

Application No: 13/2649N

Location: Land north west of Church Lane, Wistaston Crewe, Cheshire

Proposal: Outline Planning Application for Proposed Residential Development of up to 300 Dwellings, Highway Works, Public Open Space and Associated Works.

Applicant: Gladman Developments, Gladman Developments LTD

Expiry Date: 16-Oct-2013

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

Impact of the development on:-

Principal of the Development

Housing Land Supply

Green Gap

Location of the Site

Landscape

Affordable Housing

Highway Implications

Amenity

Air Quality

Trees and Hedgerows

Design

Ecology

Public Open Space

PROW

Archaeology

Agricultural Land

Education

Flood Risk and Drainage

Health

Other issues

Planning Balance

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it relates to a departure to the Crewe and Nantwich Borough Local Plan.

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 13.88 ha and is located to the northern side of Church Lane, Wistaston. The site is within Open Countryside and Green Gap. To the south of the site is residential development fronting Church Lane. To the south-west corner of the site is an existing bowling green, tennis courts and school playing fields. To the north and west of the site is agricultural land and to the north east is an area of recreational open space.

The land is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site.

The site includes a small pond to the south-west corner of the site. To the eastern boundary of the site is a watercourse known as Wistaston Brook. The land level drop to the eastern boundary of the site.

Two Public Rights of Way cross the site from north to south (Wistaston FP1 and Wistaston FP2).

2. DETAILS OF PROPOSAL

This is an outline planning application for the erection of 325 dwellings. Access is to be determined at this stage with all other matters reserved.

The proposed development includes a single access point that would be located to the northern side of Church Lane between No 127 Church Lane and an existing electric sub-station.

The Design and Access Statement which has been submitted with the application indicates that there would be a range of block densities averaging 35 dwellings per hectare, ranging from 2-5 bedroom units. The development would include 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space (which includes retained ponds, wetlands, green infrastructure and habitat creation).

The application is accompanied by an Environmental Impact Assessment.

3. RELEVANT HISTORY

13/1828S - EIA scoping request for Environmental Statement – Scoping letter issued 30th May 2013

13/1395S - EIA screening for land off Church Lane – EIA Required 18th April 2013

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

NE.2 (Open countryside)
NE 4 (Green Gap)
NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
RES.5 (Housing in the Open Countryside)
RES.7 (Affordable Housing)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)
RT.9 (Footpaths and Bridleways)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land
Cheshire East Development Strategy
Cheshire East SHLAA

5. CONSULTATIONS (External to Planning)

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

- This site must be drained on a separate system with only foul drainage connected into the public sewerage system
- A public sewer crosses the site and therefore a modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary.

Strategic Highways Manager: This development proposal for 325 new dwellings and accessed off Church Lane Wistaston has been assessed and will have traffic impact on a number of junctions in the vicinity of the site.

The impact on more strategic junctions is material and there are proposals for junction improvements to mitigate the impact of this traffic which align with Authority designed schemes or which are designed by the developer's highway consultant.

The Strategic Highways Manager has identified that one of these offered improvements requires an alternate approach which would see provision on site be replaced by funding provision to be used more flexibly by the Highway Authority.

In addition other monies are identified and required for other purposes such as local bus stop provision and local traffic management.

The site offers appropriate levels of mitigation for its traffic impact on the local and wider strategic highways network and the Strategic Highways Manager considers that as a result of these measures that the overall impact of the traffic generation from this development cannot therefore be considered to be 'severe' in terms of its consideration against the National Planning Policy Framework. This development proposal will not require a Section 278 agreement at this time as one will be attached to any detailed permission should one be brought forward in the future.

Natural England: The proposed development is unlikely to affect any statutory sites. No objection in relation to Bats or Great Crested Newts.

For advice on all other protected species refer to the Natural England standing advice.

Environment Agency: No objection. Conditions suggested relating to surface water run-off, a scheme to manage the risk of flooding from overland flow, and the provision of an undeveloped buffer zone along Wistaston Brook.

Environmental Health: Conditions suggested in relation to hours of operation, environmental management plan, external lighting, and contaminated land. An informative is also suggested in relation to contaminated land.

In terms of air quality mitigation should include the implementation of the proposed travel plan and suitable electric vehicle charging infrastructure.

Public Open Space: The proposal should provide an equipped children's play area. This needs to cater for both young and older children – 6 pieces of equipment for young, plus 6 pieces for older children. A cantilever swing with basket seat, a wide slide, and a ground-flush roundabout would be required, as these cater for the needs of less able-bodied children. All equipment needs to be predominantly of metal construction, as opposed to wood and plastic. All equipment needs to have wetpour safer surfacing underneath it, to comply with BS EN 1177. The surfacing between the wetpour needs to be bitmac. The play area needs to be surrounded by 16mm diameter bowtop railings, 1.4m high, hot dip galvanized and polyester powder coated in green. Two 1.4m high self-closing pedestrian access gates need to be provided – these need to be coloured yellow. A double-leaf vehicular access gate also needs to be provided, with lockable drop-bolts. Bins, bicycle parking and appropriate signage also needs to be provided.

A contribution for off-site provision (£225,000) towards finishing the restoration work at Queens Park should be secured.

Cheshire Fire & Rescue: General comments relating to buildings regulations and water main installation.

Public Rights of Way: The two public footpaths which cross the site form popular leisure walking routes at present and offer circular options for local residents. Within the design, the footpaths should benefit from natural surveillance, and have appropriate widths, surfaces, furniture and signage designed in, all of which would require approval of the Public Rights of Way Unit.

Stopping up orders would not be required where the public footpaths cross the proposed estate roads, but the Public Rights of Way Unit would need to be consulted on the accommodation of users of the paths across the roads, emergency access and squares, for example, table top junctions, dropped kerbs, etc. as appropriate to the design of the road at that point. Where there is a proposal to overlay access roads to houses with the existing public rights of way, details as to how pedestrians are to be accommodated and the legal status of the roadway will be required.

The Illustrative Masterplan depicts a proposed pedestrian/cycle link to the Joey the Swan park area from the south east corner of the site. This access would be welcomed and would require the provision by the developer of a bridge crossing of the brook, with the permission of the landowners to the east of the river for the structure and onward access by both user groups.

Other paths are proposed within the application documents, and referred to variously as 'proposed Public Rights of Way' and 'pedestrian / cycle links'.

It is noted that the draft heads of terms includes an article relating to contributions towards the cost of a footpath upgrade on-site and possible off-site footpath improvement schemes. The developer would be expected to include within the greenspace management strategy, the long term maintenance of the improved routes within the site, both Public Right of Way and other status paths, and a contribution towards the future maintenance of the bridge.

There are a number of suggestions from local communities logged under the Council's statutory Rights of Way Improvement Plan for the area surrounding the development site. The increase in users arising from the development would result in increased pressure on facilities within the area and therefore the need for these improvements is likely to increase. These suggestions, each of which would require consultation with respective landowners, local community and user groups, include:

- ROWIP Ref. W69: accessibility improvements on the Joey the Swan paths, some of which are currently not accessible to all users due to restrictive access furniture, steps and widths of bridges
- ROWIP Ref H31: upgrade of public footpath no. 1 to bridleway standard for horse riding as part of a wider circular route (this would require the agreement of adjacent landowner to the development site).
- ROWIP Ref. 259: upgrade of paths and furniture within the Joey the Swan area for horse riding
- ROWIP Ref. 309: legal process to record on the Definitive Map the 'missing link' of public footpath within the Joey the Swan Park.
- ROWIP Ref. X14: development of promoted circular walks for local communities, including signage, interpretation, access improvements and leaflets.

Archaeology: It is accepted that the archaeological potential is limited and it would not be reasonable to require an intensive programme of archaeological mitigation. Instead, it is advised that the excavation of the main sewer trench should be observed in order to check for the presence of archaeological deposits which, if present, can be recorded. A condition is suggested.

Education: A development of 325 dwellings will generate 59 primary aged children and 42 secondary aged children.

No contribution is required for primary or secondary school education.

6. VIEWS OF THE PARISH COUNCIL

Wistaston Parish Council: Object to the application on the following grounds:

- The proposal would have a detrimental impact upon the openness of the countryside and the health and well-being of residents. The current public footpaths are heavily used for people taking exercise in the open countryside. It would be visually detrimental to Joey the Swan which is a natural beauty spot and would cause disturbance to wildlife in the area.
- Cheshire East Council should prevent urban sprawl by infilling strategic open gaps. The proposal is located within the last strategic open green gap accessible to the public in Wistaston and would result in erosion of physical gaps between built up areas.
- The proposal does not add anything towards existing community amenities and would have a severe impact on the already oversubscribed schools and medical services of the catchment areas. Other neighbouring developments which are already under construction and in the pipeline would compete with the existing schools and services.
- Wistaston is already considered to be developed to its full capacity. It is expanded to the size of a small town, any large scale developments would lead to urbanisation with Crewe.
- The proposal is in conflict with the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and Cheshire East Council's Draft Local Plan – Shaping our Future Development Strategy for Jobs and Sustainable Communities.
- There are currently 3,463 (2011 census) households in the parish; the proposed development would represent an increase of 9.4%
- New settlements in the Crewe area have already been identified at: Crewe Town Centre; West Street (Dunwoody way); Basford East; Basford West; Leighton West and Shavington.
- The development would have a significant increase in the volume of traffic through Wistaston on adjacent roads and thoroughfares, in close proximity to existing junctions. There are no infrastructure plans for major road improvements.
- 43% of current households have 1 car/van; 35% of current households have 2 cars/vans and 7% have 3 cars. Applying this to the proposed development would put an additional 435 cars into an already very congested area which would greatly exacerbate the current traffic loading. There were 5181 vehicles in the area in 2011 and this single development would increase this by 8.4%
- It is well known in the area that the stretch of Church Lane between Park Drive and Valley Road is a local accident hotspot at peak times. This is also the location of the proposed development sole entry and exit junction. Also cross traffic to/from employment sites on the South East of Crewe along Broughton Lane and Park Drive to Nantwich Road will exacerbate the problem.
- The outline planning proposal for a priority junction off Church Lane does nothing to alleviate the existing problems and increased traffic density particularly at peak times.
- The proposed development would be accessed at an already narrow and overcrowded convergence of roads with narrow bridges. It would have a detrimental impact on highway safety.
- This land is classed as high grade agricultural land and it is Cheshire East Council's policy to use low grade agricultural land and brownfield sites.

7. OTHER REPRESENTATIONS

Letters of objection have been received from 1,290 local households raising the following points:

Principal of development

- The site is within the Green Gap
- Contrary to Local Plan Policies
- Landscape impact
- Loss of green land
- There is a legal document which prevents the development of this site
- Approving the development would set a precedent
- There are many unsold homes in Crewe
- There are many empty homes in Crewe
- Approving the application would set a precedent
- Crewe Town Centre should be redeveloped first
- There are other sites which are more appropriate for new development
- The sole purpose of this application is to generate profit for the developers
- Crewe and Nantwich will soon be merged
- The proposed development is out of scale compared to Wistaston
- Impact upon the Green Belt
- Loss of agricultural land
- The application site has amenity value
- Loss of open space
- The land is in agricultural use
- The development is contrary to the NPPF
- The proposed development is contrary to Policies NE.2, NE.4 and RT.1
- There are enough large developments in the area to provide sufficient housing for the next 5-7 years
- No need for affordable housing
- Cheshire East now has sufficient housing sites
- No need for further housing in Wistaston
- Loss of village identity
- The development would create urban sprawl
- Loss of agricultural land
- There should be a concentration on employment before housing
- Brownfield sites should be developed first
- The development is unsustainable
- There are currently 300 houses for sale in the area with 150 for rent

Highways

- Increased traffic
- The proposed ghost lane would remove vital footpath and create a danger to pedestrians
- Cumulative highways impact from other developments in the area
- Dangers caused by construction traffic
- Traffic congestion along Middlewich Road and Crewe/Nantwich Road
- Additional vehicles on the road
- Highway safety at the Rising Sun junction
- Health and safety impact
- The access would not be safe
- Highway safety
- Unsafe access
- The footpath network need to be upgraded
- Increased accidents

Green Issues

- Impact upon wildlife
- Impact upon protected species
- Pollution run-off into Wistaston Brook
- Loss of the last green space in Wistaston
- Impact upon biodiversity
- Impact upon Wistaston Brook which is a local conservation area
- Water pollution will affect the River Weaver
- Landscape impact
- Impact upon trees
- Loss of Green Land
- The trees on the site should be protected

Infrastructure

- The drains are inadequate and there are potential flooding issues
- The site suffers drainage problems
- The sewer system is at capacity
- Leighton Hospital is at capacity
- Doctors surgeries are full
- The local Primary School is already full
- Impact upon the play area at Joey the Swan
- Impact upon electricity infrastructure
- Risk of flooding
- Insufficient medical services

Amenity Issues

- Impact upon health and well being
- The fields are used for public enjoyment
- The site is well used by dog walkers
- Impact upon the PROW
- Visual impact
- Noise and disruption from construction of the dwellings
- Increased dust
- Increased noise

Other issues

- Loss of views
- Lack of public consultation
- The density and style of development is not appropriate
- Loss of property value

A petition signed by 1,938 local residents has been received objecting to the scheme.

An objection has been received from the HIMOR Group raising the following points:

- The development is a significant expansion to the village of Wistaston
- The site is not considered to be sustainable
- Other sites will help to achieve the 'All Change for Crewe' vision
- The Gresty Oaks site is more sustainable and more accessible by a range of transport modes

- An access feasibility assessment has concluded that the Church Lane site provides low levels for walking accessibility
- The Gresty Oaks scheme offers a greater potential for accessibility by foot
- The Gresty Oaks site seeks to create a sustainable new garden suburb including community facilities in comparison the Church Lane scheme does not provide new facilities that will benefit existing and future residents
- The site is subject to a number of constraints including: tree cover, wetlands and watercourses, a well used PROW network, and a substantial impact upon the local landscape character
- Concern that the proposed maximum quantum of development can be achieved

An objection has been received from Edward Timpson MP raising the following points:

- The Wistaston Green Gap should be retained in its entirety
- The open green space and Joey the Swan are well used by the local community and should not be built on
- Cheshire East has over 7 years housing supply
- The infrastructure in Wistaston is already under pressure
- Support for the objections raised by local residents

An objection has been received from the Hands Off Wistaston Action Group raising the following points:

- At previous stages of consultation, local residents have voiced strong opposition to any development on this site. This led to a fresh round of consultation which was recently carried out by the council in which this land did not appear as a proposed site for development. Nevertheless the people of Wistaston responded with 555 responses to the consultation, 365 signatures on an e-petition and over 1900 signatures on a physical petition all urging the council to maintain the Green Spaces in the local area. The voice of the community is loud and clear.
- Over 1,000 online and paper objections have been submitted to this proposal. It is a clear mandate from the local populace – this development is not wanted. This is localism in action – local people making it clear what they value as a community asset – and residents urge Cheshire East Council to take these views on board and refuse this application.
- There are many areas within Cheshire East – and indeed Crewe and Nantwich – where development will be welcomed; brownfield land, land identified as a preferred site by Cheshire East Council. This site meets neither of those criteria. From just quickly searching on Rightmove, there are currently 562 properties for sale within 1 mile of Wistaston – 304 of these are up to 3 bedrooms and priced under £150,000. There is not a shortage of housing, there is a shortage of demand from buyers. There is no need to develop this green gap, agricultural land valued by the community.
- The site and adjacent land provides a habitat for a number of species, including protected species such as Great Crested Newts. Water voles and Pipistrelle bats have also been observed, among other species.
- The local road network, particularly around the Middlewich Road junction, is already at or near capacity. Further increases in traffic will make the roads more congested and dangerous. The proposed access road and “ghost road” will make road traffic accidents more of a risk and will significantly add to local congestion.
- This is good quality agricultural land, mostly MAFF grade 2/3a. This should be retained for agricultural use. The loss of this land will be detrimental to local agricultural output.
- This field is heavily used by residents for leisure purposes and provides a significant contribution to local health and wellbeing. It provides an area to exercise and reduce stress,

preventing further strain on an already overstretched hospital and local GP surgery – which cannot handle even more patients should local developments proceed.

- This application is focused on one issue – how to maximise profit opportunities. It is clear that Gladman's profits from this site would be greater than developing a brownfield site. However, the impact on the local community will far outweigh and monetary value that Gladman place on the land. For the sake of current and future Wistonians, this application must be refused.

The full content of the objections is available to view on the Councils Website.

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Environmental Statement (Produced by FPCR)
- Flood Risk Assessment (Produced by Lees Roxburgh)
- Design and Access Statement (Produced by FPCR)
- Draft S106 Heads of Terms (Produced by Gladman)
- Planning Statement (Produced by Nathaniel Lichfield & Partners)
- Renewable Energy Statement (Produced by Gladman)
- Phase 1 Geoenvironmental Assessment (Produced by Lees Roxburgh)
- Socio-Economic Impact Report (Produced by Lees Regeneris)
- Sustainability Assessment (Produced by Gladman)
- Transport Assessment (Produced by Croft Transport Solutions)
- Education Impact Assessment (Produced by EPDS Consultants)
- Ecological Appraisal (Produced by FPCR)
- Utilities & Infrastructure Report (Produced by Gladman)
- Arboricultural Assessment (Produced by FPCR)
- Archaeology Assessment (Produced by CGMS Consulting)
- Statement of Community Involvement (Produced by Gladman)
- Visual Impact Assessment (Produced by FPCR)
- Agricultural Lane Assessment (Produced by land Research Associates)
- Affordable Housing Statement (Produced by Levvel)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site, for residential development having regard to matters of planning policy and housing land supply, affordable housing, highway safety and traffic generation, contaminated land, air quality, noise impact, landscape impact, hedge and tree matters, ecology, amenity, open space, drainage and flooding, sustainability and education.

Principle of Development

The site lies in the Open Countryside, as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works

undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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

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

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*Sustainable* means ensuring that better lives for ourselves don’t mean worse lives for future generations. *Development* means growth. We must accommodate the new ways by which we will earn our living in a competitive world.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

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

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

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

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

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government's overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011, a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved. In October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply Inspector Philip Major found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 years.

The NPPF clearly states at paragraph 49 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:

- n 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*
- n specific policies in the Framework indicate development should be restricted.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

‘As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making’

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

‘There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the

intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Conclusion

- The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies for the supply of housing are out of date and there is a presumption in favour of development 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land and the NPPF carries a presumption in favour of sustainable development. It is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

Green Gap

As well as lying within the Open Countryside, the application site is also within the Green Gap. Therefore, as well as being contrary to Policy NE.2, it is also contrary to Policy NE.4 of the Local Plan which states that approval will not be given for the construction of new buildings or the change of use of existing buildings or land which would:

- result in erosion of the physical gaps between built up areas; (in this case the Willaston/Rope gap)
- adversely affect the visual character of the landscape.

Exceptions to the policy will only be considered where it can be demonstrated that no suitable alternative location is available.

It could be considered that the Policy is a Housing Land Supply Policy and therefore out of date. This was the case for the Rope Lane, Shavington appeal (for 80 dwellings) when in allowing the

appeal at Rope Lane, which was also located within the Green Gap, the Inspector determined that:

'In my view Policy NE.4 is not a freestanding policy; its genus is in Policy NE.2 and I agree with the appellant that if Policy NE.2 is accepted as being out-of-date, then it must follow that Policy NE.4 must also be considered out-of-date for the purposes of applying Framework policy'

However, it has to be remembered that the policy is contained in the natural environment chapter, not a housing one and the reason for NE.4 is not heavily related. As such, in the October 2013 appeals (Alsager and Sandbach), the Inspector held that these policies were not housing related and therefore had weight.

Within the natural environment chapter, policies relating to the following issues are addressed, none of which are directly housing related.

- Green Belt
- Open Countryside
- Special County Value
- Green Gaps
- Nature Conservation and Habitats
- Internationally Important Nature Conservation Sites
- Locally Important for Nature Conservation Sites
- Protected Species
- Woodland Planting and Landscaping
- River and Canal Corridors
- Agricultural Land Quality
- Rural Diversification
- Agricultural Buildings
- Conversion of Agricultural Buildings
- Pollution Control
- Telecommunications Development
- Renewable Energy
- Flood Prevention
- Landfill Sites

This further backs up this point that Green Gap policy as with Countryside policy is still up to date and should be weighed in the planning balance.

In considering the Green Gap the Inspectors Report into the Local Plan, he found that:

'The width necessary to achieve adequate separation is a matter of judgement and I see no benefit in a detailed analysis of the (Green Gap) boundary unless there is a specific identified need to do so – for example if it were not possible to meet the CRSP (Cheshire Replacement Structure Plan) housing provision. This is not the case in this review of the Local Plan'

This echoed by the Inspector at Rope Lane where he found that Policy NE.4 was qualified by references to an adequate supply of housing and as this position has now changed the Inspector attached limited weight to the Policy.

Finally the Inspectors Report for the Local Plan states at paragraph 143.2.1 that:

'I have concluded that the existing boundaries of the Green Gap designations continue to be appropriate for this plan period'

Whilst the green gap policy wraps around the southern edge of Crewe more than anything else it is intended to ensure that the towns of Crewe and Nantwich do not merge. These settlements have a very different character and history. Nantwich traces its origins to the Roman era and until the mid 19th century remained the pre-eminent urban centre in south Cheshire. In contrast Crewe grew rapidly from the 1840's following the completion of the Grand Junction Railway. To this day the towns retain their distinctive identity. This is a key objective of the existing development plan – and also the emerging Cheshire East Local Plan. This proposes an extension of the North Staffordshire Green Belt into the area between the two urban areas. The separation of Crewe & Nantwich is thus considered to be an important strategic objective – and one that is of enduring relevance. It is also pertinent that additional development can be accommodated in the Crewe & Nantwich area without impinging on the green gap as a whole – and certainly on the most sensitive areas within it.

The impact on the Green Gap is therefore a matter of judgement to be weighed in the balance taking account of the current housing supply position.

The impact upon the landscape is considered below, but this concludes that the landscape impact would not be significant. The second test for Green Gap is whether it would result in the physical gap between built up areas being eroded and whether it would result in a significant erosion that would be detrimental (in this instance) between Wistaston and Nantwich. This particular part of the Gap is quite wide but it would affect the northern part of Nantwich and at that point and there would be an erosion of the physical gap contrary to NE.4.

The scale of the development of up to 325 dwellings must also be material in this instance as the erosion of the Gap and the will consequence be significantly larger than some other sites that Members will be aware have been approved. This must also be weighed in the planning balance.

Policy NE.4 also states that exceptions should be considered where no suitable alternative location is available. Given the number of other housing applications that are currently with the Council (in the light of the Housing Supply position) it is considered that other alternatives are available that would avoid large areas of Green Gap being used.

The emerging Local Plan as indicated above carries only moderate weight at this time. However, given that the Council is seeking to maintain and enhance the principle of Green Gap through Green Belt reviews and assessment to prevent Crewe merging into Nantwich housing supply should be boosted where possible without undermining this objective.

Landscape

The supporting landscape assessment correctly identifies the baseline landscape of the application site and surrounding area, and refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge, and Cheshire Landscape Character Type in which the application site is located, East lowland Plain, and specifically the character area, ELP5: Wimboldsley. The Councils Landscape Architect is satisfied with the baseline landscape character information submitted. The appraisal does appear to be based on the Guidelines for landscape and Visual impact Assessment, Third Edition.

The application is outline and is not seeking approval for appearance, landscaping, layout or scale. The Design and Access Statement offers an Illustrative Masterplan, which it states will

‘provide a template for the detailed design stage of reserved matters applications. It sets out the urban design principles that the development will seek to adopt’.

This document also states that

‘parking will generally be provided to the side or rear of the housing plots, with some on-street parking at the front of dwellings. This would be provided in bays interspersed with tree planting, to provide active traffic calming measures’,

and later in the same section,

‘Car parking will mainly be situated on the driveways to the side or rear of the dwellings, or within undercroft garages where necessary to make the most of level changes’.

Although this is an outline application for a development of 325 units, a number of indicative plans showing the typical layout for high and low density housing plots have been submitted. It is considered that the density of housing being accommodated on the site may make it difficult to achieve or accommodate *‘Avenue tree planting along the Main Street which loops through the site, as well as on-plot landscaping to further integrate the built development into its surroundings and soften its overall appearance’*. This is clearly illustrated on the submitted drawings where the proposed avenue tree planting may be difficult to achieve with the design shown on this illustration.

The Councils Landscape Architect feels that there is potential to achieve mitigation with the perimeter landscape area, but any positive effects would depend largely on the development being undertaken in accordance with the Proposal Plan Drawing (5481-L-07), and the Parameters Plan Drawing (5481-L-004), as such these parameters should be retained through appropriate conditions should the application be approved.

The appraisal does offer an assessment of landscape effects. The Councils Landscape Architect broadly agrees with the sensitivity of landscape and magnitude of landscape effects, and even the overall significance of effect at construction phase. The overall significance at years 0 and 15 will be dependent on the inclusion and incorporation of the Parameters Plan in the final detail design of the site.

The assessment identifies a number of viewpoints and does refer to the methodology process involving the sensitivity of receptors as well as magnitude of visual effects, and offers an overall significance of effect for construction and for operation, on visual amenity, residential settlements, road users, public rights of way, recreational users and designations.

The Councils Landscape Architect agrees with the methodology that has been used, the Councils Landscape Architect feels that the assessment has underrated the sensitivity of a number of receptors as well as the magnitude of visual effect. For a number of these viewpoints the Councils Landscape Architect feels that the significance of visual effect would be slightly larger than the assessment indicates, although not significantly so.

Any mitigation or enhancement would depend largely on the development being undertaken in accordance with the Parameters Plan (Drwg No. 5481-L-004), as such these parameters should be retained through appropriate conditions should the application be approved.

Location of the site

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

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

- Amenity Open Space (500m) – 307m
- Children’s Play Space (500m) – 440m
- Public House (1000m) – 511m
- Primary School (1000m) – 535m
- Public Right of Way (500m) – On site
- Convenience Store (500m) – 473m
- Post office (1000m) – 839m
- Pharmacy (1000m) – 521m
- Child Care Facility (nursery or crèche) (1000m) - 596m
- Community Centre/Meeting Place (1000m) – 307m
- Outdoor Sports Facility (500m) – 300m

Where the proposal fails to meet the standards, the facilities / amenities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development. Those amenities are:

- Bus Stop (500m) – 512m
- Secondary School (1000m) – 1294m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 3700m
- Medical Centre (1000m) - 2320m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Wistaston, there are some amenities that are not within the

ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Nevertheless this is not untypical for suburban dwellings and will be the same distances for the residential development on Church Lane from the application site. However, all of the services and amenities listed are accommodated within Crewe and are accessible to the proposed development on foot or via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Affordable Housing

The Strategic Housing Market Assessment identified a preferred tenure split of 65% social rented and 35% intermediate tenure affordable dwellings across Cheshire East. The Strategic Housing Market Assessment 2010 identified a requirement for 256 new affordable homes each year between 2009/10 – 13/14 in the Crewe sub-area, this is made up of a requirement for 123 x 1 bed, 20 x 2 bed, 47 x 3 bed, 40 x 4/5 bed and 26 x 1/2 bed older persons dwellings each year.

In addition to this information taken from the SHMA, Cheshire Homechoice is used as the Choice Based Lettings method of allocating social and affordable rented accommodation across Cheshire East. There are currently 533 active applicants who have selected Wistaston or Wistaston Green as their first choice, these applicants require – 99 x 1 bed, 231 x 2 bed, 163 x 3 bed, 22 x 4 bed and 2 x 5 bed properties.

Therefore as there is affordable housing need in Crewe there is a requirement for affordable housing to be provided at this site, 30% of the total dwellings on site should be provided as affordable, this equates to up to 98 affordable homes and the tenure split of the affordable dwellings should be 65% social or affordable rent (64 units) and 35% intermediate tenure (34 units), the affordable housing should be provided on site.

The Affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

All the Affordable homes should be constructed in accordance with the standards proposed to be adopted by the Homes and Communities Agency and should achieve at least Level 3 of the Code for Sustainable Homes (2007). The Affordable Homes should also be integrated with the open market homes and not be segregated in discrete or peripheral areas.

The applicants planning statement sets out that they are offering 30% affordable housing on the site. The affordable housing statement sets out an indicative mix of 40 x 2 bed & 23 x 3 bed affordable rented dwellings and 22 x 2 bed & 13 x 3 bed intermediate tenure dwellings. The affordable housing offer complies with the requirement for 30% affordable housing and the 65% rented, 35% intermediate tenure split. The affordable housing statement also sets out that the affordable dwellings will be provided in small groups in clusters of no more than 10 units and this would be acceptable.

The indicative mix providing the majority of affordable dwellings as 2 beds along with some 3 beds does not meet the highest need identified from the SHMA 2010 which is for 1 bed properties. However it does meet the highest need identified from Homechoice applicants for

rented affordable housing. It should be recognised that both the SHMA 2010 and requirements of applicants on Cheshire Homechoice show a need for a variety of property types rather than just 2 & 3 bed houses. In this case the type of property required will be negotiated at the Reserved Matters stage if this Outline application is approved.

Highways Implications

The development would have a single vehicular access point onto Church Lane with a simple priority junction and ghost island right turn lane.

The design of the access accords with Manual for Streets and the applicant has provided a plan to show that visibility splays of 2.4m x 43m can be achieved (on a 30mph road visibility splays of 2.4m x 43m are required according to Manual for Streets). The proposed site access is predicted to operate well within its theoretical capacity in all assessment scenarios and can accommodate the traffic forecast to be generated by the proposed development.

In terms of increased vehicle movements, the Transport Assessment submitted with the application identifies that traffic from the site would impact upon a number of junctions in the area and mitigation would be required. The impact upon these junctions is considered below and this also considers a number of committed developments within the area (Shavington Triangle, Coppenhall East, Parkers Road, Gresty Green Road, Rope Lane and Basford West). The proposed development is forecast to generate a two-way total of approximately 191 trips in the AM peak hour and 210 trips in the PM peak hour.

The test that highways impact needs to be considered against is contained within the NPPF which states that:

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

A534/A51 'Peacock Roundabout'

This junction is currently at or close to capacity and the submitted TA identifies that this junction is predicted to operate in excess of its actual capacity in all scenarios.

In this case there is a scheme of improvements within the CEC Infrastructure Plan which is costed at £705,000 (there is already one contribution for this improvement to the sum of £100,000). In terms of this application it has been negotiated that the developer will fund the balance of this sum (£605,000) on a phased basis and this will be secured via a S106 Agreement. This scheme of works would mitigate this development.

A530/Wistaston Green Road

This junction has a history of injury accidents until the introduction of a local safety scheme in recent years and the junction is now considered to operate safely.

The program used to analyse this junction does not incorporate into the design the effect of rolling queues which occur at this location and the interaction with other junctions. The proposed

development would impact on this junction and the developer is offering a traffic signal junction to mitigate the impact.

The Strategic Highways Manager has stated that he is keen to *'secure a capital sum equivalent to the provisional costs of the installation of this signal junction so that the Highway Authority can observe the operation of this junction as the proposed development builds out (assuming a permission), and then utilise the funding to appropriately treat the strategic A530 link passing this junction, once the prevailing traffic conditions have been assessed'*.

The applicant has offered to upgrade this junction as part of their off-site highways works. However the SHM has stated that he would prefer a contribution which could be spent as part of a wider CEC improvement scheme along the A530. As a result a sum of £300,000 has been agreed towards mitigating the impact at this junction and this will be secured as part of a S106 Agreement.

Other Junctions

It is accepted that there will also be impacts at the following junctions:

- Church Lane/A534 Crewe Road
- Brookland Avenue/A534 Crewe Road
- Park Drive/Church Lane
- Broughton Lane/Church Lane

There is no traffic management in terms of on-street parking orders within the vicinity of these junctions and the Strategic Highways Manager has requested a contribution for the management of these junctions which will be impacted by the proposed development. As a result it is requested that a contribution of £20,000 be secured for the analysis and treatment of the junctions as the development is constructed and commences its traffic generation.

Public Transport

The developer is promoting sustainable transport options and the pedestrian links on this site would direct pedestrians towards the bus stops on Church Lane. The developer has agreed to upgrade these bus stops and a sum of £25,000 would be secured as part of a S106 Agreement.

Highways Conclusion

The proposed access is of an acceptable design and would comply with Manual for Streets. The wider traffic impact would be concentrated on the Peacock Roundabout and Wistaston Green Road/A530 and contributions would be secured for schemes of mitigation. There would be more minor impact upon the four junctions listed above which would be subject to a contribution towards treatment and analysis. In terms of public transport a contribution would be secured towards upgrading the bus stops on Church Lane. Subject to the contributions which would secure mitigation the impact upon the development could not be described as severe (the test contained within the NPPF).

Amenity

In terms of the surrounding residential properties, these are mainly to the south of the site.

From the rear elevation of the proposed dwellings to the south of the site to the rear elevation of the properties which front onto Church Lane there would be a separation distance of approximately 21 metres. This distance meets the required separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The final details in terms of layout and separation would be dealt with at the reserved matters stage.

Due to the separation distances involved, no other residential properties would be affected.

The Environmental Health Officer has requested conditions in relation to hours of operation, environmental management plan, external lighting, and contaminated land. These conditions will be attached to any planning permission.

Air Quality

There are two Air Quality Management Areas (AQMA) in Crewe at Wistaston Road and Nantwich Road.

The Transport Assessment accompanying the planning application indicates that the proposal would generate additional road traffic impacts upon both AQMAs. The air quality assessment estimates that there would be an adverse impact in the Wistaston Road AQMA and that 32% of proposal generated road traffic would travel towards the Nantwich Road AQMA and it therefore follows that it would cause an adverse air quality impact.

Monitoring in these areas has shown nitrogen dioxide levels above the national health based objective. Poor air quality is detrimental to the health and wellbeing of the public, and also has a negative impact on the quality of life for sensitive individuals. For this reason air quality impacts should be considered as a material planning consideration.

One of the twelve core planning principles contained within the NPPF states that planning should:

‘contribute to conserving and enhancing the natural environment and reducing pollution’

To prevent unacceptable risks from air pollution, planning decisions should ensure that new development is appropriate for its location. The NPPF states that the effects of pollution on health and the sensitivity of the area and the development should be taken into account and paragraph 124 states that:

‘Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan’

The proposed impacts are likely to be relatively small according to the Environmental Health Department but they are concerned about cumulative impacts from other committed proposals in the area.

The Environmental Health Officer considers that the air quality impacts from this development could be mitigated against by providing the proposed travel plan, bus stop improvements within

the vicinity of the site and suitable electric vehicle charging infrastructure. Subject to the mitigation measures being secured the Environmental Health Officer has no objection to the development.

Trees and Hedgerows

Trees

The submitted tree report indicates that there are 5 trees which are graded Category A (High Quality/Value), 21 trees which are graded Category B (Moderate Quality/Value), 21 trees which are graded Category C (Low Quality/Value) and 5 trees which are graded U (Unsuitable for retention).

The only tree directly affected by the access is T52, a low value Category C tree located immediately adjacent to the boundary with 127 Church Lane. The Root Protection Area of this tree extends parallel to the proposed highway which can be implemented to the required adoptable standard without having either a direct or indirect impact on the tree.

Apart from the 5 trees graded U all trees would be retained as part of the proposed development. The impact upon trees is therefore considered to be acceptable.

Hedgerows

A section of hedgerow facing directly onto Church Lane will require removal to accommodate visibility splays. The hedge appears to be a relatively recent addition to the landscape, with a number of self set trees allowed to establish within its framework since formal maintenance was last expedited. In this case the hedgerow lost would be of a relatively short length and the loss of hedgerow is outweighed by the need for housing.

Design

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

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

In this case the proposal is considered to be over dense at 35 dwellings per hectare and it would be appropriate through the use of a planning condition to cap the number of dwellings on the site at 300 which would reduce the density to 32 dwellings per hectare on the developable area of the site (excluding the 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space).

In this case there are a number of concerns about the indicative layout of the proposed development and these issues are summarised as follows:

- The primary street position on the parameters plan will mean that some parts of the site will have edges where housing backs or sides onto countryside with considerable sections of

rear and side garden boundaries. The layout should foster fronting onto and overlooking of the landscape as widely as possible to give a positive outlook and create a more open, active interface with the rural edge. The wood lined valley of the watercourse is a major asset and should be fully exploited in terms of outlook. The views to the north and west are also positive and would further add to the quality and attractiveness of the scheme. In conjunction with the above, creating a more varied, lower density edge to the site would enable a softer interface and transition into the countryside as part of the peripheral landscaping proposed.

- The existing public right of way through the centre of the site is set within a green strip that has a very formal arrangement on the parameters plan. This needs careful consideration.
- The development could appear more like an urban scheme, based on the illustrative masterplan, in terms of grain and density, as opposed to one that sits comfortably within an area largely characterised by lower density housing in a fringe location.

It is considered that the issues above are not insurmountable and that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF could be negotiated at the reserved matters stage.

Ecology

Habitats

Hedgerows

The hedgerow located along the western boundary of the site has been identified as Important under the Hedgerow Regulations. It appears likely that this hedgerow will be retained as part of the development of this site.

Another hedgerow located on the southern boundary of the site with Church Lane may be lost or damaged to facilitate the proposed site entrance. However, considering the size of the proposed open space it appears likely that there will be opportunities at the reserved matters stage to secure replacement hedgerow planting to compensate for this loss. Replacement hedgerow planting could be secured by means of a condition if planning consent is granted.

Marshy grasslands and ponds

The marshy grassland and ponds present on site have nature conservation value and are worthy of retention. These habitats are located within the natural green space areas shown on the submitted parameters plan and it seems likely that they would be unaffected by the proposed development. The retention of these features could be secured by condition if outline planning consent is granted.

Grassland Habitats

With the exception of the ponds, marshy grassland and hedgerows discussed above, the grassland habitats which make up the bulk of the site are of low value and do not present a significant constraint upon development. The development proposals will however still result in an overall loss of the area of habitat on the site.

The applicant has undertaken an assessment of the residual ecological impacts of the proposed development using the Defra 'metric' methodology. The results of this assessment conclude that there is no requirement for a contribution in this case.

Protected Species

Great Crested Newts

A small population of Great Crested Newts has been recorded at one pond on the eastern boundary of the site and at one pond to the north-west of the site (no more than one GCN was recorded during any of the six trapping sessions). In the absence of mitigation the proposed development would result in the loss of a large area of relatively low value habitat and would also pose the risk of killing or injuring any newts present on site when the works were undertaken.

In order to compensate for the loss of terrestrial habitat the applicant is proposing to retain and enhance the habitat around the eastern, northern and western boundaries of the site. It is also proposed to mitigate the risk of killing or injuring newts through the removal and exclusion of newts from the development footprint using standard best practice methodologies under license from Natural England.

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

- (a) 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
- (b) no satisfactory alternative and
- (c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon protected species.

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 conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case the tests would be met as follows:

- If the development was approved it would be because the LPA cannot demonstrate a 5 year housing land supply and there would be reasons of overriding public interest, including those of a social or economic nature with no satisfactory alternative
- There is only a small population of GCN on this site and there would be no detriment to the maintenance of the species population at favourable conservation status in their natural range. The proposed mitigation/compensation would be adequate to maintain the favourable conservation status of GCN.

Breeding birds

The proposed development site is likely to support breeding birds, possibly including the more widespread biodiversity action plan priority species which are a material consideration for planning. The Councils Ecologist advises that the site is unlikely to be of significant ornithological interest, however if planning consent is granted conditions could be attached to safeguard breeding birds.

Bats

The proposed development site is likely to support foraging and commuting bats. However roosting opportunities appear absent and the site, with the exception of the retained ponds, marshy grassland and running water, is unlikely to be significantly important for bats.

The submitted ecological assessment has identified the potential adverse impact on bats from additional lighting associated with the development. The Councils Ecologist recommends that if planning consent is granted a condition be attached requiring a lighting scheme for the site to be submitted with any future reserved matters application.

Water Vole

Evidence of this declining protected species has been recorded at both the marshy grassland to east of application site and at the brook nearby.

The habitats occupied by water voles are within the proposed open space areas and so it appears unlikely that this species would be directly affected by the proposed development. The submitted Ecological Assessment does however identify that the predation risk associated with an increase in domestic cats could potentially have an adverse impact upon this species. Increased bramble planting is suggested as a means of mitigating this risk.

If outline consent is granted a condition will be attached requiring any reserved matters application to be supported by an up to date protected species surveys and mitigation proposals.

Public Open Space

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. In this case the level would be 11,375sq.m and the indicative plan shows that the developer will provide 1.54 hectares of amenity green space and 3.05 hectares of green infrastructure. This would exceed the requirement for Policy RT.3 by a considerable margin and is considered to be acceptable.

In terms of children's play space this would be provided on site and the applicant has indicated that they are willing to provide a LEAP with 12 pieces of equipment as requested by the POS Officer.

The suggested contribution towards Queens Park does not meet the CIL tests as there is adequate provision of open space on the application site and the contribution is not necessary to make the development acceptable in planning terms. It should also be noted that Queens Park is approximately 2,500 metres from the application site.

Local residents have raised concern that the development of the site would impact upon health and well being and the application site is used for public enjoyment. However the application site is in agricultural use with no recreational designation within the Local Plan whilst the PROW would be retained in-situ (the impact upon the PROW is discussed below). The development would result in the creation of 4.59 hectares of amenity green space, green infrastructure and a LEAP. As a result it is considered that the development would result in a benefit in terms of the recreational value of the site.

PROW

The route of the Public Rights of Way which cross the site would be retained in position as part of this application and further information about the treatment of the PROW would be provided at the Reserved Matters stage.

In this case the PROW Officer has requested a number of PROW improvements within the vicinity of the site. Some of these improvements would be controlled via a planning condition whilst others would be off site and would not meet the CIL/Condition tests.

It is not considered that the accessibility improvements to the paths and furniture within Joey the Swan play area would meet the CIL tests as the applicant would provide an over provision of open space within the application site together with a 12 piece LEAP. These suggested improvements would not be necessary to make the development acceptable in planning terms.

The upgrade of PROW No 1 to a Bridleway is within the application site and could be controlled through the use of a planning condition, as would the provision of a link from footpath Wistaston FP2 to Wistaston FP15 with a bridge to cross Wistaston Brook.

Archaeology

A supporting Archaeological Assessment has been submitted with this application and this has been assessed by the Councils own Archaeologist who has suggested that further mitigation should be secured by condition if planning permission is granted.

Agricultural Land Quality

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

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

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

In this case a survey of the agricultural land quality has been undertaken and this identifies that 35% of the land is grade 2, 43% is grade 3a and 22% is grade 3b/grade 4.

Although the development would result in the loss of 10.4 hectares of Grade 2 and Grade 3a land a reason for refusal could not be sustained on these grounds. This is supported by a recent decision made by the Secretary of State at Bishop's Cleeve, Gloucestershire where two developments (one of up to 450 homes and another of up to 550 dwellings) were approved outside the settlement boundary with one being located on the best and most versatile agricultural land. The recent decision at Loachbrook Farm, Congleton also reinforces this point.

Inspector as part of the Sandbach Road North appeal decision where the Inspector states that *'whilst the loss of some Best and Most Versatile (BMV) land is a disbenefit, in the context of this proposal the loss is of minor weight'*. The recent decision at Loachbrook Farm, Congleton also reinforces this point.

Education

The proposed development would generate 59 primary school pupils and 42 secondary school pupils.

In term of primary school places the table below shows that there is capacity within a number of schools within the vicinity of the site (of these schools two are currently having their net capacity extended – Wistaston Green and Pebble Brook). With these works there would be 410 surplus places based on the revised net capacity in 2018. This would meet the needs of the proposed development and as a result the education department are not requesting any contribution towards primary school education provision.

	PAN	NOR	NET CA (Proposed)	UNFILLED PLACES	UNFILLED PLACES %	PUPIL FORECASTS					
	Sep-14	Mag-13	Mag-13	NET CA		2013	2014	2015	2016	2017	2018
Primary Schools											
Underwood West	60	412	470	470	58	12.34	436	444	449	456	463
Wistaston Church Lane	60	420	420	420	0	0.00	418	418	420	420	421
Oakefield	60	300	420	420	120	28.57	322	341	360	373	383
Gainsborough	60	416	420	420	4	0.95	424	423	422	422	420
Wistaston Green	60	353	390	420	37	9.49	365	394	404	409	421
Beechwood	45	295	300	300	5	1.67	302	311	323	335	345
Brierley	30	185	210	210	25	11.90	191	200	202	207	210
Edleston	30	214	210	210	-4	-1.90	212	212	213	213	210
Pebble Brook	45	220	240	315	20	8.33	230	244	261	279	295
Shavington	30	212	210	210	-2	-0.95	210	210	211	209	209
St Marys Catholic	80	549	560	560	11	1.96	544	562	570	572	579
Vine Tree	30	202	210	210	8	3.81	206	209	210	214	215
Willaston	30	205	210	210	5	2.38	202	202	201	203	203
The Berkeley	50	331	330	330	-1	-0.30	334	347	356	358	363
Highfields	30	207	210	210	3	1.43	211	214	212	210	210
OVERALL TOTAL	700	4,521	4810	4915	289	6.01	4171	4287	4365	4424	4489
OVERALL SURPLUS PLACES PROJECTIONS							639	523	445	386	305
OVERALL SURPLUS % PROJECTIONS							13.28	10.87	9.25	8.02	6.67
OVERALL SURPLUS PLACES PROJECTIONS based on NET CAP							744	628	550	491	410
OVERALL SURPLUS % PROJECTIONS based on NET CAP							15.14	12.78	11.19	9.99	8.67
** wistaston green - re-introducing a classroom for 2014											

In term of secondary school places the table below shows that there is capacity within a number of schools within the vicinity of the site. The table shows that there would be 626 surplus places in 2019. This would meet the needs of the proposed development and as a result the education department are not requesting any contribution towards secondary school education provision.

	PAN	NOR	NET CAP	UNFILLED PLACES	UNFILLED PLACES %	PUPIL FORECASTS					
	Sep-14	Mag-13	Mag-13			2013	2014	2015	2016	2017	2018
Secondary Schools											
Sir William Stanier	210	903	1050	147	14.00	899	932	964	998	1044	1098
Kings Grove	156	693	780	87	11.15	658	640	638	648	652	676
Malbank	210	922	1050	128	12.19	887	868	866	869	903	915
Shavington	170	574	931	357	38.35	550	529	504	515	522	530
Ruskin	140	561	666	105	15.77	510	480	457	453	474	492
Brine Leas	210	1,078	1050	-28	-2.67	1057	1052	1070	1068	1078	1080
St Thomas More	128	636	642	6	0.93	637	616	603	600	591	589
OVERALL TOTAL	1224	5,367	6169	802	13.00	5198	5117	5102	5151	5264	5380
OVERALL SURPLUS PLACES PROJECTIONS						971	1052	1067	1018	905	789
OVERALL SURPLUS % PROJECTIONS						15.74	17.05	17.30	16.50	14.67	12.79

Flood Risk and Drainage

The vast majority of the application site is located within Flood Zone 1 according to the Environment Agency Flood Maps although a small strip along Wistaston Brook is located within Flood Zones 2 & 3. Flood Zone 1 defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site is more than 1 hectare, a Flood Risk Assessment (FRA) has been submitted in support of the application. The submitted plan shows that the area identified as Flood Zones 2 & 3 would not be developed as part of this development.

The FRA identifies that the proposed flows from the development would be connected into Wistaston Brook with flows limited to a Greenfield rate in accordance with the NPPF.

The proposed drainage system will be designed to accommodate a 1 in 30 year event and will be put forward for adoption by United Utilities. The FRA states that overall the development will seek to contain flows up to the 1 in 100 year plus climate change event.

The Environment Agency and United Utilities have been consulted as part of this application and have both raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Health

A number of the letters of objection raise concerns about the impact upon health provision in this area. In response to this issue the applicant has stated that there are 10 medical practices within 2.5 miles of the site and according to the NHS choices website all are currently accepting patients indicating that they have capacity. Furthermore no practices have closed their list and they are not being forced to accept new patients.

The applicant also states that there have been a number of approvals in and around Crewe which have not required medical contributions and all are less accessible to medical facilities than this application site.

Other issues

From the number of objections received the application site is clearly valued by local residents who use the PROW which cross the site. However the site is not protected as a formal recreational area within the Local Plan and would not be possible to defend an appeal on these grounds alone. It is considered that the issue should be included within the planning balance but the weight that can be attached to the issue will be limited.

LEVY (CIL) REGULATIONS

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

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

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

As discussed above the requested highway contributions are required to mitigate the impact of the development at junctions where there are capacity issues. The contributions are directly related to this development (which would impact upon the junctions) and are fair and reasonably related in scale and kind.

The proposed development would result in increased public transport use from this site and the upgrade of the existing bus stops is reasonably related to this development and necessary to promote sustainable travel from the site.

The proposed development cannot proceed without the highways/bus stop improvements and the contribution is reasonably related in scale and kind to the development.

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

10. CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies for the supply of housing land are out of date and there is a presumption in favour of development. Following the recent appeal decisions the Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

The proposed development would provide a safe access and the development would not have a detrimental impact upon highway safety or cause a severe traffic impact subject to contributions to secure mitigation.

In terms of Ecology it is not considered that the development would have a significant impact upon ecology or protected species subject to the necessary contribution to off-set the impact.

The proposed development would provide an over provision of open space on site and the necessary affordable housing requirements.

The education department has confirmed that there is capacity within local schools and that no education contribution is required.

The proposal is considered to be acceptable in terms of its impact upon residential amenity and drainage/flooding and it therefore complies with the relevant local plan policy requirements for residential environments

Whilst the site does not meet all the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be sustainable in terms of its location.

The proposed development would not adversely affect the visual character of the landscape. The conflict with the designated area of Green Gap does cause concern, particularly given the scale of the development as detailed and it is considered that it would result in a significant erosion of the physical gap between built up areas of Crewe and Nantwich which is a key component of the merging Local Plan.

Therefore taking account of the planning balance it is considered that the location of the development within an area of Green Gap does cause an adverse impact that significantly and demonstrably outweigh the benefits of housing provision. Accordingly a recommendation of refusal is made.

11. RECOMMENDATION

Refuse for the following reasons:

In the opinion of the Local Planning Authority, the proposed development would cause an erosion of the Green Gap between the built up areas of Crewe and Nantwich which coupled with the location of the site within the Open Countryside, would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies NE2 and NE4 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and paragraphs 17 of the National Planning Policy Framework, which recognises the intrinsic character and beauty of the countryside

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Wistaston