extraction has moved closer into the 250m zone. The remainder of the preferred area holds about 2 million tonnes of mineral reserve. The operator considered extending up to the boundary with Paces’ Garage site in the 2010 application but decided against it as the reserves were limited and mainly because of the environmental and economic costs of diverting Arclid Brook. Arclid Quarry has used up a large proportion of their preferred areas by extending their site and have a land bank of reserve until 2035. There is one other area where they could potentially expand to the east but that has similar problems with ecology. It is difficult to predict if the small section of the preferred area adjacent to Paces’ Garage would come forward due to the size of the reserve remaining. This would be reduced further by the buffers, over burden stock piles and the gradient of the excavation slopes required which would further reduce the availability of the mineral to extract. However this is a national mineral reserve and should be projected”.

In a conclusion to that section of the Report the Officer continues:

“Whilst the operator and land owners’ concern that this residential application could sterilise a large proportion of mineral reserves due to a need for larger stand off is understood, as stated above, given that the site does not lie within the preferred area, the previous application in 2010 and the economic and environmental viability issues extending towards the Paces’ Garage site, this is not considered to be sufficient to warrant refusal”.

In our view the Officer’s report is seeking to re-write the policy in the MLP. The application site is immediately adjacent to an area which is sought to be safeguarded by the Development Plan. It contains, unarguably, a significant quantity of a scarce mineral resource which is of national importance. The policies of the MLP set out to protect such areas from development which could effectively sterilise them. It is wholly irrelevant that the application site itself is not within the protected area; the effect of Policy 7 is to ensure that residential development, a form of development expressly referred to in the MLP, does not have the effect of sterilising the valuable economic resource. It is likewise irrelevant that there has not yet been a planning application in respect of the protected area which is most proximate to the current application site. The policies of the MLP do not require that there should have been such an application in order that the mineral resources they protect should indeed be protected.

In these circumstances in our view the Report to Committee should clearly and unequivocally have told members that the application was in conflict with Policies 7 and 54 of the MLP and that those policies were entitled to be given full weight as being policies of a statutory Development Plan consistent with the national policy in place at the time the application was before the Committee. As we have indicated above the policies remain in our view, entitled to full weight because of their consistency with the recently issued NPPF and its Technical Guidance.

A failure to properly understand and apply the relevant provisions of the Development Plan is clearly a fundamental matter going to the heart of the lawfulness of any decision taken by a planning authority: see the Tesco Supreme Court decision referred to above. In this instance, in our view, the approach taken by the Council is defective for the reasons set out and requires that the matter should be reconsidered by the Committee before any decision is made. It will clearly be necessary for the Committee to then consider the relevant policies and the proper interpretation of them, and to consider why in the circumstances of this case a very substantial quantity of an important and nationally scarce mineral resource should be sterilised by housing development which however important it might be, given the limitations on housing land supply in the Cheshire East context, is ultimately a development which is much more easily accommodated than mineral development which is subject to the restrictions we have earlier referred to.

We accordingly invite the reconsideration of this planning application in the light of the matters we have set out above.

7. APPLICANT'S SUPPORTING INFORMATION:

- **Ground Investigation**
- **Planning Statement**
- **Noise Assessment**
- **Energy Statement**
- **Drainage Appraisal**
- **Ecological Appraisal**
- **Demand and Marketing Statement**
- **Tree and Hedge Survey**
- **Design and Access Statement**

A letter has been received from the applicant's agent making the following points in response to the committee report:

- In respect of Section 6 Other Representations, the report refers under the heading "Impact on Businesses" to a letter from Arclid Car Wash and Valeting Service and Arclid snack bar. However, there is no reference to the letter of 25th August 2011 of Elizabeth King, the proprietor of the business, in which she writes....."to make it clear that in no way was".....she....."registering an objection to the development of the site....."
- The report refers in Section 8 under the heading "Employment Site" to the thriving valet operation. Please note that the tenant has been granted a lease with a 6 month exclusion clause and therefore, potentially only has a short-term occupancy of part of the land.
- In respect of Section 8 and "Employment Site", it should be noted that the site has been marketed for some 9 months now and no interest has been shown in commercial re-use or commercial redevelopment. The findings and conclusions of the Louis Taylor report remain valid and pertinent.

- In respect of Section 8 under the heading “Impact on Arclid Quarry”, reference is made to the preferred areas being established on the basis that they are not within 250 metres of a significant number of dwellings. Therefore, a stand-off is required in any event from the 2 existing dwellings at Fairfield, at Villas Farm and in the group to the north of the site, notwithstanding the proposed redevelopment of Paces Garage.
- In connection with the proposed Section 106 Agreement and the provision of affordable housing, the agents confirm that Rowland Homes are proposing in respect of numbers, in spite of the viability issues relating to the nature of this brownfield site, to meet the 30% requirement set out in the saved H13 policy of the Congleton Borough Local Plan First Review. This provision also meets the 30% requirement of the council’s Interim Statement on Affordable Housing.
- The statement sets out that it is only if a developer is looking to provide a lower provision of affordable housing is a “robust development appraisal required.” Rowland Homes is not looking to reduce the provision and therefore, it is not required to provide an appraisal.
- Rowland Homes however, considers that it is not possible to meet the proposed tenure mix.
- Fundamentally, the cost of remediating the contamination of the site is considered too expensive and whilst Rowland Homes is willing and able to make the required provision, it needs some flexibility from the council on the tenure mix.
- Rowland Homes has been in discussion and correspondence with Mr Alan Miller at Plus Dane Housing and has agreed the provision and mix of social rented and shared ownership housing on site, as set out in the attached copy email of 19th October 2011. Further, it has been agreed that all 5 proposed social rent and shared ownership dwellings would be provided for and managed by Plus Dane, an RSL.
- In addition to providing all the units through an RSL, Rowland Homes is willing to make a contribution to highway improvements up to a maximum of £10,000 for signage to reduce the speed limit on all approach roads to the traffic light controlled junction in Arclid and not just on Newcastle Road, the A50 which the site fronts onto. This was not a requirement of the highway authority and therefore, it represents a further planning gain of the proposal.

Letter from Applicant’s dated 21st June 2012 in response to letters from Tinsdill’s Solicitors:

I set out below our considered comments, having regard to the Supreme Court’s decision in Tesco Stores Limited v Dundee City Council referred to by Tinsdill’s, on the pertinent matters raised in the letter. These are as follows:-

- 1. The relevant policies of the Minerals Local Plan should be given full weight because they are consistent with the guidance in the National Planning Policy Framework (NPPF).***

While it is accepted that the Cheshire Replacement Minerals Local Plan is part of the development plan, full weight should not be given to its provisions for the following reasons:-

First, it is becoming out-of-date. The plan was adopted by the County Council on 2nd June 1999. Its policies and proposals were to endure for a period of 10 years to the end of 2006, with a formal review taking place after 5 years as legislation requires (para.126). No review has been adopted nor indeed has one taken place. It is now 2012, some 5 ½ years beyond the end date of the period the policies and proposals were required to endure for.

Second, while it is accepted that the Secretary of State saved the policies of the plan on 18th September 2007 the basis on which these policies and proposals of the plan were based, date from the mid 1990s and are now not in accord with NPPF advice in para.17 which requires that local plans should be kept up-to-date and also in para.158 which requires local plans to be based "on adequate, up-to-date and relevant evidence of their economic and social and environmental characteristics and prospects of the area." The Minerals Local Plan is not up-to-date and not based on adequate and relevant evidence.

Third, the plan was adopted by the council prior to the Planning and Compulsory Purchase Act 2004 coming into effect. Accordingly, the plan cannot benefit from the one year provisions set out in para.215 of the NPPF. The policies and proposals therefore cannot be given full weight.

In these circumstances, Tinsdill's assertion that full weight should be attached to the plan is not correct, nor can it be.

- 2. The Paces Garage site lies directly adjacent to a preferred area for mineral extraction as set out in the Minerals Local Plan.**

Inset Map no 7 to the Cheshire Replacement Minerals Local Plan identifies an area of preferred extension for silica sand to the existing Arclid Hall Farm Quarry. The land identified as preferred is that to the east of Hemmingshaw Lane and west of Newcastle Road. The land is bisected by Arclid Brook and adjoining woodland. The remaining land within the preferred area is farmed. The nearest part of the quarry to the south-west of Hemmingshaw Lane is 350m from the application site.

None of the application site falls within the preferred area. Part of the site occupied by the residential property Fairfield and Paces Garage is defined as adjoining the north-eastern boundary of the preferred area. The length of the boundary which is common to the preferred area measures 118m. However, a larger portion, the remaining 128m, of the south-western boundary of the application site does not have a common boundary with the preferred area.

Fact sheet 16 sets out that a preferred area is an area of land with reasonable evidence for the existence of commercially extractable minerals. However, the identification of such areas..... "does not necessarily mean that development will occur at that site." According to Appendix 3 to the plan, proposals for extraction should follow 11 principles, one of which (vi) is that they are not within 250m of any significant number of dwellings that would be affected by any development. A "significant number" is not defined in the plan, although the majority of buildings in Arclid would fall within this 250m zone of influence. Any proposal to extend mineral extraction therefore, would in any event have to ensure that operations did not adversely affect any development, existing as well as proposed, as discussed under point 4 below.

3. *The relevant policies of the Minerals Local Plan include Policy 7 and Policy 54.*

The Minerals Local Plan was adopted prior to the dissolution of Cheshire County Council as Mineral Planning Authority. Policy 7 of the plan sets out to safeguard mineral resources by requiring district councils to consult the County Council on all planning applications, with specified exceptions, which fall within Mineral Consultation Areas. The policy is not relevant in its present format as Cheshire East is the authority for both minerals and planning. Further, the purpose of Policy 7 as identified in para.2.19 of the Minerals Plan is to ensure that resources are not sterilised and new development such as residential accommodation does not encroach on potential sites to the detriment of their own amenity. The proposal however, does not encroach onto a potential site identified as a preferred area. Policy 54 sets out to maintain a landbank of at least 10 years of silica sand at each production site throughout the plan period. Any proven additional sites needed to maintain the landbank will be provided, subject to planning permission, from land identified on Inset Maps, one of which is Inset Map no.7.

Notwithstanding the fact that the plan period expired over 5 years ago, there is a landbank according to the council report on the Paces Garage application, of reserve minerals until 2035 – over twice the time period required by the policy and by the NPPF (para.146).

Therefore, there can be no issue of supply for the foreseeable future. In these circumstances, Tinsdill's assertion that the proposal is in conflict with Policy 54 is wholly incorrect.

4. *The policies of the Minerals Local Plan set out to protect preferred areas from development which could effectively sterilise them.*

The proposed housing development need not sterilise land nor prevent sand extraction any more than the proximity of existing houses and businesses adjoining Newcastle Road and elsewhere close to any future workings. Adequate mitigation measures would be required in any event to ensure proposed mineral workings complied with relevant policies in the Minerals Local Plan, such as: 23 – Nature Conservation; 25 – Ground Water; 26 and 27 – Noise; 28 – Dust; 30 – Agricultural Land; 32 – Advance Planting; 33 – Public Right of Way (Public Footpath no 2 adjoins the north-western boundary of the preferred area); 37 – Hours of Operation; 39 – Stability and Support; 41 – Restoration; and 42 – After-care. They would also need to accord with the requirements of para.143 (bullet point 6) of the NPPF.

Both the former county and borough councils recognised that future development of the Paces Garage site would not prejudice a future extension of the quarry, as adequate mitigation measures would be inevitable with any future permission to ensure that the amenity of existing residents would not be harmed. Such mitigation measures were imposed when planning permission was granted in 2010 for an extension to the quarry. Similar measures would be required for any future proposals and need not sterilise the preferred area any more than would be required to protect existing residents and businesses in Arclid.

5. *There has been a failure to properly understand and apply the relevant provisions of the development plan.*

The Tesco Supreme Court decision referred to by Tinsdill's re-affirms a House of Lords decision in 1998 that a decision will be open to challenge if the decision-maker (in this case the local planning authority) fails to have regard to a policy in

the development plan which is relevant to the application or fails properly to interpret it.

In this case, and for the reasons stated above, the proposal is not in conflict with policies 7 and 54 of the Minerals Local Plan and therefore, it is considered that the local planning authority has not failed in coming to its decision to properly interpret the relevant provisions. The report specifically refers to the Minerals Local Plan, to the creation of preferred areas to maintain the 10 years landbank required for the silica sand quarry. It also sets out that the site does not lie within the preferred area and as required by para.158 of the NPPF, the council has taken account of relevant evidence about the economic and environmental characteristics and prospects of the area.

It is made clear in the Tesco case that the policies are designed to secure consistency and direction in terms of discretionary powers and allow a measure of flexibility to be retained. Many of the provisions of development plans.....

“are framed in language whose application to a given set of facts requires the exercise of judgement.”

Local planning authorities in exercising their judgement can only be challenged on the ground that it is irrational or perverse. This was not the case with this proposal. The impact on the preferred area was considered in some depth and judgement was exercised in that a refusal of permission for the proposal could not be sustained on the fact that the site does not lie within the preferred area and that a previous application in 2010 established the fact that development of the area immediately adjacent to the application site would be economically and environmentally unviable.

The added presumption in favour of granting planning permission where housing land supply falls substantially short of the 5 year requirement weighs heavily in favour of the proposal. Furthermore, there is a presumption in favour of development on a brownfield site within the defined settlement boundary of Arclid, and as set out in the Ministerial Foreword to the NPPF, proposals should proceed without delay to achieve positive growth and the homes, jobs and wealth that are required.

8. OFFICER APPRAISAL

Principle of Development

The site lies within the Infill Boundary Line for the settlement of Arclid, where, according to Policies PS6 and H6, limited development will be permitted where it is appropriate to the local character in terms of use, intensity, scale and appearance and does not conflict with the other policies of the local plan.

Employment Site

The site is currently in employment use and therefore Policy E10 of the Local Plan will apply. Policy E10 states that proposals for the change of use or redevelopment of an existing employment site or premises to non-employment uses will not be permitted unless it can be shown that the site is no longer suitable for employment uses or there would be substantial planning benefit in permitting alternative uses that would outweigh the loss of the site for employment purposes.

In order to address Policy E10, the applicant has commissioned a report from Louis Taylor LLP and DLDC Ltd to comment on the current likely demand for and marketability of the freehold interest of the above site on the basis of its principal existing use for crane hire/garage operations and/or other commercial/employment uses likely to receive planning permission.

The report notes that the site currently accommodates a crane hire/garage business and a small mobile food retail unit and a car cleaning and valeting business. According to the report the latter operates on a part time basis. However, third party representations indicate that this is not the case and the valeting business operates up to 7 days a week. The report also claims that both businesses have struggled in recent years to maintain their viability/profitability, especially since the sharp downturn in the general economy and in the house building/construction industry in particular in 2007. Increasing competition from more modern/purpose built and better located operations, as well as the increasing maintenance and other running costs associated with the existing site have significantly contributed to this situation.

Whilst this may be the case in respect of the crane hire / garage, the valeting operation owner has reported that their business is thriving and continuing to grow. However, the report states that it is the owners' intention to relocate both businesses to a more appropriate location(s) within the Borough, subject to a satisfactory disposal of the site being agreed to fund this objective.

Notwithstanding the viability of the existing businesses on site, with regard to potential for disposal, the report confirms that, for both the present and for the foreseeable future, it is not considered that there is any realistic possibility of the subject site attracting any serious, viable demand on the basis of its existing or likely alternative commercial use(s) at any reasonable Market Value.

The site's re-development for either C2/Care Home or similar use(s) or for housing represents the only likely re-development approaches which can be realistically envisaged for the site in economic terms, within the foreseeable future. As it is considered that there is no likelihood of a commercial demand being attracted for C2/Care Home or similar use(s) in the foreseeable future, the report states that the site's re-development for an appropriate housing scheme represents its only realistic and currently viable development potential.

The report concludes that in accordance with Policy E10 of the current Cheshire East Local Plan, substantial planning benefits would arise with the extinguishment of the site's existing use and its re-development for housing. The authors have demonstrated that there is an ample supply (and probably an oversupply) of similar or superior commercial sites of this nature already available in the area, so demonstrating that the loss of the subject site for employment purposes would have a minimal if any adverse impact on the general supply of commercial sites and employment opportunities in the area.

On the basis of the above the report considers that it would be pointless and therefore unreasonable for the Council to require the owner to undertake a period of formal marketing of the site for sale reflecting its existing or likely alternative commercial uses, given the general sales evidence provided and other relevant circumstances referenced in the report.

Given that the site remains in active employment use, it is not considered that it is entirely unsuitable for such uses. However, it is noted that in the event of the existing businesses vacating the site, it would be difficult to secure employment redevelopment. It is also noted that, although the valeting and snack bar businesses appear to be flourishing, the crane hire company is suffering as a result of old and inadequate premises. Furthermore, it is considered that there would be planning benefits that would arise from the redevelopment of the site for residential use. Firstly, the proposal would assist the Council to meet its housing land requirements and would ease pressure of Greenfield sites elsewhere within the Borough. National policy guidance (NPPF) states that Local Authorities should manage their housing provision to provide a five year supply. It is acknowledged that the Council does not currently have a five year housing land supply and, accordingly, in the light of the advice contained within paragraph 49 of the NPPF that:

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

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

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

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

Secondly, the proposed residential development would have significantly less impact on the character and appearance of the surrounding area, traffic generation and the amenity of neighbouring occupiers than the existing business use. Third party representations have made reference to the fact that the existing garage is an eyesore and poorly maintained and it can be noisy especially early morning when cranes are manoeuvring. In addition comments have been received stating that regularly, lorries use the frontage as an overnight stopping area. Which can be particularly disturbing in the colder months when lorries run their engines to heat their cabs late at night and very early in the mornings. It is not uncommon to have up to four lorries parked overnight at any one time.

The removal of the HGV traffic and rationalisation of the existing points of access will be of benefit to highway safety and the proposals will enhance the appearance of the area through the addition of the public open space area with the trees and planting.

Thirdly the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Mr. Greg Clark) states that *“The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.”* It goes on to say that *“when*

deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore, inter alia,

- consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;*
- take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- ensure that they do not impose unnecessary burdens on development”*

The proposal at the Paces Garage site will enable an existing local crane hire business to relocate to new premises and to expand, generating jobs and economic benefits. However, it is necessary to achieve residential land values from the site to enable this to happen. Furthermore, the proposal will help to maintain a flexible and responsive supply of land for housing, which is specifically identified above as a “key sector”. The proposal will also create jobs and economic growth in the construction industry and all the associated supply networks. In addition it will help to support and sustain local businesses and facilities within the village of Arclid which include a petrol station and shop, restaurant and bus service. The Secretary of State for Communities and Local Government has made it clear that he will take the principles in this statement into account when determining applications that come before him for decision. In particular he will attach significant weight to the need to secure economic growth and employment. It is therefore considered that these issues are important material considerations which add to the material planning benefits of the proposal.

However, to ensure that the benefits are realised it is recommended that a condition is imposed requiring the existing crane hire business to relocate to an alternative premises within the Borough prior to the commencement of development. In addition the representations regarding the existing car valeting and snack bar business are noted and it is therefore suggested that the terms of the condition be extended to include relocation of these businesses as well.

Consequently, the proposal will result in significant planning benefits in terms of housing land supply, character and appearance of the area, amenity and economic growth and on this basis it is considered that the proposal complies with the requirements of Policy E10 of the Local Plan.

Impact on Arclid Quarry

Objections have been received from both the owners and operators of the nearby Arclid Sand Quarry which lies to the west of the site. The site lies directly adjacent to a preferred area for minerals (silica sand) shown in the Minerals Local Plan. The preferred areas were created in order to maintain the 10 year landbank required for this silica site, which is a national mineral resource. The preferred areas are established to ensure that the mineral is not sterilised, and also to ensure that new development is not adversely affected by mineral

operations. The preferred areas were established based on the fact that they are not within 250m of a significant number of dwellings (250m being the general limit over and above which the impact of operations is seen to reduce).

A south eastern extension to Arclid Quarry was granted in 2010 which means that extraction has moved closer into the 250m zone. The remainder of the preferred area holds about 2million tonnes of mineral reserve. The operator considered extending up to the boundary with the Paces Garage site in the 2010 application but decided against it as the reserves were limited and mainly because of the environmental and economic costs of diverting Arclid Brook. Arclid Quarry has used up a large proportion of their preferred areas by extending their site and have a landbank of reserve until 2035. There is one other area where they could potentially expand to the east but that has similar problems with ecology. It is difficult to predict if this small section of the preferred area adjacent to Paces Garage would come forward, due to the size of reserve remaining. This would be reduced further by the buffers, overburden stockpiles and the gradient of the excavation slopes required which would further reduce the availability of mineral to extract. However, this is a national mineral reserve and should be protected.

The inspector who handled the Congleton Borough Local plan inquiry commented in his report on a proposal to put forward the Paces Garage site as a housing allocation. He stated that *'whilst in view of the number of residential properties within the vicinity of the allocation any extension of the quarry would have to be accompanied by mitigation measures, the introduction of the new houses could impact on potential extraction.'* This could still be the case. However, in view of the fact that the site does not lie within the preferred area and that the previous application in 2010, which post dates the Local Plan inspectors comments, established that development of the area immediately adjacent to the application site would be economically and environmentally unviable, it is not considered that a refusal on these grounds alone could be sustained.

It should also be noted that the Inspectors primary reason for not allocating this site for housing was because he considered that there was an adequate supply of housing sites elsewhere in the Borough and that those sites did not have any constraints, such as the proximity to the mineral preferred area. Therefore, the logical conclusion was to allocate those alternative sites instead of the Paces Garage site. However, the situation has now changed in that there is a severe shortage of housing sites within the Borough and therefore, sites such as Paces Garage need to be reconsidered.

To turn to the letter from Tinsdills Solicitors, it is agreed that the MLP should be given weight as it is generally consistent with the guidance contained in the NPPF. However, there are some areas in which the provisions of the NPPF differ from those within the MLP, particularly in terms of definitions. These differences are highlighted below:

- Paragraph 143 of the NPPF states that LPA's should *"define Minerals Safeguarding Areas and adopt appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development, whilst not creating a presumption that resources defined will be worked; and define Minerals Consultation Areas based on these Minerals Safeguarding Areas"*. It should be noted that the MLP does not define Safeguarding Areas. The MLP defines *"Preferred Areas"* from which future supply, if required,

should be drawn. The emphasis of the MLP policy is therefore on directing future mineral development to appropriate locations rather than protecting resources.

- Paragraph 143 also states that LPA's should *"set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place;"* However, the MLP has no such parallel policy. The only policy which refers to prior extraction is Policy 6 which states that *"an application for the extraction of minerals in advance of development which would otherwise cause the permanent sterilisation of proven mineral resources will be permitted if the mineral extraction and restoration is capable of being completed within an acceptable timescale and without compromising the subsequent development."* Therefore, whilst the MLP sets up a presumption in favour of prior extraction proposals, it does not, unlike the NPPF, make it a condition of development.
- Paragraph 144 states that LPA's should *"give great weight to the benefits of the mineral extraction, including to the economy"* and *"not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes"*. Whilst the benefits of mineral extraction are acknowledged, as stated above, it should be noted that the MLP does not include *"mineral safeguarding areas"* only *"Preferred Areas"*, furthermore, the application site is outside the designated *"Preferred Area"*.

Tinsdills consider that policies 54 and 7 of the MLP are relevant to the determination of the application.

Policy 54 states that the Council will seek to maintain a landbank of at least 10 years production at the site and that any sites required to maintain will only be provided from within the "preferred area" as identified on the proposals map. At Arclid the "preferred area" adjoins but does not include the application site. **Therefore it is not constitute a "minerals consultation area"**. However, *the criteria for designating such areas are detailed in Appendix 5 of the MLP. This includes 'all preferred areas together with a buffer of 250m'. Therefore it is acknowledged that, it could be asserted that the proposal site would fall within one.*

Paragraph 2.19 of the MLP states "the County Council will draw up "Mineral Consultation Areas" based on current mineral planning permission areas, "Preferred Areas" for silica sand, sand and gravel and salt and "Areas of Search" for sand and gravel as well as areas of known mineral interest including potential coal reserves." However, Mineral Consultation Areas" areas were never defined.

Notwithstanding this point, the fact that a site would fall within a "Mineral Consultation Area" (were such areas formally designated) does not preclude it from development. The purpose of the "Mineral Consultation Areas", in accordance with Policy 7 of the MLP was to ensure that, prior to Local Government Reorganisation, the former Borough Councils consulted with the County Council on any development within the "Mineral Consultation Areas" to allow them to assess the potential impact of that development on "Preferred Areas" for silica sand, sand and gravel and salt and "Areas of Search" for sand and gravel.

However, now that Cheshire East Council is the Local Planning Authority for both Minerals and Waste and other general planning applications such "Mineral Consultation Areas" and

formalised consultations are superfluous and unnecessary. The advice contained within this report to committee has been prepared with the input of Development Management and Planning Policy Officers, including Minerals and Waste specialists and therefore Policy 7 has been complied with, albeit via a different process than was the case prior to Local Government Reorganisation and it is not considered that there is any conflict with Policy 7 of the MLP.

However, it is acknowledged, as highlighted in Tinsdells letter, and the NPPF that silica sand resources in Cheshire are of national importance, that the resource is finite and can only be worked where it lies. Therefore, the impact of the proposed development on the adjoining mineral reserve is a material consideration in the determination of this application. Nevertheless, for the reasons set out above, Minerals Planning Officers, within the Council are of the view that the proposal would not result in any sterilisation of the “preferred area”, over and above the constraints which already exist.

There is already residential development adjoining, and within close proximity of, the application site, and the “preferred area” on both sides of Newcastle Road, which could be considered to have a “sterilising” effect on parts of the “preferred area” as a result of buffers, overburden stockpiles and the gradient of the excavation slopes. Given that the proposed development would be no closer to the “preferred area” than existing development, it is not considered therefore, that the proposal would result in any greater level of “sterilisation” than already exists and consequently, it does not warrant a refusal of the application.

Whilst it is acknowledged that Policy 7 does say that the purpose of Mineral Consultation Areas is to ‘*actively seek to safeguard mineral resources through the MCA process*’ intention is not to prevent all development within the Mineral Consultation Areas. The purpose of Policy 7 is to ensure that the impact of development on mineral resources is properly and fully considered through the process of consultation between County and Borough planning authorities. This process (or its equivalent,) is now done internally and has been followed. Consequently appropriate consideration and weight has been given any potential sterilising effects of residential development on the resource.

Tinsdills argue that “*it is irrelevant that there has not yet been a planning application in respect of the protected area which is most proximate to the current application site. The policies of the MLP do not require that there should have been such an application in order that the mineral resources they protect should indeed be protected.*” It is relevant, however, that previous investigations, which have been carried out with a view to submitting applications for this land have determined that it would be financially and ecologically unviable to work the mineral resource the brook up to where it adjoins the current application site boundary.

In summary, Policy 54 states that any need for additional land to maintain a 10 year supply of silica sand should be met from within the preferred area and Policy 7 states that any application within the “minerals consultation area” (which was never defined) should be subject to consultation with the County Council. Neither is prohibitive to development adjoining a preferred area, or even within it, and as a result it is considered that, policies 7 and 54 are whilst relevant to the determination of the application, have been considered appropriately and officers believe there to be no conflict with the policies in question.

With regard to stability issues, the site sits on moderately permeable geology and has a very high water table, although this is likely to be de-watered as a result of mineral extraction (lowered by about 3m). The stability of land in the mineral area and adjacent properties will be assessed as part of any extension to the quarry. The dewatering is likely to reduce the pore pressures in excavated slopes so improve stability by creating drawdown. Problems may occur if softer clay, silt and peat are encountered. However, the assessment of the 2010 extension did show that the nearest properties (adjacent to Paces garage) are on glacial till and sand which is unlikely to be susceptible to stability issues but they would need a proper assessment to have any degree of certainty. This would be undertaken as part of any application to extend the quarry. Fully saturated ground and a high velocity of groundwater can cause ground movement. However, if the quarry operator were to extract on the land adjacent to the Paces Garage site they could look to modify the rate of excavation and slope profiles to ensure excessive groundwater flows did not result in slope failure. Notwithstanding this, dewatering will draw groundwater down by pumping which can also be controlled.

Stability issues are covered in MPG5 and the onus is on the mineral operator to demonstrate stability of the surface mineral working. It states that where instability may threaten land outside of the boundary of the quarry area, the planning authority has a duty to consider the potential effects and if necessary, attention should be given to the possible need for standoffs to protect neighbouring land. Therefore, as part of any future extension application at the quarry the developer would be expected assess the impact and propose standoffs, minimum excavation slopes and groundwater management systems.

Whilst the operator and land owners concern that this residential application could sterilise a large proportion of mineral reserve due to a need for larger standoff is understood, as stated above, given that the site does not lie within the preferred area, the previous application in 2010, and the economic and environmental viability issues with extending towards the Paces Garage site, this is not considered to be sufficient to warrant refusal.

Comments have been made in respect of the use of soakways for drainage and the way in which this may affect the mineral reserve. The suitability of soakways will depend on the geology in the area and location of aquifers etc. The developers are proposing soakways for surface water and foul water which will drain straight to the groundwater. As stated above there is a high groundwater table in the area which could make use of soakways difficult and geology in area is moderately permeable as a result of the till boulder clay and Gawsworth sand. There is a chance there would be rapid dissipation of surface water through to the groundwater so the infiltration rate would need to be considered. The developer would need to be confident that contamination isn't dislodged and allowed to find a pathway to the brook through the groundwater. The Environment Agency have examined the application and raised no objection on these grounds and therefore, they are not considered to present sustainable grounds for refusal.

Jodrell Bank

The University of Manchester has examined the current proposals and raised no objection subject to the incorporation of electromagnetic screening measures which can be secured by condition. Therefore it is not considered that a refusal on the grounds of impact on Jodrell Bank could be sustained.

Residential Amenity

The surrounding development comprises Villa Farm, a modern residential cul-de-sac development on the opposite side of Newcastle Road, and open countryside to the rear. To the south side of the site stands the bungalow known as Fairfield and a combination of 1 and 2 storey detached dwellings stand to the north side in a ribbon development. 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.

Whilst the concerns of Villa Farm residents are noted, distances in excess of 21.3m will be achieved between plots 14 to 18 on the site frontage and the principal elevations of the dwellings on the opposite side of the road. Similarly a distance of 21.3m will be achieved between the proposed dwelling on plot 13 and the rear of the dwelling known as "The Bungalow". Furthermore, the principal elevations of these dwellings are not directly facing and this measurement is taken from the closest point at the corner of the dwelling. Therefore no privacy or amenity issues are raised in respect of the relationship between these two properties.

The proposed dwelling on plot 14 contains 2 landing windows in the side elevation facing towards "The Bungalow". It is therefore recommended that a condition is imposed requiring these to be fitted with obscured glazing. Subject to compliance with this condition it is not considered that there would be any overlooking of "The Bungalow" from this property. Plot 14 stands significantly further forward towards Newcastle Road than "The Bungalow" and consequently there will be no loss of light to the porch / conservatory on the south elevation of this property. Despite the fact that the dwelling on plot 14 would project beyond the front building line of "The Bungalow", given that a distance of approximately 10m would be maintained between the two dwellings, it is also considered that there would be no overshadowing of the principal windows in its front elevation.

The recommended minimum distance of 13.7m will be achieved between the rear elevations of the proposed dwellings on the southern site boundary and the flank elevation of "Fairfield."

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 distance between the front elevation of plot 10 and the flank elevation of plot 8, where the distance will be reduced to 10m. However, these two elevations do face each other directly, and this measurement is taken at the closest point. Therefore this is not considered to be sufficient in itself to sustain a refusal.

The Council's 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 exception of one of the terraced houses on the frontage, which will benefit from a rear garden area of approximately 45sqm. However, this is excluding the off-road parking provision. They will also have small gardens to the front, although it is acknowledged that these will be of limited amenity value. Notwithstanding this point, however, it is considered

that a smaller area of amenity space can be justified for these dwellings, as they are much smaller properties, and are therefore less likely to be occupied by families with children.

In summary therefore, the proposal is considered to be acceptable in amenity terms and in accordance with Policy GR1 of the adopted Local Plan.

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 and
- 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 states proposals for development that would result in the loss or damage of the sites of nature conservation or geological importance will not be permitted. such sites include, inter alia, any site or habitat supporting species that are protected by law

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

The NPPF advises LPAs to 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."

The NPPF 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.

In this case, a survey has been submitted which concludes that the area contains a range of common habitats, which are of small size compared with the scale of hard development. Most of the site has no floristic interest, being composed of hard surfaced yards and buildings with some coarse habitats of tall ruderal herb and scrub. Many of the hedges are conifers and exotic species. The buildings and the hedges have the potential to support nesting birds and the buildings could support roosting bats. As the result of this assessment a specialist surveyor was appointed to carry out a survey of the buildings in May 2011. He concludes that there was no evidence of bats on his daytime inspection and that due to the lack of potential a nocturnal survey was unnecessary. As a precautionary principle he has recommended that the crevices within the concrete block wall of the garage building should be inspected by a licensed bat surveyor prior to demolition and the ridge tiles of the car wash building should be removed under the supervision of a licensed bat surveyor.

The trees and hedgerows and scrub on the site have the potential for nesting bird habitat. If the development takes place outside of the nesting bird season (generally September to February), then no checks for nesting birds are necessary. It should be noted that barn owl is a late brooding species and may have nests occupied during October and a check for the species should be made regardless of the development timing.

The Council’s ecologist has examined the survey and commented that it is acceptable. No evidence of protected species was recorded during the surveys undertaken to inform the assessment. There is some limited potential for roosting bats within the buildings on site however he is satisfied that roosting bats are not reasonable likely to be present, consequently no additional surveys are required.

To compensate for any loss of any existing hedgerows (a Biodiversity Action Plan Habitat and hence a material consideration) or other vegetation from the site, native species hedgerows and tree planting should be included in any landscaping scheme formulated for the site.

If planning consent is granted the following conditions are required to safeguard breeding birds and to ensure some provision is made for both breeding birds and roosting bats.

Design and Layout

The dwellings on plots 14 to 18 provide an active frontage to Newcastle Road, with pedestrian access out on the pavement. However, car parking will be to the rear of these properties which will avoid creating a car dominated frontage. The corner property on plot

18 also includes an entrance on the side elevation facing on to the new access road, to create a dual aspect to break up the mass of the gable and “turn the corner” into the proposed development.

With the exception of plot 13, which stands to the rear of plots 14 to 18 the remainder of the dwellings are laid out around a central public open space, which will form a new “village green” alongside the main road. This feature is reminiscent of similar traditional village greens within the Borough such as those at Astbury or Hankelow. This layout helps to create a focal point for the community as well as natural surveillance of the open space and an active frontage for passers-by. The open frontage makes the development welcoming and helps to knit into the existing built fabric of the settlement.

The Parish Council have expressed the view that the development should be surrounded by a wall similar to that which has been constructed around the Villa Farm development on the opposite side of the road, due to concerns about children running out on to the road and to protect dwellings from noise and vibration.

The properties on the Villa Farm estate are all either backing on to the road or gable end on to the road, and 2m boundary walls run along the site frontage. This type of layout is typical of the late 1990’s when this development was constructed. However, current urban design thinking is that such developments which turn their back on the public domain create dead frontages, which detract from the street scene, discourage natural surveillance, create insular communities which do not integrate with existing areas and create defensive and unwelcoming developments. The proposed design on the other hand, as stated above, will create an open and welcoming active frontage, which integrates with the existing fabric and creates a sense of overlooking and natural surveillance to the benefit of public safety. The public open space will be surrounded by a native hedge and low garden walls and gates can be provided to the frontages of the properties which face onto the main road. These can be secured by condition and should overcome concerns about child safety.

The proposed dwellings are 2 stories in height which reflects the surrounding developments in the surrounding area. It is therefore considered to be acceptable in street scene terms. Furthermore, it will help to knit together the two recent developments at Villa Farm, on the opposite side of the road, and older ribbon development to either side, to create a continuous frontage to Newcastle Road and to help to consolidate the nucleus of the settlement of Arclid which has grown significantly over recent years.

The Parish Council have expressed concerns regarding ground levels, following difficulties which occurred during the development of the Foxes Covert site on Davenport Lane. It is therefore recommended that a condition be attached requiring details of site levels and finished floor levels to be submitted and approved prior to commencement of development.

To turn to the elevational detail of the scheme, the properties are traditional gabled and pitched roofed dwellings which incorporate many features such as canopy porches and window head details that are typical of many farmhouses and traditional cottages in the vicinity. Similar designs have been employed on the neighbouring developments at Villa

Farm and it is considered that the proposed dwellings would be appropriate for the site and in keeping with the character of the surroundings.

Trees and Landscape.

The Senior Landscape Officer has examined the proposals and commented that there are a number of trees and bushes on the boundaries and a section of Copper Beech hedge fronting Newcastle Road.

There are no insurmountable landscape or forestry concerns. However, in order to provide property security, until established the proposed hedge planting to the western boundary should be supplemented by a temporary post and sheep netting fencing. This can be secured by condition.

According to the supporting documentation submitted with the application, the proposed boundary treatment for the open space to the front of the site is hedge and Cheshire Railings. The landscape officer has commented that it should not be necessary to have both hedge and Cheshire railing on the Newcastle Road frontage. Cheshire railing would traditionally have been used where an open aspect was desirable. If screening is desirable then hedging and temporary protective fencing should suffice until the hedge has established. If an open aspect is desirable then the Cheshire railing alone should suffice. If both treatments were provided they are likely to be difficult to maintain. Given the concerns of the Parish Council regarding the potential for children to run out into the road from the proposed open space, it is considered that a native hedgerow would be more appropriate. This detail can also be secured through the landscaping conditions.

The landscape officer has also commented that the proposed location of private soakaways may need review in order to avoid damage to retained trees. However, conditions will need to be imposed relating to submission and approval of drainage details. These can stipulate that soakaways should be located outside tree crowns spreads, and the landscape officer can be consulted on the submitted details prior to discharge of the relevant conditions.

The occupier of one of the neighbouring properties has expressed concerns about potential damage to trees and hedgerows on the boundary. However, it is considered that these can be adequately addressed through the imposition of the standard tree and hedge protection condition.

Access and Highway Safety.

According to the developer's Planning Statement, at present site has an open frontage to Newcastle Road with three points of access. The site is a generator of a wide range of vehicles and is used by crane lorries and other slow moving heavy goods vehicles on an unrestricted, 24 X 7 basis. The proposal involves the closure and removal of the industrial businesses and therefore, heavy goods traffic. Its redevelopment for housing, which would in the main generate only cars and light goods vehicles, represents a highway gain.

The developer's highway consultants have had discussions and correspondence with the council's highway engineers and agreement has been reached on the point of access to

Newcastle, the radii at the bell-mouth and visibility splays and the internal access arrangement which is in accord with the general requirement of the Manual for Streets.

The proposal also involves the closure of the vehicular access to Fairfields through Paces Garage site and the formation of a new access incorporating a turning head within the front garden onto Newcastle Road. This replaces one of the existing access points from the garage site, which is to be extinguished. It is considered that the proposed access including radii, visibility and turning head arrangement would ensure a safe means of access and egress.

The Strategic Highways Manager has examined the application and commented that pre-application negotiations have secured a viable internal layout for this site and a junction design with the A50 which is of an acceptable standard. The proposed internal layout has been negotiated in detail and provides an acceptable design which provides well for this small development. The layout offers a low traffic speed design with a legible adoptable boundary.

In traffic generation terms, when the existing generation is deducted from the proposed, the impact on the highway network will be negligible.

To further improve highway safety, in the area, the developer has offered a reduced speed limit to 40 m.p.h., in the current 50 m.p.h. area on the A50 fronting the site. This speed limit reduction proposal has been highlighted in the Council's Speed Limit Review report and the Strategic Highways Manager would welcome the proposal for the developer to fund this speed limit change.

In detail, the current 50 m.p.h. speed limit is part of a scheme which also covers the section of the A534 which crosses the traffic signals at Arclid. It would be appropriate to change this speed limit too and it is considered to be a consistent and sensible approach to seek developer funding for both speed limits to be changed. Given the administrative legal costs would be the same for one or both speed limits to be changed, the overall cost to the developer would not be increased greatly for the additional work as it will simply require a change of signage. The cost of this work is estimated at £10,000, which could be secured through a Section 106 Agreement, which could also include a claw-back on unspent monies in the event that the actual cost was lower.

Therefore, whilst the concerns of local residents and the Parish Council are noted, in the absence of any objection from the Strategic Highways Manager and subject to the completion of the Section 106 agreement to secure funding for the speed limit change as well as imposition of conditions relating to detailed highway design and construction of the proposed junction and the frontage footpaths it is not considered that a refusal on highway safety grounds could be sustained.

Open Space

The Planning Statement prepared by the applicant states that the proposed open space *"would be the third open space in Arclid. It is considered that its provision is in accord with the relevant policies in the local plan, and in particular GR1 regarding open space provision, GR2 regarding the visual, physical and functional relationship with the street*

scene, GR3 regarding an adequate provision of open space and GR22 regarding the provision of public open space and also the Council's supplementary planning document on open space provision." Comments were awaited from the Greenspaces Officer at the time of report preparation, and a further update will be provided to Members at their meeting.

Affordable Housing

The Strategic Housing Market Assessment (SHMA) 2010 shows that for Sandbach Rural area there is a net requirement for 5 new affordable units between 2009/10 and 2013/14. In addition to this information taken from the SHMA 2010, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East, there is currently 1 applicant who has Arclid as their first choice.

The Affordable Housing IPS states that on all sites over 15 units the affordable housing requirement will be 30% of the total units with a tenure split of 65% social rent, 35% intermediate tenure. The IPS also states at paragraph 3.7 that for all sites in rural areas which have a population of less than 3,000 the Council will negotiate for the provision of an element of affordable housing on all sites of 3 dwellings or more, and the general minimum proportion of affordable housing required will be 30%. This application is for 18 dwellings and therefore the affordable housing requirement of 30% would equate to 5 units.

The application indicates provision of 5 affordable units which would meet the required affordable housing provision of 30%. However the tenure mix indicates 2 x social rent and 3 x intermediate tenure. This split is 40% social rent and 60% intermediate tenure which does not match the requirement of 65% social rent and 35% intermediate tenure. No explanation is offered for this in the planning statement. It is therefore recommended that a Section 106 agreement should be entered into to make provision for 3 x social rent units, 2 x intermediate tenure units.

The Affordable Housing Interim Planning Statement states that "the Council will require any provision of affordable housing and/or any control of occupancy in accordance with this statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended)" It also goes on to state 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." The Section 106 agreement should therefore also ensure that the developer undertakes to provide the social rented affordable units through a Registered Provider who are registered with the Tenant Services Authority to provide social housing.

Local residents have suggested that, given the relatively high house prices in the area, a greater percentage of affordable housing should be provided. However, both local plan policy and the Interim Planning Statement set a percentage of 30% for affordable housing provision and consequently, there would be no policy justification to insist on additional affordable housing.

Therefore subject to the signing of an appropriate Section 106 Agreement to secure the above it is considered that the proposal will comply with the requirements of both the Local Plan Policy in respect of affordable housing and the Affordable Housing Interim Planning Statement.

Drainage and Flooding

Local residents and the Parish Council have expressed concerns about the proposed foul and surface water disposal arrangements. The application has been examined by both the Environment Agency and United Utilities and no objections have been raised. Therefore it is not considered that a refusal on drainage grounds could be sustained.

Contaminated Land

The supporting documentation submitted with the application suggests that there is potential for ground contamination on the site. The Council's Contaminated Land Officer has examined the proposals and raised no objection subject to an appropriate condition to secure a full ground investigation and any necessary mitigation measures. Subject to compliance with this condition it is considered that the proposal will accord with the requirements of the NPPF and Policy GR.8 of the local plan. On this basis it is not considered that a refusal on contaminated land grounds could be sustained.

Noise and Vibration

Local residents have expressed concerns about the impact of noise and vibration from passing traffic on the residential amenity of future occupiers. These concerns have been passed on to the Environmental Health Officers for comment and a response was awaited at the time of report preparation. A further update will be provided to members in due course.

Public Right of Way

Public Footpath Arclid No. 2, as recorded on the Definitive Map of Public Rights of Way map runs across the site from Newcastle Road to the fields at the rear of the site. It is currently obstructed by a large building and has been unavailable for several decades. An informal, permissive diversionary route has been in place for many years which skirted the garage site in order to avoid any interference with the operations of the garage and provide a safe route for pedestrians. The landowner recently submitted an application to the Public Rights of Way Unit to formalise this diversion.

The plans for the housing redevelopment as originally submitted showed the footpath shown running between plots 7 and 8 along its definitive route. The original layout plan was then withdrawn, specifically so that the application would regularise the permissive route which has been in use for many years. This was agreed at a site meeting between the Council's area engineer, the public rights of way officer and Bill Booker of Singleton Clamp, highway consultants. It was seen as the best way forward because the route already exists and could be improved by the Rowland Homes application which would allow the route to be widened within the site to provide a minimum of a 2 metre width where it runs alongside the boundary at the rear of the site.

However, Arclid Parish Council objects to the route shown on the revised plan. In the circumstances and because of the potential delays and costs that would result from the objection being heard at a local public inquiry the applicants now wish to revert to the proposal shown on the original withdrawn layout showing the right of way running through the site between plots 7 and 8.

The public rights of way team have confirmed that they have no objection to this proposal subject to informatives being attached to the decision notice reminding the developer of their responsibility to protect the right of way and its users during and after development.

Other Matters

The Parish Council have asked whether, as part of the electricity supply installation the existing transformer close to the site could be removed. However, given that this work would not be directly relevant to the development to be permitted, not necessary to make the development acceptable in planning terms, or directly relevant to planning, is not considered to be reasonable to impose it as a condition, as it would not comply with the 6 tests for a planning condition as set out in Circular 11/95.

9. CONCLUSION

In summary, the proposal is considered to be acceptable in principle, as it lies within the infill boundary line as designated in the local plan. It will assist the Council in meeting its requirement for a 5 year housing land supply and will promote economic growth. The proposal is acceptable in terms of its impact on Jodrell Bank and Residential Amenity. The Contaminated Land issue can be adequately addressed through conditions and the affordable housing requirement is being met on site. The design and layout is also considered to be acceptable and will enhance the character and appearance of the surrounding area.

Therefore subject to the following the development complies with the relevant local plan policies and accordingly is recommended for approval.

10. RECOMMENDATION

APPROVE subject to

Signing of a Section 106 agreement making provision for:

- **Affordable Housing comprising 3 social rented units and 2 intermediate tenure units.**
- **Social rented units to be provide through an RSL**
- **financial contribution of £10,000 towards speed limit reduction from 50mph to 40mph around Arclid traffic lights.**

And the following conditions:

- 1. Standard**
- 2. Plans**

- 3. Submission of detailed construction plans for access**
- 4. Provision of footpaths to site frontage**
- 5. Scheme of foul drainage**
- 6. Contaminated land investigation**
- 7. Details of Sustainable Urban Drainage System**
- 8. Timing and method of pile driving**
- 9. Air Quality mitigation measures#**
- 10. Construction hours to be 0800 – 1800 Monday to Friday and 0800 to 1300 Saturday with no working on Sunday / bank holidays**
- 11. Removal of Petrol tanks**
- 12. Method of dealing with unforeseen contamination**
- 13. Electromagnetic screening measures**
- 14. Relocation of existing businesses elsewhere within the Borough**
- 15. Tree Protection**
- 16. No works within protected area**
- 17. Boundary Treatment**
- 18. Landscaping**
- 19. Landscaping implementation**
- 20. Materials**
- 21. Obscured glazing to gable of Plot 14**
- 22. Protection of breeding birds**
- 23. Incorporation of features suitable for use by breeding birds**
- 24. Removal of Permitted Development rights for plots 14 - 18**
- 25. Noise and vibration mitigation measures**

In the event of any changes being needed to the working of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Southern Area Manager is delegated authority to do so , provided that he does not exceed the substantive nature of the Committee's Decision.



