

Application No: 13/4219C

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 120 dwellings, up to 180 sq. m of health related development (Use Class D1), community facilities and associated infrastructure.

Applicant: Louise Williams and Kathleen Ford

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**

The site comprises 5.45ha of gently undulating grassland in agricultural use.

The eastern boundary of the site extends to Padgbury lane and the rear boundary of existing dwellings which front on to Padgbury lane.

The southern/eastern boundary of the site comprises the Heath Farm Public house, a grade II listed building associated out buildings and four dwellings, one of which is the grade II listed. To the rear of the southern boundary lies the hedgerow and tree belt which forms the boundary with the application site 13/4216C.

Loach Brook forms the rear, south western boundary of the site, beyond which lies further agricultural fields. A public right of way (PROW) bisects the site. Congleton FP18 enters the site 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 the application site can be viewed as public amenity features from various vantage points along the footpaths.

## **1. DETAILS OF PROPOSAL**

This is an outline application with all matters reserved except for access for up to 120 dwellings and a healthcare facility indicated close to the Padgbury Lane frontage (Class D1 comprising 2 consulting rooms and a pharmacy within 180 sq metre building) with a LEAP and open space.

An Illustrative Parameters Plan, Padgbury Lane North has been submitted in support of the application showing two new accesses onto Padgbury Lane a Play Area set within Public Open Space, habitat areas and pedestrian and cycle links

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. The scheme as described allows for a mix of 2 and 2.5 storey properties (with a maximum ridge height of 10m).

## **2. RELEVANT HISTORY**

There is no relevant planning application history.

In terms of the Local Plan, the last Inspectors Report into the 2005 Plan recommended the site be included as an employment allocation. This did not follow through to the Adopted Congleton Borough Local Plan First Review 2005. It should be also noted that the same Local Plan Inspectors report rejected the site as a housing allocation.

## **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
H13	Affordable Housing and Low-cost Housing
RC1	Recreation and Community Facilities – General
RC4	Countryside Recreational Facilities

### **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 Well being  
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)**

**Cheshire Fire & Rescue:** No objections subject to recommendations relating fire safety.

**Archaeology:** No objection subject to condition

**Strategic Highways Manager:** No objection subject to conditions and the provision of highways mitigation, which cumulatively with the sister application results in a financial contribution of £1.211 million (for this site this equates to £538,223). This contribution has been rigorously assessed through extensive modelling and is fully justified to mitigate for the severe cumulative impact in highways terms. Other contributions concerning travel plan monitoring and provision of bus stops are sought and conditions suggested.

Specifically advises that 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. A condition would be required.

**Public Open Space (Amenity Greenspace) and Children's Play Space:** No objection subject to the provision of on site amenity greenspace of 2880m<sup>2</sup> and a LEAP (minimum 5 pieces of equipment – comprising a minimum of 4,000m<sup>2</sup> ) – all of which to be maintained by private management company in future

**Ecology:** No objection subject to conditions and mitigation for the loss of grassland habitat.

**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. Our 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.

**Cheshire Wildlife Trust** – Make the following comments

The areas of notable grassland listed as TN6, TN7 and TN8, TN10 (in the fpcr report March 2014) were assessed by CWT against the criteria for Local Wildlife Sites in order to ascertain their value. A summary appears below:

- TN6 has 5 indicator species for BAP priority grassland (all listed as neutral indicators) and a further 6 semi-improved indicators.

- TN 7 and TN8 (combined) have 5 indicator species for BAP priority grassland (3 neutral indicators) and a further 6 from the list of semi-improved indicators.

- TN10 has 9 BAP priority grassland indicators (6 from the list of neutral, however one is confined to the peripheries) and a further 6 semi-improved indicators.

All the above areas exceed (by a significant margin) the minimum thresholds set out in the LWS criteria for neutral grassland (H7) and therefore all areas (TN 6, 7, 8 and 10) are deemed to be BAP priority habitat (Lowland meadows). Furthermore as the DAFOR assessments were undertaken in November (which is outside the recommended survey period for grasslands - June/July/August) their value is likely to have been underestimated.

CWT estimates that the proposed loss of Priority BAP habitat is at least 1.55 ha. This may be an underestimate as the retained BAP grassland areas are to be used for other purposes in addition to the grassland mitigation referred to in the report. These purposes include a Local Area of Play, a footpath/cycleway and a habitat pond. Moreover as the development site abuts the grassland mitigation area (with no buffer area incorporated into the design) we consider that there is likely to be a significant detrimental impact on this habitat and the species it supports (including reptiles and amphibians) even if the grassland is managed.

The proposed newly created grassland areas will total 0.11 ha which we consider is insufficient to mitigate for the loss of 1.55ha of BAP priority habitat. We consider that the fact that the grassland is presently unmanaged immaterial to this evaluation which has been calculated on its current value. For the reasons stated above we do not believe the proposed grassland management will secure the remaining BAP habitat in the long term.

The loss of approximately 1.55 ha of UK Priority habitat without adequate mitigation and the significant loss of habitat on one of the last remaining sites in Cheshire for the slow worm (UK BAP species) indicates that this proposed development is unsustainable from an environmental perspective. This is contrary to the NPPF and the guidance set out in the NERC act 2006 (Biodiversity duty). If the council is minded to grant permission then the loss of the BAP habitat should be recorded for LDF monitoring purposes.

**Jodrell Bank** : No objection subject to the incorporation of features for the purposes of electro-magnetic shielding

**Natural England:** No objection. Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. With regard to protected species the Planning Authority should refer to Standing Advise

**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 (Qbar) from the existing undeveloped greenfield site. This has been calculated as 2.13 litres/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, travel plan, dust control and contaminated land. In terms of air quality conditions suggested in terms of electric car charging points and travel planning.

**Strategic Housing Manager :** No objection subject to the provision of 30% affordable housing with a full mix of units, not just 2 and 3 bed units

**Public Rights of Way:** The proposal has the potential to affect Public Footpath Congleton No. 18, as recorded on the Definitive Map of Public Rights of Way held at this office .If the development will permanently affect the right of way, then the developer must apply for a diversion of the route under the TCPA 90 as part of the planning application. If the development will temporarily affect the right of way then the developer must apply for a temporary closure of the route (preferably providing a suitable alternative route).

**Education:** The development of 120 dwellings will generate :- 22 primary & 16 secondary school places The Education Department is forecasting that the primary schools will be oversubscribed. Therefore 22 primary school places will require £112,475 contribution. Pupil numbers fluctuate and figures may look different following the next school census.

#### **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 294 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
- Adverse impact on the PROW that crosses the site

### 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
- 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 Padgbury 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
- Padgbury 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 to capacity
- Doctors and dentists 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 it

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

Councillor Thwaite, as an adjoining Ward Member supports the West Heath Action Group and objects on the grounds -

a. The emerging Local Plan is not going to designate this site for housing development. It is going to support the Neighbourhood Plan adopted by the Congleton Town Council whereby housing development will go predominately to the north and west of the town, alongside the proposed "Link Road".

b. There are enough houses in that plan to meet the forecasted requirement for new houses in Congleton for the life of the next Local Plan. With the houses will be new primary schools, health facilities retail developments, and employment.

c) The whole future of Congleton Town as a sustainable town depends on the proposed "Link" Road. This road will open up access to existing and new employment areas and so provide jobs to replace some of the countless jobs lost in the last decade. The current access to the major employment site at Back Lane is totally unacceptable for the factories and the residents, but the new road will provide a new access and allow the employment site to be extended. Current dissatisfied existing employers will stay and new ones will come in. We will move a stage closer to people in Congleton being able to live, work and play in the town without commuting. Schools leavers should not have to commute to Stoke, Crewe, Warrington or Macclesfield.

d) The "Link" road will be funded by government, Cheshire East Council and infrastructure levies on the houses to be built near to it. If houses are built in Padgbury Lane then fewer houses will be built by the "Link" road and less infrastructure money will come in. It could lead to the road not being built. That would leave Congleton town to be an unplanned urban sprawl of a dormitory town with few jobs and massive out commuting

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 inc 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
- S106 Heads of Terms
- Utilities report

These reports can be viewed on the application file.

## **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, 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, health impact and education impact.

### **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.

## **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 can 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 120 new family homes, including 30% affordable homes, on site public open space and financial contributions towards education provision. Whilst it is indicated that 180 m sq doctors surgery ( sufficient for 2 surgery rooms) NHS England would be unlikely to accept this provision since it does not tally with their commission model, so any such D1 facility that would be delivered would be likely to be for private medical purposes.

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 locally, 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 revenue required to fund primary education ,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 36 affordable dwellings on this site, with 23 provided as social or affordable rent and 13 provided as intermediate tenure.

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.

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 application (for up to 120 dwellings with access off Padgbury Lane) has been submitted by the same applicant for a sister application 13/4216C (for up to 150 units and associated development elsewhere on this agenda) and are 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 Strategic Highways Manager is of the views that the two sites should not be considered separately for traffic generation and impact purposes as junction capacity modelling is not a linear calculation and the Strategic Highways Manager finds that both sites should be assessed cumulatively.



### ***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.

### **Conclusion.**

It has been resolved that 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 would recommend 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 £538,223.

### ***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 infrequent, 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.

### ***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. Guidance upon Transport Assessments 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.

## **Landscape Impact**

The Council's 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 is in agricultural use as is currently mown grassland. Housing development 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, the adjacent residential properties and the A534 Sandbach Road. Views from public footpath (Congleton FP 18) which crosses the site would obviously change significantly but the Parameters Plan indicates that this path would be retained within a green corridor. The most sensitive receptors would be the users of the Dane Valley Way long distance footpath and bridleway which runs parallel to Loach Brook approximately 400 metres to the west. The residential developments on the edge of Congleton are already visible from this path and although the proposed development would bring the urban edge closer, it would not significantly impair 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.

The parameters plan indicates that the existing trees, pond and boundary hedges would be retained and enhanced/reinforced. The route of FP 18 would be retained within a green corridor which would include an area of POS (with children's play) adjacent to Padgbury Lane where the mature offsite beech and pine trees would provide an attractive setting.

An open space area including tree planting, wetland habitats, ponds/ SUDS and a footpath/cycleway would be formed along the edge of Loach Brook. The width of this open space area should not be restricted to the immediate (currently fenced off) valley area. The optimum width of the area and the location of the proposed footpath/cycleway could be resolved as part of a reserved matters application. The proposed cycleway should connect to the southern development area and to Padgbury lane to improve connectivity.

If the 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 which could be attached to protect/enhance the landscape on this site.

## **Amenity**

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

## **Air Quality**

As originally submitted the Environmental Health Officer (EHO) 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 considers 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 development.

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.

It is this department's opinion that 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. On this basis, in the light of the revised information the Environmental Health Officer requests conditions for travel planning and electric vehicle

charging being provided for each dwelling which is considered to address the initial concerns about the implications of this proposal, cumulatively, upon local Air Quality.

### **Trees and Hedgerows**

Policy NR1 of the Congleton Local Plan states that proposals for development which affect a site containing existing trees or woodlands must include sufficient information to enable assessment of the potential impact on such trees. 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.

### ***Tree Preservation Order***

The Congleton Borough Council (Congleton – Padgbury Lane) Tree Preservation Order 1976 protects individual, groups and areas of trees located offsite around the Heath Farm Public House to the south east corner of the application site.

### ***Public Rights of Way***

A public right of way (PROW) bisects the site. Congleton FP18 enters the site 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 the application site can be viewed as public amenity features from various vantage points along the footpaths.

### **Supporting Arboricultural Information**

The application is supported by an Arboricultural Assessment submitted by FPCR Environment and Design Ltd September 2013, (referred to as Padgbury Lane North, Congleton). The Assessment includes an Impact Assessment, Tree Survey Plan (5299-A-02), and Tree Retention Plan (5299-A-03). 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.

Eleven individual trees, eleven groups and two hedgerows have been identified by the assessment. Four individual trees and four groups have been identified as High (A) category trees, of which one group (G1 of the survey) located offsite within Heath Farm Public House is protected by the TPO. Five individual trees and six groups have been identified as Moderate (B) category trees and are not TPO'd. The remaining trees have been categorised as Low (C) category.

The majority of high and moderate category trees are shown for retention outside the residential development envelope identified on the Parameters Plan (Dwg 5299 – L-101 E) either within public open space, proposed LEAP or proposed areas of landscaping.

Para 3.4 of the Assessment refers to a High (A) category Oak located within the centre of the site and shown for retention within the proposed residential area as shown on the Parameters Plan. The tree is not protected by the existing TPO, but is a significant visual amenity feature when viewed from the PROW. Its successful retention within the residential envelope will



require addressing to avoid potential conflict with Root Protection Areas (RPAs) and the relationship/ social proximity of residential properties and subsequent future pressure for removal in accordance with the approach set out in BS5837:2012 *Trees in Relation to Design, Demolition and Construction – Recommendations*.

Para 4.4 of the Assessment identifies the proposed access to the site off Padgbury Lane and will require the potential loss of four unprotected early mature individual trees (An B category Ash, A category Oak and 2 Sycamore, one a B and one a C category tree). The option of retaining the Oak within the car park of the proposed Medical Facility as suggested is unlikely to be a realistic proposition, given the site constraints.

From an arboricultural perspective the loss of these four trees would only present a slightly adverse impact upon visual amenity in the immediate area. Their wider contribution is not considered to be significant and could be adequately compensated by replacement planting. In this regard therefore I have no principle objections to the position of the access as indicated.

Para 4.5 refers to the provision of open space and the retention of existing trees within. It is noted that the group of visually prominent protected mature Pine located offsite within the Public House and outstanding group of Beech located offsite within Brooklands House are retained adjacent to the proposed LEAP and will not therefore be subject to development pressures. As previously stated, the retention of existing trees both within the residential envelope and public open space provision must be subject to the design requirements of BS5837:2012. In this regard I can see no reason why this cannot be achieved subject to be a suitable layout being agreed in accordance with that standard.

Should the outline application be approved, an Arboricultural Implication Assessment and Tree Protection Plan will be required as part of any future reserved matters submission once a definitive site layout is known.

## **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 abruptly urban 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 submitted for 'up to 120' 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. Whilst the application discusses a reduction in density on the western fringe of the development, based on the maximum numbers proposed, this could result in 'cramming' within the sites themselves, if an overly optimistic approach has been taken with regard to numbers.

The indicative layout could therefore lead to an overly dense layout, pressure to accommodate inappropriate types of housing on these fringe rural sites and street environments where it is difficult to accommodate car parking without it becoming an overly dominant component of the street scene.

In the absence of testing layouts, it is not considered that sufficient information has been submitted supporting the maximum numbers identified, as the information presently stands. It is however accepted that as the description is for up to 120 dwellings, a significant reduction in the numbers of units could be negotiated as part of reserved matters.

#### **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** – The parameters include buildings up to 2.5 storeys (10m) but that these carefully considered and that they will be used occasionally for place making purposes. 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 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.

## 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 not been provided. It is recognised that modest 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.

Overall, subject to design coding to inform any reserved matters, it is considered that an acceptable design/layout that could 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 negotiated at the reserved matters stage but this would require an overall framework to be agreed via design coding to inform any reserved matters application.

## 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.

#### 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. I advise that 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.

#### Great Crested Newts

A small population of great crested newts has been recorded within a pond on land adjacent to this proposed development. 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 which for the most part is of relatively low value for amphibians. Higher quality amphibian habitat is shown as retained on the illustrative layout.

The applicant has submitted a great crested newt mitigation strategy to address the potential impacts of the proposed development. The ecologist is of the view that if planning consent is granted the submitted great crested newt mitigation strategy would be acceptable to mitigate/compensate for the adverse impacts of the development upon this species and is likely to maintain the favourable conservation status of the local great crested newt population

#### Grassland Habitats

The majority of this site is occupied by arable fields of limited nature conservation value. The grassland habitats located adjacent to the brook are however of significant ecological value. These habitats are retained for the most on the illustrative master plan. However, ponds, a footpath/cycle and some trees/buffer planting are proposed in this area. The addition of these features would put pressure on the retained grassland habitats and I advise that this part of the site would need to be treated sensitively at the detailed design stage to ensure the ecological value of these habitats would be retained.

If outline planning permission is granted a condition should be attached requiring the submission of a management plan for the enhancement of the retained areas of grassland habitats.

#### Reptiles

Slow worm, a protected species and local Biodiversity Action Plan priority species has been

recorded on land immediately adjacent to the south of this application site. I advise that it is likely that this species also occurs on the site subject to this application. The majority of habitat suitable for this species will be retained as part of the proposed development and an acceptable mitigation strategy has been submitted in support of the application. The successful implementation of the mitigation strategy would however be dependent upon the careful design of the retained area of habitat/open space at the detailed design stage.

#### Common Toad

Common Toad a UK BAP priority species was recorded on this site. I advise that the mitigation strategy submitted in respect of great crested newts would also be adequate to mitigate the potential impacts of the proposed development upon this species.

#### Badgers

A number of badger setts have been recorded within the red line boundary of this application. The location of the setts means that it is feasible for the setts to be retained within the open space areas associated with the development. The submitted badger survey report recommends the timing of works in the vicinity of the setts to reduce the risk of disturbance and the marking off of exclusion fencing around the setts during the construction phase. The incorporation of fruit trees into the landscaping scheme for the site is also proposed to provide an additional seasonal food source for badgers.

The submitted badger mitigation is acceptable to mitigate/compensate for the adverse impacts of the proposed development upon this species.

#### Breeding Birds

The application site is likely to support a number of breeding bird species, possible including two more widespread Biodiversity Action Plan priority species which are a material consideration for planning. Potential impacts on the two priority species recorded would be at least partially mitigated for through the implementation of a robust habitat creation scheme for the site. If planning consent is granted I recommend that conditions be attached to safeguard breeding birds and to update the protected species information and mitigation strategy to take into account detailed design changes.

#### 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. I advise that 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.

### **Public Open Space and Children's Play Space**

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. The Public Open space indicatively provided in the Masterplan is not quantified. 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 based on the 120 units would be 2880m<sup>2</sup>. It is noted that the proposed children's play area in the form of a LEAP is sited in 0.4Ha (4,000m<sup>2</sup>) which would need to be a formally maintained to qualify as Amenity Greenspace.

The area with Public open space is located on a low point of the site, in an area which retains an existing pond for attenuation purposes.

The Council's policy is not to accept transfer of areas of POS that have water bodies located in, around or running through them. Therefore it is recommended these areas of POS be transferred to a management company.

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.

Accordingly, there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. The submission includes an equipped children's play area in the form of a LEAP. This should include at least 5 items of equipment, using play companies approved by the Council. We 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

## **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 who indicates that 4.5 ha of the site is Grade 2 (82%) and the remainder is Grade 4 . Clearly, the site comprises best and most versatile 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 Councils Flood Risk Manager has advised that as a Lead Local Flood Authority would recognise that this development site has significant implications for an important statutory Main River (Loach Brook) situated in immediate proximity to the site.

From a flood risk management perspective, the Flood Risk manager concurs with the advice of the Environment Agency (EA) outlined in their response references SO/2013 /112804/02-L01 dated 18th March 2014 and SO/2013/112804/01-L01 dated 24<sup>th</sup> October 2013 respectively.

In addition, the Flood Risk Manager 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 Opus International Consultants (UK) Ltd report (Reference JD-D1112-R01 dated September 2013) the authority would 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.

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

## **Health related Development – on site**

A 180 sq m medical facility is indicated as providing 2 doctors consulting rooms and pharmacy.

The size, location and configuration of new health infrastructure will be determined by the National Health Service (NHSE) taking into account national strategic agendas, NHS guidance and regulations relating to the provision of primary and community care facilities and local strategic priorities. Delivery will be subject to the availability of funding and developer contributions. The provision of pharmacy facilities is governed by the pharmaceutical regulations applicable at the time.

The proposal is not supported by NHSE for the following further reasons:

- health services must be maintained at key locations where patients access a range of health services and are integral to the strategic health infrastructure planning;
- health services and health infrastructure strategies involve working in partnership with key stakeholders to deliver integrated care, not piecemeal unplanned development;
- Pharmaceutical Regulations apply to the approval of locations of pharmacy premises;
- developer contributions will be required to support appropriate health infrastructure for the provision of health services to residents of those developments. Any sites allocated by developers must, if they are required by NHSE, be of appropriate capacity to deliver determined health infrastructure within the emerging strategic health delivery plan for the locality.

- The developer allocated £0.22m is an insufficient sum to provide 180 sq m to NHS standards.

On this basis, the health related development indicatively provided within this layout is unnecessary and unlikely to be fit for purpose of delivery of the NHS's Health Delivery Plan. This could be omitted by condition and is therefore not a reason to refuse this application.

### **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 £139,000 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, 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. This contribution is directly related to the development and is fair and reasonable.

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

The NHS has provided evidence that the health impact will be significant and that this impact requires mitigation through the investment in additional infrastructure in accordance with NHS requirements.

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

### **10. CONCLUSIONS**

The site is within the Open Countryside where under Policy PS 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 now 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 PS.



Policy PS8 accords with the NPPF desire to recognize the intrinsic character of the countryside. The application, by developing and hence eroding an area of open countryside conflicts with Local Plan Policy PS8.

The proposed development has a cumulative impact upon highways congestion in the area, and it is considered that the application can not be considered in isolation from the sister application. No mitigation has been put forward by the applicant and on this basis the proposal is considered to have a severe traffic impact.

In terms of Ecology it is considered that the development would not have a significant impact upon protected species and the mitigation put forward 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 proposed development would provide open space on site and the necessary affordable housing requirements.

The education department has confirmed that there is no capacity within local primary schools and those education contributions will be needed to increase capacity to cater for the demand from the site.

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.

However, 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 of the local plan and Policy PG5 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.

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 £112,475 towards primary education. This contribution will be required to be paid on occupation of the site**
- **Provision of minimum of 2880m<sup>2</sup> sqm and of shared recreational open space and children's play space to include a LEAP with 5 pieces of equipment within a minimum area of 4,000m<sup>2</sup>**
- **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 £538,223 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 £139,000 in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton**

