

Application No: 13/4216C

Location: Land West of Padgbury Lane, Padgbury Lane, Congleton, CW12 4LR

Proposal: Outline Planning for the Development of land to the West of Padgbury Lane, Congleton, for up to 150 dwellings, community facilities and associated infrastructure.

Applicant: Northern Property Investment Company Ltd

Expiry Date: 25-Jan-2014

## **SUMMARY RECOMMENDATION**

**Refuse**

### **MAIN ISSUES**

**Principle of the Development**  
**Housing Land Supply**  
**Location of the Site**  
**Landscape**  
**Affordable Housing**  
**Highway Implications**  
**Amenity**  
**Trees and Hedgerows**  
**Design**  
**Ecology**  
**Public Open Space**  
**Agricultural Land**  
**Education**  
**Flood Risk and Drainage**  
**Health**

## **REASON FOR REFERRAL**

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

## **1. DESCRIPTION OF SITE AND CONTEXT**

This site is located to the south west side of Padgbury Lane which links the A34 and the A534 approx 1 mile to the south west of Congleton town centre. The site is roughly triangular in shape. The site is bordered to the north east by Padgbury Lane which has a modern housing estate on the other side.

A Texaco petrol filling station and a separate dwelling on Padgbury Lane abuts the southern end of the site, which has a overgrown, unkempt, weedy appearance. The south west boundary of the site abuts Loach brook which ultimately feeds into the River Dane down stream.

The north west boundary is marked by a mature hedgerow with the Heath Farm public house/wacky warehouse and small number of dwellings to the rear of the public house.

The land is generally level with a gentle fall towards Loach Brook. A row of mature trees / mature hedgerow fronts the Padgbury Lane frontage, some of which are covered by Tree Preservation Order and the mature hedgerow is regarded as being a historic hedgerow.

## **1. DETAILS OF PROPOSAL**

This is an outline application with all matters reserved except access for up to 150 dwellings. It was originally submitted with overall numbers being 180 units, however, this was reduced by 30 units to provide grassland habitat to address concerns raised by the Council's ecologist.

The application is supported by an Environmental Impact Assessment which has been updated during the application stage. An Illustrative Parameters Plan, Padgbury Lane South has been submitted in support of the application showing two new accesses onto Padgbury Lane, a play area set within Public Open Space, pedestrian and cycle links. A balancing pond is located to the north east of the site within the proposed public open space.

The Planning Statement submitted with the application states that the majority of trees and hedgerows are shown for retention, with 19 individual trees and two small lengths of hedgerow to be removed to facilitate development.

The density is indicated at 33 dwellings per hectare in a mix of types of dwellings from 2-5 bedrooms. 30% affordable housing provision is proposed.

## **2. RELEVANT HISTORY**

There have been numerous historic planning applications for residential development of this site since the 1960's, 3 of which were dismissed on appeal.

Since the Local Government Re-organisation in 1974 there have been over 20 applications submitted for residential development on either all or parts of this site. All these applications' were submitted between 1974 and 1987 and were refused.

On 29 June 1987 the last appeal for the residential development of the site was dismissed.

There is no further planning application history on the site. A neighbouring site on Padgbury Lane was granted permission for 3 dwellings at the site known as 'The Orchard' under reference 12/4194C in December 2012

In terms of the Local Plan, the last Inspectors Report into the 2005 Plan, whilst not accepting the Applicants' submission that the site should be allocated as a housing site; recommended that the site be included as an employment allocation. This did not follow through to the Adopted Congleton Borough Local Plan First Review 2005

### **3. POLICIES**

#### **National Policy**

National Planning Policy Framework

#### **Local Plan policy**

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plans (January 2004).

#### **Policies in the Local Plan**

PS3	Settlement Hierarchy
PS6	Settlements in Open Countryside
PS8	Open Countryside
GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
GR23	Provision of Services and Facilities
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
NR1	Trees & Woodland
NR4	Nature Conservation (Non Statutory Sites)
NR5	Maximising opportunities to enhance nature conservation

## **National Policy**

National Planning Policy Framework

## **Other Material Policy Considerations**

SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments
SPD4	Sustainable Development
SPD6	Affordable Housing and Mixed Communities

Interim Planning Policy: Release of Housing Land (Feb 2011)

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994

North West Sustainability Checklist

Cheshire East SHLAA

Cheshire East Local Plan Strategy – Submission Version

## **Cheshire East Local Plan Strategy – Submission Version**

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28<sup>th</sup> February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

## **Cheshire East Local Plan Strategy – Submission Version**

PG2 – Settlement Hierarchy  
PG5 - Open Countryside  
PG6 – Spatial Distribution of Development  
SC3 – Health and Wellbeing  
SC4 – Residential Mix  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE1 - Design  
SE2 - Efficient Use of Land  
SE3 – Biodiversity and Geodiversity  
SE4 - The Landscape  
SE5 – Trees, Hedgerows and Woodland  
SE9 –Energy Efficient Development  
IN1 - Infrastructure  
IN2 – Developer Contributions

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

**United Utilities:** No objection to the proposal providing that the following conditions are met:-

- Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing foul, combined or surface water sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details
- Notwithstanding the details shown on the submitted plans, the proposed driveway/hard surfacing to the front of the property shall be constructed using permeable materials on a permeable base, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the boundaries of the property (rather than to the highway), unless otherwise agreed to in writing by the Local Planning Authority.

United Utilities advise that the provision of a mains water supply could be expensive. Water mains will need extending to serve any development on this site. The applicant, who may be required to pay a capital contribution, will need to sign an Agreement under Sections 41, 42 & 43 of the Water Industry Act 1991.

**Strategic Highways Manager:** No Objection on the basis of conditions and commuted sum payments in respect of highways improvements in the locality.

No information has been supplied to confirm that the 43m visibility splays shown on the site access drawing are actually appropriate at the proposed access locations. The appropriate visibility splay should be based on observed 85<sup>th</sup> percentile speeds, and a 43m visibility splay would only be

acceptable if observed speeds were confirmed to be 30mph. A higher visibility splay is necessary where actual speeds are above 30mph.

The SHTM is also aware that the southernmost access into site 13/4216C as shown in the most recent plans may necessitate the removal of Tree T2, which is subject to a Tree Preservation Order. The SHTM would not object to the relocation of the access in principle, provided it can be demonstrated prior to first development that appropriate visibility can be achieved at the proposed location.

**Natural England:** No objection . The proposal is unlikely to affect any statutorily protected sites or landscapes. With regard to protected species the Planning Authority should refer to Standing Advice

**Environment Agency:** The Environment Agency has no objection in principle to the proposed development however make the following comments-

#### Flood Risk

The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. If a single rate of discharge is proposed, this is to be the mean annual runoff ( $Q_{bar}$ ) from the existing undeveloped greenfield site. This has been calculated as 2.13 lites/sec/ha within the *Flood Risk and Runoff Assessment; Land off Padgbury Lane (South), Congleton* prepared by Opus International Consultants (UK) Ltd (dated September 2013, ref: JD-D1113-R01), which is considered acceptable in principle. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.

The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SuDS). SuDS, in the form of grassy swales, detention ponds, soakaways, permeable paving etc., can help to remove the harmful contaminants found in surface water and can help to reduce the discharge rate.

The following planning conditions are required -

#### **Condition 1**

The development hereby permitted shall not be commenced until such time as; a scheme demonstrating that finished floor levels of all buildings are to be set at a minimum of 600 mm above the 1% AEP modelled flood level for Loach Brook, including an allowance for climate change (as detailed in Table 5.11 of the *Hydrology Report* prepared by Opus International Consultants (UK) Ltd, dated July 2013, ref: J-D1112-H), has been submitted to and approved in writing by the local planning authority.

#### **Condition 2**

The development hereby permitted shall not be commenced until such time as; a scheme demonstrating no built development or alteration of ground levels within the 1% AEP flood outline, has been submitted to and approved in writing by the local planning authority.

**Condition 3**

The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water runoff generated by the proposed development, has been submitted to and approved in writing by the local planning authority.

The Environment Agency advises that during times of severe rainfall overland flow of surface water could cause a flooding problem. The site layout is to be designed to contain any such flooding within the site, to ensure that existing and new buildings are not affected.

**Condition 4**

The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the local planning authority

**Ecology**

The Environment Agency advises that the proposed development will be acceptable if a planning condition is included requiring a scheme to be agreed to protect at least an 8 metre wide buffer zone around the watercourse.

**Condition 5**

No development shall take place until a scheme for the provision and management of at least an 8 metre wide buffer zone alongside the watercourse shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. The schemes shall include:

- plans showing the extent and layout of the buffer zone
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan
- details of any proposed footpaths, fencing, lighting etc.
- where a green roof is proposed for use as mitigation for development in the buffer zone ensure use of appropriate substrate and planting mix.

**Contaminated Land**

The Environmental Impact Assessment (Dated Sept 2013) and its further Addendum have not considered land contamination.

The Land is bordered by a surface water course and is located above a Secondary A Aquifer and Secondary B Aquifer. We consider these to be controlled waters.

As such we consider that planning permission could only be granted to the proposed development as submitted if the following planning conditions are attached-

### **Condition 6**

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

### **Condition 7**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

**Environmental Health:** Conditions suggested in relation to hours of operation, environmental management plan, external lighting, noise mitigation measures (to protect future residents from noise from the public house), travel plan, dust control and contaminated land (phase II report). In terms of air quality conditions are requested in terms of electric car charging points and travel planning.

**Public Open Space (amenity greenspace childrens playspace) :** No objection subject to the provision of on site amenity greenspace and a NEAP (minimum 8 pieces of equipment). The area recommended with a NEAP is 1000m<sup>2</sup> so this would be an additional requirement on top of the 3,600m<sup>2</sup> – all of which to be maintained by private management company in future

**Public Rights of Way (Countryside Improvement Team) :** The application documents refer to variously 'Proposed Footpath/Cycleway' and 'Proposed Footpath' along the western



boundary of the development site. For this to be of value to residents, connections to it would be required from the estate roads and, at its northern and southern extents, it would need to connect with an onward route which, as shown in the outline plans, is not evident.

The legal status of new routes would require agreement with the Council as Highway Authority and the routes would need to be maintained as part of the Open Space Management arrangements.

**Education:** The development of 180 dwellings will generate :- 32 primary & 23 secondary places. There is sufficient capacity in secondary schools. The Education Department is forecasting that the primary schools will be oversubscribed. Therefore the following contributions will be required:

Contribution 32 Primary spaces = **£165,405**

The Education Officer advises that pupil numbers fluctuate and figures may differ following the next school census. For the purposes of any Given the timeframe between these comments and any potential appeal the education officer requests a formula based approach

## **5. VIEWS OF THE PARISH COUNCIL**

Congleton Town Council: Objection on grounds of loss of open countryside and contrary to Local Plan housing policy.

Newbold Astbury Parish Council: Wish to make the following comments –

1. In the section on Transport Analysis (section 10 - specifically part 4.6.2 item (iv) and at other points in both application reports) the Newcastle Road onto which the south end of Padgbury Lane connects is described as the A50. This designation is incorrect as the road is the A34 and recorded statistics for the A50 are irrelevant to the case in question.

2. Traffic Flow Analysis for the Padgbury Lane/A34 south junction takes no account of the subsequent significant effect on increased traffic flows other than in the immediate vicinity of the junction.

Specifically no assessment is made on the impact of traffic flows to the Leek and Biddulph and the Mossley/Hightown areas of Congleton.

The principal road serving these areas is Peel Lane located in Conservation No.20 (Astbury Village Conservation Area) which is located only 600metres from the Padgbury Lane/A34 junction. The Conservation Area is subject to specific published policies to diminish and restrict traffic flows on the grounds of Heritage Preservation as in the attached published objectives of the Conservation Policy, Section (iv).

3. As a statutory Conservation Area Astbury Village is a National Heritage Asset and the traffic assessments of the applications are further flawed in that no reference or discussion is included as to the effect of the development on this Heritage Asset as already stated 600metres distant and which would be in direct conflict with the objectives of NPPF Section 12.

4. The Archaeological/Heritage Assessments for both sites makes no mention or takes no account of the adjacent statutory Conservation Area and high status Listed Buildings therein (Grade 1 and Grade 2). In the opinion of the Parish Council the presence of the nearby Conservation Area and the impact of the development in terms of traffic movement should have been taken into account in the analysis.

5. The proposed development on both sites are outside the settlement zone line indicated on the Congleton Borough Local Plan and the development would result in the loss of an important green space "buffer" between the existing urban areas and designated open countryside.

This would be particularly harmful to the rural aspect of the adjoining countryside when viewed from the Bridleway and footpaths on the higher ground to the west and contrary to the NPPF Policy of avoiding unnecessary harm to the setting of the open countryside.

## **6. OTHER REPRESENTATIONS**

Circa 270 Letters of objection have been received raising the following points:

### Principal of development

- The site is outside the settlement boundary
- The site is not identified for development in the Congleton Town Strategy
- The proposed development would not result in sustainable development
- Loss of Greenfield land
- Impact upon the rural landscape
- Housing would not blend in with the existing residential environment
- There is a greater than 5 year housing land supply
- Allowing the development would conflict with the localism agenda
- The proposal is contrary to the Congleton Local Plan
- The proposal is contrary to the emerging Plan
- There is a lack of employment in the area
- The development of the site will jeopardise brownfield sites from being brought forward
- The proposal would harm the rural character of the site
- Loss of countryside
- Adverse impact on landscape character and appearance
- There are numerous properties for sale in area
- Priority should be given to brownfield sites
- The development would result in urban sprawl
- The proposal is contrary to the NPPF
- Car reliant site, distances from facilities impractical for walking/cycling and public transport is poor
- Cumulative impact

### Highways

- Road infrastructure is already congested, morning rush can take 40 mins to get to Congleton
- Padgbury Lane is a rat run
- Increased traffic congestion
- Impact upon highway safety
- Previous applications have been refused on highway grounds
- Future residents would be dependent on the car

- Pedestrian safety
- Poor public transport service to site
- Buses get stuck in the congestion already proposal will worsen

#### Green Issues

- Loss of green land
- Southern part of the site abuts the green belt
- The tree report is not adequate
- Increased flood risk
- Increased water run-off
- Increased flooding
- Impact upon wildlife
- Impact upon protected species
- Impact upon local ecology
- The FRA is inadequate
- Loss of trees
- Loss of agricultural land (grade 2 and 3a)
- Impact upon Great Crested Newts, badgers bats
- Loss of Hedgerows/ trees as an ecological issue
- Access will require removal of trees to Padbury Lane which are part of the defining character of the street
- Flooding into Loachbrook together with the cumulative impact of Loachbrook Farm development and subsequent adverse impact upon River Dane SSSI which Loachbrook links into

#### Infrastructure

- Increased pressure on local schools
- Padbury Lane is a safe walking to school zone, but only has pavement to one side. Road safety for school children from site needing to cross busy road
- The local schools are full
- Doctors are full
- The recreational spaces are at capacity
- The sewage system is overstretched
- There is little in terms of leisure facilities
- Adverse impact upon local drainage infrastructure

#### Amenity Issues

- Impact upon air quality
- Cumulative impact upon air quality with other developments
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Increased light pollution

#### Other issues

- Insufficient information into geology in the area
- Lack of consultation
- Weight of opposition against the proposal is a material consideration

- Adverse impact upon the village of Astbury by virtue of proximity . Preservation of distance is important to the regional economy
- Impact upon archaeology – finds on site suggest that site should be left

A letter of objection has been received from Fiona Bruce MP raising the following points:

- Site is outside settlement zone line and contrary to existing and emerging local plans.
- Congleton has insufficient employment to cater for the new properties
- Padgbury Lane is a rat run And suffers from heavy congestion
- Insufficient infrastructure in the area

An objection has been received from West Heath Action Group which raises many of the same issues as outlined above and considers the proposal to be premature, and economically, environmentally and socially unsustainable. They have also submitted a further objection to the revised information re ecology, tress and hedgerows and the highways mitigation, questioning the practicality of the provision and the ability to provide bus stops on the site frontage

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

## **7. APPLICANT'S SUPPORTING INFORMATION**

Environmental Impact Assessment and individual reports covering the following:

- Transport Assessment including updated information
- Planning Statement
- Statement of Community Involvement
- Landscape and Visual Assessment
- Land Contamination Assessment
- Flood Risk Assessment
- Ecological Appraisal - including updated information
- Desk based Archaeological Assessment
- Design and Access Statement
- Arboriculture Assessment
- Air Quality Assessment- including updated information
- Agricultural land Assessment
- Archaeological Assessment
- Acoustic Report
- Socio-Economic Report
- Utilities Report
- S106 Heads of Terms

These reports can be viewed on the application file. In précis it is the Applicants case that the site is sustainable and performs better in terms of sustainability than sites allocated within the

Pre-submission version of the Plan, the Council does not have a 5 year supply of housing land and that the calculations of the Council in this regard are flawed. They consider the site to be more sustainable than the site known as Somerford Triangle and have made submission to Local Plan to this end.

They consider that previous Local Plan Inspectors Reports support for the site as an employment site, is highly relevant to this proposal.

## **8. 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, open countryside, 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 and health provision.

### **Principle of Development.**

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8, and PG5 within the Submission Version of the Local Plan Strategy state that, inter alia, 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.

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 to outweigh the policy concerns.

### **Housing Land Supply**

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the 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 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:*

*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.”*

Appeal decisions in October 2013 concluded that the Council could not conclusively demonstrate a five year supply of deliverable housing land. This was founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013.

In response, in February 2014 The Council published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31 December 2013. The approach taken to the Statement has been informed by policy requirements and by consultation with the Housing Market Partnership.

The Position Statement set out that the Borough’s five year housing land requirement as 8,311. This was calculated using the ‘Sedgefield’ method of apportioning the past shortfall in housing supply across the first five years. It included a 5% buffer, which was considered appropriate in light of the Borough’s past housing delivery performance and the historic imposition of a moratorium.

A standard formula of build rates and lead-in times was applied to most housing sites, unless more detailed site-specific information is available. Those considered deliverable within the five year supply were ‘sense-checked’ and assumptions altered to reflect the circumstances

of the particular site. The Criticisms made of the yields from certain sites in the recent appeals, particularly those in the merging Local Plan, were also been taken on board.

Sources of supply included sites under construction; sites with full and outline planning permission; sites awaiting Section 106 Agreements; selected Strategic Sites which are included in the emerging Local Plan; sites in adopted Local Plans; and small sites. This approach accorded with the National Planning Policy Framework, existing guidance and the emerging National Planning Policy Guidance at that time.

A discount was been applied to small sites, and a windfall allowance included reflecting the applications which will come forward for delivery of small sites in years four and five.

A number of sites without planning permission were identified and could contribute to the supply if required. However, these sites were not relied upon for the five year supply.

The current deliverable supply of housing was therefore assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the 'Sedgefield' methodology and a 5% 'buffer' the Five Year Housing Land Supply Position Statement demonstrated that the Council has a 5.87 year housing land supply. If a 20% 'buffer' was applied, this reduced to 5.14 years supply.

Notwithstanding this, however, the recent appeal at Elworth Hall Farm, Sandbach (11 April 2014) determined that the Council had still not evidenced sufficiently the 5 year supply position, although the Inspector declined to indicate what he actually considered the actual supply figure to be.

Members should note, however, that the Elworth Hall Farm inquiry took place shortly after the publication of the Position Statement with only very limited time available to evidence the case. Since that time, the housing figures have been continuously refined as part of the preparation of evidence for further public inquiries which have taken place during March and April 2014 and are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 5.94 year housing land supply with a 5% buffer or 5.2 year housing land supply with a 20% buffer.

Following the release of the Planning Practice Guidance (PPG), which now proposes that Council's include development which falls into the C2 Use Class category (i.e. care homes, halls of residence etc.) when considering housing land supply figures, the requirement provisionally drops to 6,496 (due to increased delivery in previous years) and the supply is elevated to 10,514. This equates to 8.09 years supply.

At the time of the Elworth Hall Farm inquiry the PPG was only in draft form, and although the Inspector gave consideration to the potential contribution of C2 accommodation to supply, the full implications of its inclusion were not known at that stage. The Inspector considered that the Council had a record of under-delivery and expressed the view that a 20% buffer would

be appropriate. However, the inclusion of the C2 consents takes away the suggestion of persistent under supply.

The Elworth Hall Farm inspector also criticised assumptions which the Council had made around build rates and lead in times, which he considered to be overly optimistic. In response Officers have been reworking the supply figures using longer lead in times, and on build rates which do not assume that on large sites there will be two or more developers except where there is the actual site specific evidence. Whilst this clearly reduces the overall supply, this is balanced out by the inclusion of the C2 permissions, and (subject to confirmation) the most recent figures still indicate that the Council can demonstrate a 5 year supply of housing land.

In the light of the above the Council considers that the objective of the framework to significantly boost the supply of housing is currently being met and accordingly there is no justification for a departure from Local Plan policies and policies within the Framework relating to housing land supply, settlement zone lines and open countryside in this area.

Additionally, the adverse impacts in terms of conflict of this proposal with the emerging draft strategy of releasing this site for housing development would, in the planning balance, outweigh the benefits of the proposal in terms of housing land supply, since the site is not relied upon with the emerging Core Strategy or the Assessed Housing land supply.

Therefore, the site is not required for the 5 year housing land supply plus buffer.

### **Open Countryside Policy**

As well as assessing housing supply, the recent Appeal decisions at Sandbach Road North Congleton Road Sandbach, the Moorings/Goldfinch Close in Congleton and Crewe Road, Gresty Green are also significant for clarifying the status and intent of settlement zone line and countryside policies within the existing Plan.

Some have sought to argue that as settlement boundaries effectively contain the built area of a town or village – and so define the area in which development is usually concentrated – that accordingly they should be viewed as housing supply policies. This subsequently could mean that those policies, along with normal countryside policies, should be considered “out of date” if there is no five year supply of housing land. This view is derived from paragraph 49 of the framework which states that:

*“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”.*

There are appeal decisions that appear to support this perspective, although the recent appeals in Cheshire East (mentioned above) have generally taken a different approach.



The recent appeal decisions consider this matter in some detail. It was noted by Inspectors decisions” that the settlement zone lines serve a variety of purposes – and take account of land allocated for development up to a particular point (in this case 2011). However, the Inspector considered that settlement zones lines were not driven by the need to identify land for development, but rather are based on the objective of protecting countryside once development land is identified. Consequently, he concluded that the related policy (Policy PS4 of the Congleton Local Plan) was “not sufficient directly related to housing land supply that it can be considered time expired for that purpose.” Instead the Policy is “primarily aimed at countryside & green belt protection”. These objectives are largely in conformity with the NPPF and attract “significant weight”. In both appeals conflict with countryside policies were acknowledged.

This means that these policies remain important in the planning balance – but are not necessarily determinative. The two decisions (Congleton Road and Sandbach Road North) pinpoint that much depends on the nature and character of the site and the individual circumstances pertaining to the application. At Congleton Road, the Inspector considered that the objective to boost significantly the supply of housing outweighed the “relatively moderate” landscape harm. In contrast, at Sandbach Road North the provision of housing was viewed as an “important and substantial” material consideration, but there would also be serious harm resulting from the impact on the character and appearance of the countryside. On that occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply and notwithstanding the housing supply position previously identified by Inspector Major, the appeal was dismissed.

In reaching this conclusion, the Inspector memorably noted that:

*“the lack of a 5 year supply of housing land does not provide an automatic ‘green light’ to planning permission”.*

It is acknowledged that the Council has recently consented to judgement in a High Court challenge to the Sandbach Road decision and that accordingly that decision has been quashed on the grounds that the Inspector erred in law in concluded that Policies PS4, PS8 and H6 were not a relevant policy for the supply of housing within the meaning of paragraph 49 of the national Planning Policy framework to the extent that it seeks to restrict the supply of housing. This is consistent with other recent court cases such as *South Northamptonshire v Secretary of State for Communities and Local Government* and *Barwood Land*.

Whilst the implications of this judgement are still being considered, the Council’s current stance on this matter, as put at recent inquiries, such as *Weston Lane, Shavington* is that, countryside policies in existing local plans can be considered as consistent with NPPF and

are not housing land supply policies in so far as their primary purpose is to protect the intrinsic value of the countryside in accordance with paragraph 17 of the NPPF– and thus are not of date, even if a 5 year supply is not in evidence. However, it is acknowledged that where the Council cannot demonstrate a 5 year supply, they may be out of date in terms of their geographical extent, in that the effect of such policies is to restrict the supply of housing. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

## **Landscape Impact**

The application site occupies an area of approximately 8.2 hectares and is located on the western edge of Congleton within land defined in successive ‘Local Plans’ including the Submission Version of the Core Strategy as being Open Countryside.

The application site is currently rough grassland, bounded to the south by the wider agricultural landscape to the north of which lies PROW Congleton FP18 and Newbold Astbury FP10.

The submission includes a Landscape and Visual Assessment (LVA). The LVA states that the methodology used encompasses the ‘Guidelines for Landscape and Visual Impact Assessment’ (GLVIA) published by the Institute of Environmental Assessment and the Landscape Institute (2002) and ‘Landscape Character Assessment. Guidance for England and Scotland’ (LCA) published by the Countryside Agency and Scottish National Heritage 2002. The baseline conditions are based on Natural England’s Countryside Character Assessment defining the site as Character Area 61; Shropshire, Cheshire and Staffordshire Plain. The study also refers to the Cheshire Landscape Character Assessment (adopted in 2008) which identifies the site as being located in Landscape Type 10: Lower Farms and Woods, the site is also located within the Brereton Heath Character Area: LFW2.

The Councils Landscape Architect has considered the detail of the application Landscape and Visual Character Assessment and concurs with the views of the applicant with regard to the sensitivity of views in the landscape of this site.

The proposed development site has been unmanaged for some years and is currently overgrown with long grass and regenerating trees and scrub. There are some mature trees along banks of the brook and mature hedgerows and trees on the northern and eastern boundaries. Housing development on this site would obviously change the character of the site itself but would not have any significant impacts on the character of the wider landscape or have any significant visual impacts.

There would be some views of the proposed housing development from Padgbury Lane and nearby residential properties. The most sensitive receptors would be the users of the Dane Valley Way long distance footpath and bridleway which runs to the south of the site and then parallel to Loach Brook approximately 400 metres to the west. However, the residential developments on the edge of Congleton are already visible from this footpath and although the proposed development would bring the urban edge closer, it would not significantly diminish the views experienced from this route. Trees along the banks of the brook and other intervening hedges and trees would partially screen or filter views of the development. The parameters plan includes additional tree planting along the brook which would increase screening in the longer term.

As the landscaping of the site is a reserved matter, full details would have to be provided as part of a future proposal. If the outline application is approved a number of conditions including a landscape management plan via a s106 agreement in order to secure appropriate on-going management and public access in perpetuity could be attached to protect/enhance the landscape on this site. On this basis, the Landscape Architect does not object to this proposal.

## **Sustainability**

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 National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

Accessibility is a key factor of sustainability that can be measured. One methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities 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 toolkit sets maximum distances between the development and local amenities. These comprise of everyday services that a future inhabitant would call upon on a regular basis, these are:

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).
- public right of way (500m)

In this case the development meets the standards in the following areas:

- post box – site entrance on Padgbury Lane
- amenity open space (on site)
- public park / village green (1320m) - Quinta Park
- public open space - on site
- public house ( adjoining site)
- primary school (480m) ( Quinta School Ullswater Road, CW12 4LX
- child care facility (480m) (Somerford Kindergarten, Quinta School Grounds, Ullswater Road, CW12 4LX
- bank / cash point (1150m), Martin McColl West Heath Shopping Centre
- bus stop (Hail and Ride Padgbury Lane)
- a local shop selling food or fresh groceries (360m), Londis Texaco Filling Station

A failure to meet minimum standard (with a significant failure being greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m) exists in respect of the following:

- post office (1150m), Martin McColl West Heath Shopping Centre
- leisure facilities (3300m), Congleton Library
- medical centre. Readesmoor Group Practice, West Street, CW12 1JN. (2900m) .
- Pharmacy (1150m) – West Heath Shopping Centre
- Railway Station (4700m) (Park Lane Station)

- local meeting place / community centre - 2240m (Danesford Community Centre, West Road, CW12 4EY).

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are just guidelines and are not part of the development plan.

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 Congleton, 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 in the vicinity of the application site. However, the majority of the services and amenities listed are accommodated within Congleton and are accessible to the proposed development on foot or via a short bus journey.. Accordingly, it is considered that this is a locationally sustainable site.

Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development. The proposal would also generate Government funding through the New Homes bonus.

This is consistent with two recent appeal decisions which were refused on sustainability grounds but allowed at appeal:

- At 4 Audlem Road, Hankelow an application for 10 dwellings (12/2309N) was refused by Southern Planning Committee on 29<sup>th</sup> August 2012 for sustainability reasons. In allowing the appeal the Inspector found that *'The Council has used the North West Sustainability Checklist as a guide to assessing accessibility, albeit that this relates to policies in the now defunct RSS. Nevertheless, this gives a number of useful guidelines, many of which are met. The village has a pub, a church, a village green and a post box and there is a golf club close to the appeal site open to both members and nonmembers. However, the village has no shop or school. Audlem, which has a greater range of facilities, is only a short distance away. The appeal site has good access to 2 bus routes, which serve a number of local destinations. There are footways on both sides of the road linking the site to the village centre and other public rights of way close by. Audlem Road here forms part of the national cycle network. Therefore, whilst the use of the car is likely to predominate, there are viable alternative modes of transport. In locational terms, the appeal site appears to me to be reasonably accessible for a rural settlement'*.
- At land adjacent to Rose Cottages, Holmes Chapel Road, Somerford an application for 25 dwellings (12/3807C) was refused by Southern Planning Committee on 12<sup>th</sup> December 2012 for sustainability reasons. In allowing the appeal the Inspector found that *'it is inevitable that many trips would be undertaken by car as happens in most rural areas. However in this case many such trips for leisure, employment, shopping, medical services and education have the potential to be relatively short. A survey of the existing population undertaken by the Parish Council confirmed that the majority use the car for most journeys. Its results should though be treated*

*with some caution in view of the response rate of only 44%. The survey does not seem to have asked questions about car sharing or linked trips, both of which can reduce the overall mileage travelled. It is interesting to note that use of the school bus was a relatively popular choice for respondents. A few also used the bus and train for work journeys. It also should not be forgotten that more people are now working from home at least for part of the week, which reduces the number of employment related journeys. Shopping trips are also curtailed by the popularity of internet purchasing and most major supermarkets offer a delivery service. The evidence also suggests that the locality is well served by home deliveries from smaller enterprises of various kinds'*

There are, however, 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 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

**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

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

### **Environmental role**

The site is a greenfield site and therefore not the first priority for development.

The site is within walking distance along level terrain, subject to the provision of additional footways, or a short bus journey from West Heath Shopping Centre. This centre offers a wide range of essential facilities and means that occupiers of the development will not be overly reliant on the private car.

Paragraph 38 of the Framework states that for larger scale residential developments, policies should promote a mix of uses in order to provide opportunities to undertake day to day activities including work on site, thereby minimising the need to travel.

To the north of the West Heath Shopping Centre is the Radnor Park Industrial Estate and Green Field Farm Trading Estate, which are mixed B1, B2 and B8 sites accommodating a range of occupiers and employment opportunities.

Paragraphs 96 and 97 of the Framework deal with decentralised and renewable energy supply. The aim is to secure a proportion of predicted energy requirements for new

developments from decentralised and renewable or low carbon sources. This could be dealt with by condition in the interests of sustainable development.

### **Economic Role**

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

‘The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth’

Given the countryside location of the site, consideration must also be given to one of the core principles of the Framework, which identifies that planning should recognise:

‘the intrinsic character and beauty of the countryside and supporting thriving rural communities within it’.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

‘support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings’

The economic benefits of the development need to be balanced against the impact upon the open countryside and the loss of agricultural land.

In addition, the proposed development will help to maintain a flexible and responsive supply of land for housing, business and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal will also deliver economic benefit in the form of the New Homes Bonus, which is a material consideration.

Similarly, the NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

According to paragraphs 19 to 21:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy

fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”

### **Social Role**

The final dimension to sustainable development is its social role. In this regard, the proposal will provide up to 180 new family homes, including 30% affordable homes, on site public open space and financial contributions towards education provision.

In summary, in terms of its location and accessibility the development does not meet all the criteria in terms of the Checklist. However, previous Inspectors have determined that accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, reducing energy consumption through sustainable design, and assisting economic growth and development, which this proposal will help to do.

To conclude, the benefits include the need to provide people with places to live and 30% affordable housing, which is in great need, the economic benefit of new residents and the New Homes Bonus, revenue in terms of Council Tax to the Council and more spending in the local economy and some social benefit in terms of the limited medical provision, however, these do not outweigh the harm to the local environment by virtue of the loss of the open countryside.

### **Affordable Housing**

The site is located in the Congleton sub-area for the Strategic Housing Market Assessment Update 2013 (SHMA), which identified a net need for 58 new affordable homes each year made up of a net requirement for 27 x 1 beds, 10 x 3 beds, 46 x 4+ beds and 37 x 1 bed older persons units. This is a total need over the 5 years (2013/14 – 2017/18) of the SHMA of 290. The SHMA identified an oversupply of 49 x 2 bed properties and 12 x 2 bed older persons properties which is why the net total requirement is 58 new units per year.

In addition to this the number of applicants on Cheshire Homechoice have been considered. There are currently 610 applicants on the housing register who require social or affordable rented housing in Congleton, these applicants require 207 x 1 beds, 227 x 2 beds, 116 x 3 beds, 11 x 4 beds and 1 x 5 bed (48 applicants haven't specified how many bedrooms they require).

The Interim Planning Statement: Affordable Housing advises – *that for Windfall sites in settlements with a population of 3,000 or more the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size. It also advises that the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment.*

Therefore there should be provision of 30% of the total dwellings as affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate. This is the preferred tenure split identified in the SHMA 2010 and highlighted in the Interim



## Planning Statement on Affordable Housing (IPS).

This equates to a requirement for 54 affordable dwellings on this site, with 35 provided as social or affordable rent and 19 provided as intermediate tenure (based on a maximum of 180 units with a pro rata reduction should overall density be reduced).

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 Homes and Communities Agency's Design and Quality Standards (2007) 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 therefore 'pepper-potted' and be tenure blind and also not be segregated in discrete or peripheral areas.

The application confirms that 30% affordable housing will be provided on this site. As this is an outline application the information about the affordable housing offer by the applicant is limited, if the application was approved I would like to see the details in an affordable housing scheme (including type of intermediate tenure to be provided) to be submitted at reserved matters stage and the scheme to meet the affordable housing requirements detailed above. The Affordable Housing Statement highlights that the affordable housing will be provided as a mix of 2 and 3 bed houses, however the Strategic Housing manager would like to see a broader range of types of and sizes of affordable housing discussed at reserved matters stage rather than merely the provision of 2 and 3 bedrooomed units.

It is therefore the Strategic Housing Manager's preferred option that the developer undertakes to provide the social or affordable rented affordable units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.

## Highways Implications

This revised application (for up to 150 dwellings) has been submitted by the same applicant for a sister application for 120 units and a small health related development (13/4219C elsewhere on this agenda) and on adjoining parcels of land.

Each application has its own Transport Assessment (TA) and both TAs refer to the three points of access which will be used to serve the sites which demonstrates that they are intended to be considered as one development. The applications are outline so internal layout is not definitively indicated.

The structure of each submitted TA is the same and therefore the critique below is set against the 120 dwelling (North) site but is equally applicable to this application to both TAs.

The two sites should not be considered separately for traffic generation and impact as junction capacity modelling is not a linear calculation and the Strategic Highways Manager finds that both sites should be assessed cumulatively. A revised Transport Assessment was

provided by the applicant that deals with the total of 300 residential units, not each site individually. (150 units on this site and 120 on the adjoining site).

***Transport Assessment Critique.***

The Strategic Highways Manager (SHM) has had further discussions and negotiations with the applicant's highway consultant regarding the highways aspects of the proposed development.

These discussions were driven by the original reason for refusal as recommended

The S.H.M. has been critical of the original TA work as amongst a number of issues, it did not allow for the cumulative impact of these two sites and did not in its junction modelling accurately represent the actual on-site traffic conditions which were known to the highway development control team.

Due to these issues, mitigation of development impact was not identified or clear and not offered on an agreed level.

Further discussion with the Applicant's Highway Consultant led to an agreement that the traffic impact from the proposed development should be given fresh assessment against the highway authority's VISSIM model for the A34 corridor through Congleton.

This VISSIM model has led to the development of a series of proposed junction improvements to alleviate the existing and severe congestion along this corridor with provisional estimates for these schemes.

**VISSIM model assessment.**

By introducing the traffic generation figures from these proposed developments as a cumulative total – and by adjusting the distribution pattern to a more realistic level the highway authority has demonstrated that the developments would have a severe impact on a number of junctions along the A34 corridor without mitigation.

In addition, the traffic modelling identified against that impact, designed and costed schemes, which could be provided by the development to proportionately mitigate against their traffic impact on the highway network.

**Offered mitigation.**

During the time of the VISSIM assessment the developer's highway consultant had a further meeting with the Strategic Highways manager and made verbal offer of a financial contribution towards the development impact on the A34 corridor. This acknowledges that the development does indeed have an impact on the highway network.

The Strategic Highways Manager has therefore considered this financial offer carefully and weighed its effect against the ability to provide contributions towards two of the A34 corridor junction improvement schemes.

### C.I.L. compliance.

A further consideration with regard to developer contributions is that of compliance with the Community Infrastructure Levy regulations.

The Strategic Highways Manager considers that the VISSIM model evidence clearly supports the view that the improvement of the identified junctions is CIL compliant as the improvements will mitigate for the identified development traffic impact and on a proportionate basis given the whole corridor impact. It is considered that the level of mitigation required can be robustly demonstrated.

### Sustainable Transport improvements.

The TA demonstrates that no bus stops are located within a 400m walk of the site, and that only “hail and ride” points are available. It also demonstrates that local services are currently infrequent, with no more than one service per hour available during the AM and the PM peaks.

It is considered therefore that it is appropriate to request that a contribution is secured via a S106 agreement towards the cost of providing / enhancing the bus stop infrastructure. This should be set at £20,000 which will provide 2 new quality waiting facilities.

Furthermore, it is considered that to enhance the sustainability and accessibility of the site that the development should contribute towards the strengthening of the public transport service. This can be achieved in a number of ways and therefore it is recommended that a condition that a scheme to address the current poor provision is made.

### Highways Act S106.

The Strategic Highways Manager recognises that the delivery of the identified junction improvements along the A34 corridor is crucial to the mitigation of impact from this development. A contribution towards the delivery of the West Road roundabout improvement scheme has already been secured from another development and therefore this development will address issues at the Waggon and Horses and Barn Road roundabouts.

However, given that further detailed design work is required at all of the junctions along the corridor which may identify additional costs, it is considered that the delivery of junction improvements is secured via a financial contribution through a S106 agreement. This will allow the Highway authority some flexibility to target resources at key junctions.

It is considered that this development meets the full estimated cost of delivery of the Waggon and Horses improvement and the full delivery of the Barn Road roundabout improvement. Given the wider corridor impact of the development, it is not considered that only making partial contributions to improvements are an acceptable approach.

### Access to site.

In general the principle of the points of access onto Padgbury Lane is agreed however the offer of Manual for Streets visibility appears to be set against the posted speed limit and not approach speeds therefore this aspect of the junction designs should be clarified. This will be subject to update report.

In addition the general design shown on the drawings offers only a 2.0 metre footpath on each side of the site access road and it is anticipated that this will need to be reviewed to consider incorporating cycling facilities. This can be resolved at the technical approval stage. This will also have a knock on effect for trees along the Padgbury Lane Frontage (discussed elsewhere in the report).

A condition could be attached with regard to additional information on approach speed issues and junction details. The site visibility splay is determined by the presence of trees on Padgbury Lane. Residents have commented about the speeds that traffic can reach on Padgbury Lane. The information with the application is not sufficiently detailed with regard to speed surveys, however, it is possible that speed control measures could be required on Padgbury Lane. The Strategic Highways Manager recommends a condition to the effect.

### **Highways Conclusion.**

In order to remove the highways objection in terms of the severe impact on the A34 corridor, two highway improvement schemes are required and that financial contributions to these should be secured. The submitted offer from the developer is not considered to adequately mitigate for development impact and the SHM recommends a defined solution against their own assessment based on the VISSIM model and scheme estimates.

The application is outline and all detail other than that of access is reserved.

A VISSIM model has been used to assess the impacts of the development on the A34 corridor – this approach has been agreed with the developers highway consultant. This demonstrates a significant impact from the development along the whole route. CEC would therefore seek a contribution towards improvement schemes which have been previously identified at junctions on the corridor. The greatest impact from the development would be at the Waggon and Horses roundabout, due to that junction's proximity of the site, and it is therefore considered appropriate that the developer should contribute the full cost of a minor improvement identified at this location, which has a total cost estimate in the order of £302,000. It is also considered that it would be necessary for the developer to make a contribution towards mitigation elsewhere in the corridor.

The West Street Roundabout has previously been subject to a contribution for the full cost, and therefore it would be appropriate for the developer to fund the improvement at the next junction on the corridor, at Barn Road, which has a total cost estimate in the order of £909,000. This would make the total highway contribution £1,211,000 across both this and its sister application.

Proportionately, the financial contribution for this site's highway impact is £672,777.

### ***Personal Injury Accident Review***

The PIA data in Appendix E shows one serious and one minor accident in the vicinity of the proposed site accesses on Padgbury Lane. Safe passage across Padgbury Lane will need to be considered and provided for as part of the development. The GTA requires developments to promote and provide accessibility and multi-modal choice however this does not appear to have been adequately addressed in the presented TAs.

In addition, there have been four accidents within the junction of Padgbury Lane/Newcastle Road, and a further two on the Padgbury Lane approach to the junction. The accident record at this junction would therefore strengthen the case for signalisation of this location, which should also be informed by the results of the LinSig modelling noted above.

### Accessibility

#### ***Walking***

It is accepted by the Strategic Highways Manager that the site is located in a sustainable location in respect of walking trips.

Existing footways on Padgbury Lane extend only on the northern side of the carriageway. There would need to be pedestrian provision on the southern side of Padgbury Lane beyond the site access point, with a southern footway and a safe crossing point to the existing northern footways to be provided.

An indicative layout for a new footway and crossing point should be provided alongside a solution for this shortfall in pedestrian facilities immediately local to the site.

It is considered, however, that a condition should be imposed to require the provision of the footway.

#### ***Cycling***

While the application is outline only, information should be provided to demonstrate how internal networks will connect to the external cycle network.

New cycleways have been agreed as part of the development at Loachbrook Farm to the north of the site. These are to be located on Holmes Chapel Road and on Sandbach Road. The Transport Assessment should demonstrate how cycle facilities will be required on Padgbury Lane to connect the site to this new infrastructure.

#### ***Public Transport***

Guidance on Transport Assessments (Dept of Transport document) utilised by the Strategic Highways Manager regards 400m as being a reasonable walking distance within an urban area such as Congleton. However, the Local Bus Network plan presented in the application documentation is potentially misleading because it presents distances to bus stops “as the crow flies”, rather than as actual walking distances from a representative point within the site. This is not acceptable and improvements would be required for the improvement of bus services.

Nonetheless, the plan demonstrates that no bus stops are located within a 400m walk of the site, and that only “hail and ride” points are available. Table 4.1 also demonstrates that local services are currently in frequent, with no more than one peak-time service available. The 400m figure differs from the 500m utilised as part of the Sustainability Checklist criteria utilised as part of the planning sustainability assessment

Accordingly, there should be consideration of how public transport accessibility at the site can be improved as part of the development, both in respect of waiting infrastructure and in respect of services. No such information has been put forward. Revised information has been submitted

### ***Travel Plan***

It is noted that a Framework Travel Plan has been submitted as part of the application. The possible measures within the Travel Plan appear to be appropriate for the nature of the development and the level of detail is appropriate given it is the first stage of the Travel Planning process.

As set out in the Framework TP, a survey of travel patterns should be undertaken upon first occupation of the site. A Travel Plan Coordinator should be appointed, and a series of targets for travel behavioural change should be established. A Full Travel Plan should then be produced containing details of the survey results, targets and the Travel Plan Coordinator, plus a range of appropriate measures selected to achieve the targets set. This will need to be produced and agreed with CEC highways prior to first occupation of the site.

As also set out in the Framework TP, any Full TP will need to be monitored for a five year period following the first occupation of the site. The Highways department normally require £5K for this at £1k per year to finance staff time. The monitoring of the Travel Plan and implementation of appropriate measures will be secured by s.106 agreement.

### ***Mitigation of Development Impact.***

There is a requirement through National policy for proposed developments to appropriately mitigate the traffic impacts from their development.

The NPPF states that proposed developments should not be refused on highway grounds unless impact is ‘severe’.

Without mitigation, the development proposal does have a severe impact on a number of junctions along the A34 corridor and this has been demonstrated through an approach agreed with the developer’s highway consultant.

The results of the assessment do show that it is necessary for the developer to mitigate against their developments traffic impact on the junctions in question along the A34 corridor.

### **Amenity**

In terms of the surrounding residential properties, whilst there are a small number of dwelling adjoining the southern part of the site on Padgbury Lane. Between the nearby residential properties to the north, to the rear of the pub are a linear area of public open space, and a belt of trees. Due to these intervening features and the separation distances involved it is considered that a layout could be achieved that could comply with the separation distances as outlined in the Congleton SPD for residential layouts. Accordingly, there would be minimal impact upon residential amenity.

The Environmental Health Officer (amenity and contaminated land) has requested conditions in relation to hours of operation, environmental management plan, external lighting, noise mitigation and contaminated land.

### **Air Quality**

As originally submitted the Environmental Health Officer (Air Quality) recommended refusal on grounds of insufficient information. A revised Air Quality Impact Assessment was then submitted as part of an updated Environmental statement to address the air quality concerns raised.

The EHO considered the updated information and advises that the scale of the development is such that there is potential to increase traffic and also alter traffic congestion in the area. In particular, there are a number of Air Quality Management Areas (AQMA's) within Congleton where levels of Nitrogen Dioxide (NO<sub>2</sub>) presently exceed the tolerance at sensitive receptors.

There is also concern that the cumulative impact of developments in the Congleton area will lead to successive increases in pollution levels thereby increased exposure.

The assessment uses ADMS-Roads to model NO<sub>2</sub> and PM<sub>10</sub> impacts from the predicted additional road traffic associated with this development, 13/4216C and the committed Loachbrook Farm.

The report predicts that there will be negligible increases in PM<sub>10</sub> concentrations at all receptors modelled.

With regards to NO<sub>2</sub>, the report concludes that there will be negligible increases in concentrations at receptors outside of the A34 West Road AQMA. Receptors within the AQMA are predicted to experience a minor adverse increase. Any increase of concentrations in an AQMA is considered significant as it is directly converse to our local air quality management objectives.

In addition, taking into account the uncertainties with modelling, the impacts of the development could be significantly worse.

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. It is therefore considered that mitigation should be sought in the form of direct measures to reduce the impact of traffic associated with the development.

Modern Ultra Low Emission Vehicle technology (such as electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow charging of electric vehicles, in new modern properties.

The EHO (Air Quality) would recommend the conditions be attached to any permission for the scheme concerning travel planning, Electric Vehicle infrastructure and dust control

## Ecology

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this case the Council's Ecologist has examined the application and made the following comments.



### Great Crested Newts

A small population of great crested newts was recorded at a pond on site. The ponds on site appear to be of relatively low quality in terms of their suitability for breeding great crested newts and so this may potentially be limiting the size of the population.

In the absence of the mitigation the proposed development would pose the risk of killing or injuring any animals present on site during the construction phase and also result in the loss of a significant area of terrestrial habitat likely to be utilised by this species.

The applicant has submitted a great crested newt mitigation strategy to address the potential impacts of the proposed development.

Since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

The Council's ecologist advises that if planning consent is granted the proposed mitigation and compensation would be adequate to maintain the favourable conservation status of great crested newts. A condition would be required to ensure that the proposed development is implemented in accordance with the submitted report.

### Reptiles

A small population of Slow Worm a protected and Local Biodiversity Action plan priority species has been recorded onsite. The area of the site where the species was recorded will be retained as part of the development proposals. The proposed development in the absence of mitigation would however pose the risk of killing or injuring any animals present on site when works commenced and would also result in the loss of a significant area of suitable habitat.

To mitigate the impacts of the proposed development the applicant has submitted a method statement detailing the removal and exclusion of reptiles from the footprint of the proposed housing and also the retention of suitable habitat on the sites north-eastern boundary.

If planning consent is granted the submitted method statement is acceptable to limit the impacts of the proposed development upon slow worm. The successful implementation of the mitigation strategy would however be dependent upon the careful design of the retained area of habitat/open space between the proposed housing and the brook. This is particularly important considering that a footpath/cycleway, ponds and tree planting are proposed for this area.

### Badgers

Three outlying badger setts have been recorded on site with additional setts including the main sett being located to the north of this application site. The proposed development would result in the loss of the three setts located on site and would also result in the loss of badger

foraging habitat. To avoid any risk of badgers being killed or disturbed during the works the submitted badger report recommends the exclusion of badgers from the setts on site and the closure of the setts prior to the commencement of development. This would be done under the terms of a Natural England license and an acceptable outline method statement has been provided. If planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by an updated badger survey and mitigation method statement.

#### Bats

Bats have been recorded as being active on this site. The level of bat activity is as would be expected for a site of this size and nature. The proposed development is unlikely to have a significant impact upon foraging or commuting bats. It also appears that all trees identified as having significant potential to support roosting bats would be retained under the submitted illustrative layout.

#### Hedgerows

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. Based upon the submitted indicative layout it appears feasible that some of the existing hedgerows on site can be retained as part of the development. There are however likely to be losses of hedgerows from the interior of the site and to facilitate the site entrance. This potentially includes a partial loss of hedgerow 7 which has been assessed as being Important under the Hedgerow Regulations.

Any losses of hedgerow must be compensated for through additional hedgerow planting as part of any detailed landscaping scheme produced for the site. Based on the submitted illustrative master plan it appears feasible that this could be achieved.

#### Grassland Habitats

Three areas of the site have been identified which would be likely to qualify as Local Wildlife Sites (LWS) due to them supporting grassland habitats which meet the relevant selection criteria and thresholds. These habitats are of sufficient quality to be considered UK Biodiversity Action plan priority habitat (lowland meadows) and Habitats of Principal Importance for the conservation of Biodiversity in England under section 41 of the Natural Environment and Rural Communities Act 2006. As such these habitats are a material consideration in the determination of this planning application.

The three areas identified on site are:

- Area A: The mosaic of grassland habitats adjacent to Loach Brook (Target note 10 on the submitted habitat plan)
- Area B: An area of grassland located within the main body of the grassland fields (target note 6 on the submitted habitat plan)
- Area C: The grazed grasslands to the south of the site (identified by target note 7 and target note 8 on the submitted habitat plan)

The grassland assessment report submitted by the applicant recognises the value of Areas A and B but fails to fully acknowledge the value of Area C due to the lack of consideration being given to the recorded presence of an additional grassland indicator species.

Based on the submitted indicative plan the proposed development, as originally proposed, would have resulted in the loss of Area B loss of more than half of Area C and the loss of one third of Area A.

The Council's Ecologist considered this was unacceptable and a reason for refusal was drafted for the Committee Report of 2 April 2014.

The Applicant has sought to address this concern by increasing the area of grassland within the site, thereby reducing the numbers of units to 150.

Of the three areas of valuable grassland identified within the layout, one will now be retained in its entirety. 90% of the second area will also be retained. Less than one half of the third area of grassland would now be lost under the revised indicative plan.

The Ecologist considers that there would however be additional areas of grassland retained that could be enhanced to increase their value to compensate for this loss. In addition the location of the proposed footpath/cycleway has been relocated to reduce the pressure placed upon the retained area of grassland.

The current indicative plan however shows a LEAP located within an area of valuable grassland habitat. Whilst the ecologist considers that the revised proposal is sufficient for him to withdraw his objection, he does consider that further amendments would be necessary. If outline planning consent is granted I recommend that a condition be attached requiring the LEAP to be relocated at the detailed design phase.

The Ecologist advises that the loss of grassland habitats on this site has been satisfactory addressed. Any consent granted should however seek to achieve the following:

- Relocation of the LEAP
- Ensure retained areas of grassland are safeguarded during the construction phase
- Ensure the retained areas of grassland are managed appropriately to maintain and enhance their nature conservation value.

The ecologist advises if permission were to be granted that care would be required at the detailed design stage to ensure that any potential conflicts between the treatment of the open space, landscaping and management needs of the retained areas of grassland, are managed appropriately.

If planning consent is granted I recommend that a condition be attached securing the retention of the identified areas of grassland and also requiring any future reserved matters application to be supported by a 25 year habitat management plan.

Subject to these conditions, the revised development would not result in an adverse impact on grassland habitats which are identified as being a priority for nature conservation.

### **Trees and Hedgerows**

Policy NR1 of the Congleton Local Plan states that proposals for development will not be permitted where it is apparent that there would be an adverse effect on existing healthy trees of amenity value. Any permission given will include conditions for their protection during development where

appropriate by requiring submission and implementation of detailed method statements for construction and arboricultural works. Policy SE5 of the Local Plan Strategy Submission Version re-affirms this with the additional requirement that , in respect of trees, hedgerows and woodland, where adverse impacts are unavoidable, such impacts must satisfactorily demonstrate significant environmental gain by appropriate mitigation, compensation or offsetting.

An Illustrative Parameters Plan has been submitted in support of the application showing two new accesses onto Padgbury Lane a Play Area, Public Open Space, pedestrian and cycle links. The Planning Statement submitted with the application states that the majority of trees and hedgerows are shown for retention on the plan, with 19 individual trees and two small lengths of hedgerow to be removed to facilitate development.

### **Tree Preservation Order**

The Congleton Borough Council (Congleton – Padgbury Lane) Tree Preservation Order 1976 protects individual groups and areas of trees around the Heath Farm Public House and along Padgbury Lane frontage. These are scheduled as individual specimens of Lime Oak, Sycamore, Elm and Beech and four groups comprising of Lime, Sycamore and Elm. The two Area designations located around the ‘Fayre and Square’ Public House comprise of Pine, Sycamore, Larch, Lime, False Acacia and Beech, present a significant focal point on Padgbury Lane. All mature Elm have since disappeared due to Dutch Elm Disease and remain only as young regeneration from cut stumps or root suckers.

A second TPO, the Congleton Borough Council (Padgbury Lane No.2) Tree Preservation Order affords protection to one individual Oak tree at the entrance to the petrol station.

### **Supporting Arboricultural Information**

The application is supported by an Arboricultural Assessment submitted by FPCR Environment and Design Ltd Rev B dated 2<sup>nd</sup> October 2013, (referred to as Padgbury Lane South, Congleton). The Assessment includes an Impact Assessment, Tree Survey Plan (5299-A-05), and Tree Retention Plan (5299-A-06 Revision A).

The assessment broadly complies with current British Standard Guidance BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations; the primary document which guides the process of determining planning applications and the impact upon trees.

Thirty seven individual trees and twenty groups of trees have been identified by the assessment. Ten individual trees and one group have been identified as High (A) Category; 22 individual trees and 13 groups as Moderate (B) category and 5 individual trees and 2 groups as Low (C) category. Four groups have been identified as unsuitable for retention (U) category.

Of those trees surveyed sixteen individual trees and two groups are protected by the 1976 Order. Of those remaining trees not protected by the Order, the assessment identifies three High (A) category Oaks (T26; T32; T29); and a number of moderate (B) category individual and groups of trees located along the southern boundary of the site with Loach Brook and to the north west boundary section. An existing pond to the northern central boundary features a number of mature Oak and associated natural regeneration which presents a pleasing landscape feature. The pond

and High/ Moderate category trees are proposed for retention within public open space/local play area.

Para 4.5 of the Arboricultural Assessment states that the proposed southern access road of Padgbury Lane is to be located between an unprotected mature Cherry (T1) and a protected High (A) category Lime (T2 – part of Group G1 of the TPO) and will extend into its Root Protection Area (RPA).

Whilst revised information has been received, there remains insufficient information has been provided as to whether this tree and the Group of trees within G1 can be retained particularly as the changes in ground levels and highway requirements for design and construction of roads/pavements to adoptable standards would mean it would be unlikely that the Lime could be retained.

The assessment also states that visual amenity will be maintained by the retention of the group of remaining six Lime trees to the north, however the Tree Officer considers that the assessment does not take into account minimum requirements for highway splays, or footpath standards at new road junctions. The revised information makes no assessment of levels and no assessment of the implications for the siting of a pavement to adoptable standards has been undertaken. Rather, the Applicants' Arborist argues that this is a matter that should be determined at detailed design stage.

It is therefore considered that notwithstanding the revised information received there remains insufficient information has been provided about impact upon these trees.

Para 4.6 of the submitted Arboricultural Assessment refers to the northern access off Padgbury Lane. The access will require the removal of a group of young Elm, some of which are infected with Dutch Elm Disease. A young multistemmed low category Sycamore (T15) will likely require removal due to its position within the visibility splay of the access. It is not considered that the removal of the Elm and Sycamore trees will present a significant impact on the amenity of the area and should be adequately compensated through additional planting within the site.

Para 4.24 refers to design principles and in particular the potential conflict with Root Protections Areas (RPAs) and the relationship/ social proximity of residential properties to retained trees and future pressure for removal. BS5837:2012 *Trees in Relation to Design, Demolition and Construction – Recommendations* sets a precautionary approach requiring that the default position requires all structures to be located outside trees to be retained. The Parameters Plan shows proposed Residential Areas where such tree constraints could be problematical, particularly in the southern section of the site where it narrows adjacent to the group of mature protected Lime. Also in respect of trees retained on the Padgbury Lane frontage and around the retained pond area to the north sufficient space will also need to be achieved from proposed development interfacing with public open space to the south adjacent to Loach Brook. In particular the layout design must allow for potential shading/dominance from existing and proposed trees along this southern boundary.

The position of the southernmost access into the site as this will likely require the loss of a protected Lime tree. The Tree officer remains unconvinced that the visual amenity of the area will be retained by the retention of the remaining group as the information submitted in support of the

application has not been given to likely impact of levels and standard footpath requirements at this location.

## **Public Rights of Way**

Congleton FP18 enters the site subject to 13/4219C application from Padgbury Lane between Brooklands House and Heath Farm Public House and runs eastwards over Loach Brook bisecting into Newbold Astbury FP10 and FP40 south of Old Barn Farm. A number of existing trees within this application site can be viewed as public amenity features from various vantage points along the public footpaths.

## **Urban 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.”*

The site is a rural edge to Congleton and there is a necessity to create a townscape/landscape transition between urban and rural. The character of the housing to the East of Padgbury Lane should not be seen as a precedent in either layout or built character terms. It is of its time, before urban design became formally recognised as a positive influence on housing and place design and has to be acknowledged as not being a positive townscape legacy for the town, effectively creating a very ‘blunt’ and uncharacterful edge alongside Padgbury Lane.

There are also established landscape features that are extremely important to the character of the site, not least the strong tree and hedge lined frontage to Padgbury Lane and the fringe landscape along the west of the site, that in proximity to the listed building and dividing the two sites. Whilst peripheral hedging is indicated for retention some hedging subdividing the sites is being lost.

The application has been revised for ‘up to 150’ units at an average net density of 33 per hectare with a mix of dwelling types of 2-5 bedroom units, which are indicated as being mainly 2 storey but with focal point buildings within the street scene that are 2.5 storeys (up to a max of 10m high) In this case there are no testing layout submitted in support of this application and a sizeable area of the site which is indicated as being part of the residential layout is also indicated within the ecological appraisal as being mitigation grassland. This raises the potential that the numbers of units that this site could achieve, whilst also being in keeping with the prevailing residential density in the locality

## **Other design issues -**

- **Character** - In character terms there is an opportunity to further diversify character within the development, compared to what has been indicated in the application. In effect there

are 3 discreet housing zones within the 2 applications: 2 within this site and a further zone within the adjoining site. Within these character could be further interpreted, building on the qualities of each area but within an overarching framework.

- **Street design and movement** – This is a simple hierarchy with a main street and then lanes feeding off that. This is a little too simplistic and that in reality a third street type will also be necessary. Shared surfaces are also discussed and this is positive, as are the use of varying street widths, frequency of street connections, buildings narrowing streets, pinch points etc. to create slower vehicle movements. There is no street connection between the 2 sites, especially as this was the approach early in the design process that was consulted upon with the community. It is assumed that this is as a consequence of highway liaison. If vehicular connection is not achievable then strong pedestrian movement needs to be secured.
- **Height of buildings** – it is noted that the parameters include buildings up to 2.5 storey (10m) but that these carefully considered and that they will be used occasionally for place making purposes at key focal points. It is important that the surrounding development does not compete for dominance with the adjacent listed building and that 2.5 storey is used infrequently. There is a danger that if this is not controlled, any permitted scheme could be out of context with its countryside edge location and the prevailing scale within the area;

Consequently the Urban Designer advises that a design coding condition should be attached to any outline permission requiring the design detail to be developed in conjunction with the Reserved Matters stage (i.e. not relying on the Reserved Matters alone) should permission be granted. The Urban Designer does not object to the use of 2.5 storeys as a design mechanism within a layout as a mechanism for place shaping, however, this should be the exception rather than the rule.

### **Setting of the listed buildings**

As discussed above, the setting of the listed buildings is an important consideration. Their origins are as an isolated, relatively substantial, country property that was either a farm or a home for someone of reasonable means situated some distance away from the town. The proposed development has the potential to adversely impact upon the asset's setting, notwithstanding that land to the rear of the listed buildings has been developed upon in more recent times.

A Heritage Assessment of the proposals implications for the adjacent listed buildings has been provided. It is recognised that areas of green space are provided to the north and south of the listed building, accommodating the existing trees, this may not sufficiently mitigate the impact of the proposed development upon the building's more immediate setting, particularly as national guidance advises local authorities not to consider setting too narrowly. This would need to be carefully considered within reserved matters.

Overall, it is considered that an acceptable design/layout that would comply with Policies GR 1,2 and 3 of the Local Plan, Policies SE1 and SD2 of the emerging Cheshire East Local Plan Strategy – Submission Version and the NPPF could be achieved at the reserved matters

stage, as there has now been a significant reduction in the overall density to 150 units as now applied for.

### **Public Open Space (Amenity Greenspace)**

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. In accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements the amount of New Amenity Greenspace required would be 4320m<sup>2</sup>.

The proposed equipped children's play area is set in 0.4 Ha (4,000m<sup>2</sup>) which therefore has a shortfall of the requirement by 320m<sup>2</sup>. This would need to be a formally maintained to qualify as Amenity Greenspace.

Page 49 of the D&A Statement states 'the following landscape features are proposed : An area with Public open space on a low point of the site, this area also represents an suitable location for an attenuation pond'.

Whilst this promotes biodiversity it has never been the Council's policy to take transfer of areas of POS that have water bodies located within, around or running through. Therefore it is recommended these areas of POS be transferred to a management company in perpetuity.

It is however considered that the shortfall of amenity greenspace could be addressed by the imposition of a planning condition.

### **Children and Young Persons Provision**

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

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. Information submitted in support of the application shows an equipped play area in the form of a LEAP. However given the size of the proposed development and the level of the deficiency in the area this should be upgraded to a NEAP with a minimum of 8 pieces of equipment, using play companies approved by the Council. Greenspaces would request that the final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the Amenity Greenspace it is recommended that future maintenance and management of the play area be transferred to a management company. However, subject to these conditions, that could form part of reserved matters no objection is raised to the provision of the public open space

### **Loss of Agricultural Land**



It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. Policy SE2 of the Submission Version of the Local Plan concerns the efficient use of land and states that development should safeguard natural resources including agricultural land.

In addition, the National Planning Policy Framework, states that:

*“where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.*

A survey has been provided to by the applicant which indicates that the majority of the land is Grade 2 (32%) and Grade 3a (42%) Agricultural land. Previous Appeal decisions make it clear that in situations where authorities have been unable to demonstrate a 5 year supply of housing, the need for housing land outweighs the loss of agricultural land. However, given that Cheshire East has a greater than 5 year supply of housing, it is considered that this argument does not apply and that the loss of the agricultural land makes the scheme less sustainable since it results in a loss of such land in the open countryside when there is no necessity to do so in housing land supply terms. The proposal is therefore considered to be contrary to policy SE2 of the and the provisions of the NPPF in respect of loss of agricultural land.

### **Flood Risk and Drainage**

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

The Councils Flood Risk Manager has also been consulted and is aware of existing local off site flooding problems associated with non main river (ordinary) watercourse tributary systems of Loach Brook, surface water runoff and/or potential ground water flooding in the locality and is currently investigating and considering options on how these risks can be addressed.

In view of the significant flood attenuation measures identified in the submitted FRA (Reference JD-D1112-R01 dated September 2013), the Flood Risk Manager would also require details of how the large volumes of water (4,215m<sup>3</sup>) can effectively be managed on the site and in ground conditions with potential for elevated ground water levels, clearly demonstrating no adverse impacts off site. It is recommended that detailed site investigation be carried out to identify the extent of any local ground water/water table fluctuations which may have significant implications for the design of onsite storage systems.

### **Health Impact of the Development**

NHS England advises that existing health infrastructure in Congleton is already operating above capacity and cannot absorb the planned developments in the Emerging Strategy. This site, together with its sister site, are not one of the planning sites. The NHS requires a commuted sum of £174,000 to mitigate for this development

### **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, the ecological mitigation, POS and children's play space is a requirement of the Local Plan Policy. It necessary to secure these works and a scheme of management for the open space and children's play space is needed to maintain these areas in perpetuity.

The proposal would have an impact upon capacity of the local road network which would require an engineered solution in the form of highways improvements. The financial contribution would be fairly and reasonably be related to the impact of this development. It is also considered that an additional bus stop to serve this development would be justified in accessibility and sustainability terms, as is the monitoring payment for the provision of the Travel Plan.

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

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

## **10. CONCLUSIONS**

The proposal involves the erection of a new residential development in the open countryside, which is contrary to established local plan policies. The Planning Acts state that development must be in accordance with the development plan unless material considerations indicate otherwise.

The site is within the Open Countryside where under Policy PS8 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 are out of date and there is a presumption in favour of development. The Council can demonstrate a 5 year housing land supply and as a result the principle of development is not considered to be acceptable and the development would be contrary to Policy PS8.

Notwithstanding recent appeal decisions, the Council considers that it has a 5 year housing land supply, however, regardless of the housing land supply position, it is considered that open countryside policy remains up-to-date and in accordance with the NPPF.

Furthermore, the proposal would result in the loss of agricultural land. The submitted information indicates that this is amongst the best and most versatile grades of land. In the

absence of a need to develop the site in order to meet housing land supply requirements, it is considered that the benefits of development would not outweigh the loss of agricultural land.

In terms of Ecology it is considered that the development would have a significant impact upon ecology but the mitigation in the revised scheme in terms of the additional habitat created is adequate.

The proposed development has a cumulative impact upon highways congestion in the area, and it is considered that the application cannot be considered in isolation from the sister application. Discussions have been on going between the Highway Authority and the Applicant and the Highways Authority considers that mitigation via A s106 Agreement to highways improvements in the vicinity is justified.

The education department has confirmed that there is no capacity within local primary schools and the additional family dwellings will result in more children. This will therefore result in demand for more primary school places in the area as a direct consequence.

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.

The Environment Agency and United Utilities have confirmed that that the submitted FRA is acceptable, and that the proposal is not considered to have any adverse impacts in terms of drainage/flooding. 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, overall, the site performs relatively well in terms of locational sustainability and it is not considered that a refusal on these grounds could be sustained, particularly in the light of appeal decisions such as Loachbrook Farm, nearby. Furthermore, the development would contribute to enhanced walking and cycling provision via the requirements from the Highway Authority.

However, the requirements of the Highways Authority for an adoptable foot these are considered to be insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside and the loss of agricultural land. As a result the proposal is considered to be unsustainable and contrary to Policies PS8, GC1 NR3 and NR4 of the local plan, Policy PG5, SE3, SE5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the NPPF in this regard.

## **11. RECOMMENDATIONS**

**REFUSE for the following reasons:**

- 1 The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the principles of the National Planning**

Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan, to the emerging Development Strategy and the principles of the National Planning Policy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.
3. Insufficient information concerning levels and the provision of footways has been submitted to demonstrate that the scheme, in providing footways to an adoptable standard; would provide for the retention and protection of existing trees of amenity value contrary to Policies GR1 and NR1 of the adopted Congleton Borough Local Plan First Review 2005 and policy SE3 and SE5 of the emerging Cheshire East local Plan and the provisions of the National Planning Policy Framework.

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

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Southern Planning Committee, to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement to secure:-

- Affordable housing:
  - 30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)
  - A mix of 2, 3 bedroom and other sized properties to be determined at reserved matters

- units to be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.
  - constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).
  - no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.
  - developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.
- Contribution of £ 165,405 towards primary education. This contribution will be required to be paid on 1<sup>st</sup> occupation of the site
  - Provision of minimum of 4320 sqm and of shared recreational open space and children's play space to include a NEAP with 8 pieces of equipment
  - Private residents management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity
  - Commuted Sum of £10,000 towards the delivery of quality bus stop infrastructure
  - Provision of £5,000 over five years annual monitoring (£1000 per annum) of the Travel Plan and its annual statements
  - Commuted Sum of £672,777 towards improvement of the Waggon and Horses Junction and the improvements at Barn Road roundabout or other measures that will provide similar congestion relief benefits to the A34 corridor through Congleton
  - Commuted Sum payment of £174,000 in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton

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