

Application No: 14/0001N

Location: LAND TO THE REAR OF 447/449 NEWCASTLE ROAD, SHAVINGTON, CW2 5JU

Proposal: Demolition of 449 Newcastle Road and construction of 28 residential properties with associated access

Applicant: Prospect GB LTD

Expiry Date: 18-Mar-2014

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

Impact of the development on:-

Principal of the Development

Location of the Site

Landscape

Affordable Housing

Highway Implications

Amenity

Trees and Hedgerows

Design

Ecology

Public Open Space

Education

Flood Risk and Drainage

REASON FOR REFERRAL

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

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 0.9 ha and is located to the north of Newcastle Road. The site is T-shaped and includes the residential properties at 447 & 449 Newcastle Road. The large majority of the site is within the open countryside as defined by the Crewe and Nantwich Replacement Local Plan although the residential properties at 447 & 449 Newcastle Road and their immediate curtilage are located within the Shavington Settlement Boundary.

The rear portion of the site appears to include a paddock, ancillary buildings including sheds and pigeon lofts and the remains of a former orchard. There are a number of trees and hedgerows to the boundaries of the site.

To the south of the site is residential development which fronts Newcastle Road. To the west of the site are residential properties fronting Crewe Road. To the north of the site is open countryside and to the east of the site is curtilage to dwellings which front Newcastle Road.

2. DETAILS OF PROPOSAL

This is a full application for a residential development of 28 dwellings.

The proposed development would be served via a single access point off Crewe Road which would involve the demolition of the dwelling at 449 Newcastle Road. The development would involve the creation of a T-shaped cul-de-sac with the proposed two storey dwellings sited around this cul-de-sac.

3. RELEVANT HISTORY

P04/1179 – Erection of nine dwellings – Withdrawn 26th November 2007

P03/1282 - Demolition of 449 Newcastle Road and Erection of 18 dwellings – Appeal for Non-Determination. Appeal Dismissed 11th June 2004

P03/0884 - Demolition of One Dwelling and Erection of 22 Dwellings – Appeal for Non-Determination. Appeal Dismissed 11th June 2004

P02/0806 - 24 No. 2 Storey Dwellings – Refused 10th December 2002. Reason for Refusal relating to inappropriate backland development which would fail to respect the pattern, character and form of the village.

P01/0903 - Erection of 23 No. Dwellings with Associated Highway Access – Refused 4TH December 2001. Reason for Refusal relating to inappropriate backland development which would fail to respect the pattern, character and form of the village.

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

NE.2 (Open countryside)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)
RES.5 (Housing in the Open Countryside)
RES.7 (Affordable Housing)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

Other Considerations

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

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

5. CONSULTATIONS (External to Planning)

United Utilities: No objection 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 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 unless otherwise agreed in writing by the Local Planning Authority, no surface water will be permitted to discharge directly or indirectly into existing foul or combined sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

- Land drainage or subsoil drainage water must not be connected into the public sewer system directly or by way of private drainage pipes. It is the developer's responsibility to provide adequate land drainage without recourse to the use of the public sewer system.

Strategic Highways Manager: Approval has been given for a residential development on the south side of Newcastle Road; the access point identified was almost opposite the proposed access location for this site. Clearly, given the scale of these development proposals, a cross road situation and turning conflicts that would occur would not be acceptable to the Highway Authority.

Therefore, the Strategic Highways Manager would have to object to the proposed access location serving this particular development of 28 residential units.

Environmental Health: Conditions suggested in relation to pile foundations, construction management plan, hours of works, dust control, travel plan, electric vehicle infrastructure and contaminated land. Informative suggested in relation to contaminated land.

Public Open Space: A commuted sum payment of £20,000 for off-site provision should be secured. Specifically, to make improvements to the existing equipped children's play area at Wessex Close, Shavington which is 250 metres to the north-west of the site.

Natural England: Statutory Sites – No objection. Natural England advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which West Midlands Mosses SAC, Midland Meres & Mosses Phase 1 Ramsar has been classified.

The application is in close proximity to the Wybunbury Moss SSSI Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which this site has been notified. Natural England advise that this SSSI does not represent a constraint in determining this application.

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

Education: Based on works which the Council has already begun in light of approved development and due to a need for places in this area then no contribution is required from this application.

Cheshire East Flood Risk Manager: The content of the submitted FRA is duly noted. Given the acknowledged risks of surface and groundwater flooding at this location and known maintenance issues and problems associated with the watercourse and downstream culverted lengths on the boundary of the site, it will be essential that the developer can clearly demonstrate this proposal will not exacerbate flooding and flood risk to neighbouring property.

The impacts of land raising need to be assessed in context of potential loss of existing flood storage during extreme storm and flood events. In addition, assumptions being made for the assessment of Greenfield run-off appear to reflect runoff for clay soils rather than more permeable soils indicated by BGS data and any specific detailed Site Investigation carried out and referred to under the Brownfield Solutions Limited report reference RW/C2386/4324. A copy of this latter

report should be made available. In view of this a more realistic assessment of allowable greenfield run-off should be made which will have implications for any subsequent on site flood storage volumes required.

The hydrobrake controlled discharge of 7.9 l/s is considered inappropriate at this stage pending further investigation of known off site drainage capacity problems on third party owned watercourse and culvert infrastructure.

Sustrans: If this land use is considered appropriate and is approved by the council's planning committee Sustrans comments are as follows:

- Given the scale of proposed developments in Shavington, we would like to see them all, including this one, contribute to improving the cycling route to Crewe station and the town centre.
- The design of any smaller properties without garages should include storage area for residents' buggies/bikes.
- Even though this is a relatively small development we would like to see travel planning set up with targets and monitoring.

6. VIEWS OF THE PARISH COUNCIL

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

- Despite the Parish Council's robust arguments and objections Shavington-cum-Gresty Parish has seen over 800 new dwellings approved during the last two years. Applications for a further 1,300 are currently at appeal and applications for an additional 400 dwellings are currently being considered. There are approximately 1,700 dwellings in the parish at present, and with the numbers already approved for construction the size will increase by almost 50%; and if all of the applications were to be approved the numbers of properties in the parish will more than double. The infrastructure simply will not cope.
- It is the Parish Council's view that these additional 28 houses are a further unnecessary intrusion into yet another greenfield site especially since in very close proximity a 39 dwelling development has just been approved on the other side of Newcastle Road; and the Shavington Triangle site has also now received approval just a few hundred metres away. The Triangle site and the other approved developments in Shavington already meet the required numbers locally for affordable units.
- The property run off water will be disposed via each property soak away or to a water course, and will go through the same infrastructure as the triangle development and the recently approved development directly opposite. It will put unacceptable levels of pressure on the ground water levels.
- The Parish Council already has much concern over road safety along this stretch of road where the white carriageway markings have been worn away to such an extent that overflow parking from Playworld and other businesses at the location of the filling station is using either side of Newcastle Road; and this coupled with traffic flow and emerging vehicles means it is only a matter of time before a very serious accident occurs.
- There have already been several traffic accidents involving vehicles emerging from the filling station because of poor visibility due to a bend in the road as vehicles approach from the direction of Hough. To add another junction on the opposite side of the road to the filling station and the development already approved at No.414 would create a crossroads in what is already a congested road and add a significant additional hazard. Traffic already regularly backs up along Newcastle Road from the Goodall's Corner traffic lights 300m away and the number of

vehicular movements is set to increase substantially with the construction of several hundred more houses at the Triangle site.

Hough and Chorlton Parish Council: Object on the following grounds:

- That there is no need for the development
 - 480 dwellings have been approved with 5 miles of the site. This equates to 15 times the local housing need identified by local housing surveys
 - The Council has a housing land supply figure of 7.2 years
 - There is no demand for this type of housing
- It is an unsuitable location for a development of this size
 - The site is within the open countryside
 - The residential properties on Newcastle Road are of a substantial size and this development would not be in-keeping with the area
 - Back-land development
 - Concern over the possible creation of a crossroads following the resolution to approve the residential development on the site opposite
- The layout is inappropriate
 - Over-engineered design. Cramped development.
 - No provision of vehicular turning for utility or emergency vehicles.
 - No green space of children's play provision.
- There is insufficient infrastructure to support this development
 - The local primary schools are over-subscribed. This would add to a further shortfall
 - Similar problems with Doctors and Dentists
 - Local road infrastructure is inadequate and will be exacerbated by the approved developments within Shavington. This development will add to the problems when entering Crewe at the junction of Gresty Road/Nantwich Road/South Street.
- Road safety Issues
 - There is a petrol filling station/leisure development opposite the site. This is a dangerous access point and there have been several accidents involving vehicles leaving this site in the past. Visibility is poor at the bend in the road.
 - Various developments on the site of the petrol station have had to go to appeal on access grounds, safety, air pollution and screening was a condition due to the open countryside on the south side.
 - Pedestrian access at the traffic lights in close proximity to the site is unsafe and children would need to use this crossing to get to school.
- Environmental Impact
 - The highways design is over-engineered and gives misleading picture of the impact upon Newcastle Road
 - This development together with the Triangle will result in cumulative ground water drainage problems
 - The hedgerows, trees and grassland on the site have significant wildlife value.

7. OTHER REPRESENTATIONS

Letters of objection have been received from 61 local households raising the following points:

Principal of development

- There is no need for more housing
- The development is not sustainable

- Irreversible damage caused by this development
- Not enough jobs in this area
- Cheshire East now has a housing land supply
- Small sites cause visual harm along Crewe Road and Newcastle Road
- The Council has successfully defended an appeal on this site in the past. Nothing has changed since this decision
- There are too many housing developments proposed in Shavington
- The site is agricultural land
- Financial gain for the developer
- Loss of village identity
- Edward Timpson MP is against this type of development
- The proposal is backland development
- Contrary to Local Plan Policies. The development is outside the settlement boundary.
- Loss of open countryside
- Contrary to Local Plan Policy NE.2 as it is outside the Settlement Boundary

Highways

- Local roads cannot cope with this increased population
- Cumulative impact of the approved developments in the area including the industrial scheme at Wardle which will impact upon M6 Junction 16.
- The access will be opposite the recently approved development off Newcastle Road between the petrol station and traffic lights
- Increased vehicular movements
- Increased traffic within the village
- The development will be car dependent
- The access is onto a busy 40mph road
- The proposed access is dangerous
- Destruction of Open Countryside
- Cumulative highways impact
- Poor public transport in this area
- Problems with parking at the Playworld site which obstructs traffic along Newcastle Road
- Proximity to the Esso garage

Green Issues

- Impact upon Badgers
- The site was formerly an orchard
- Impact upon Owls
- Impact upon Bats
- The developer does not make adequate provision for the Poplar trees which adjoin the site
- The previous Inspector found that the development would result in an intrusion into the landscape.
- Impact upon breeding birds
- Impact upon protected species
- Loss of agricultural land
- Loss of wildlife
- A number of trees have previously been removed on this site by the land owner

Infrastructure

- Local schools are already full

- The Doctors surgery is full
- Lack of infrastructure
- Infrastructure is overloaded in the village
- Sewage disposal problems in this area
- Lack of services in Shavington
- Loss of power/electricity supply problems

Amenity Issues

- Increased pollution
- Impact upon air quality
- Loss of outlook
- Noise and disruption
- Loss of a view
- Noise caused by construction works
- Loss of privacy
- The proposed dwellings are too close to the boundaries with the existing residential dwellings
- Potential damage to the two Poplar Trees adjoining the site
- The development would impact upon the roots of the adjoining Poplar Trees
- The development is too close to the Poplar trees

Other issues

- Increased flood risk
- The site has problems with standing water and drainage
- The ditch along the boundary of the site is prone to flooding
- The new gardens to the north-east of the site will be subject to flooding
- Increased hard-standing on the site will increase water run-off and flooding
- Flooding will cause the sewage system to overflow
- The existing sewage system is in a poor state of repair
- SUDS needs to be considered on this site
- Maintenance of the ditch to the boundary of the site
- Properties to the north-west of the site have had previous height restriction and this should be applied to this development
- Increased risk of flooding to the existing residential properties
- The Inspector found that the previous schemes did not pay sufficient regard to the character or appearance of the landscape. Crammed development.
- There is a high water table on this site
- Potential Foot and Mouth Contamination on this site
- The plans are inaccurate
- If approved the existing boundary treatments should be improved
- Inappropriate design
- The development is too dense
- The submitted FRA is inadequate

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

An e-mail has been received from Cllr Brickhill making the following request:

- The photos provided by Mr Martin Andrews should be shown in any presentation to committee
- I would also request a report from United Utilities about the ground water from the ditch and the fields going into the main sewer and whether this can be allowed to continue. If not, could

the ditch be made to flow the other way so that it joins the swill brook and if it does what will be the effect on that watercourse which is already prone to flooding.

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement (Produced by GL Hearn)
- Planning Statement (Produced by GL Hearn)
- Highway Statement (Produced by SCP)
- Ecology and Bat Survey (Produced by ERAP Ltd)
- Desk Study Assessment Report (Produced by Prospect GB Ltd)
- Arboricultural Impact Assessment and Method Statement (Produced by TBA Landscape Architects)
- Flood Risk Assessment (Produced by Prospect GB Ltd)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Main Issues

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, design, ecology, amenity, open space, drainage and flooding, sustainability and education.

Principle of Development

The site lies largely in the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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

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

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 emerging 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 concluding 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.

Location of the site

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

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

- Post office (1000m) – 965m
- Cash Point (1000m) – 150m
- Primary School (1000m) – 1000m
- Local meeting place (1000m) – 800m
- Convenience Store (500m) – 150m
- Bus Stop (500m) – 320m
- Public Right of Way (500m) – 235m

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

- Public House (1000m) – 1100m
- Amenity Open Space (500m) – 800m
- Children's Play Space (500m) – 800m
- Post Box (500m) – 965m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 4000m
- Secondary School (1000m) – 1770m
- Medical Centre (1000m) - 2090m
- Pharmacy (1000m) – 2090m
- Child Care Facility (nursery or crèche) (1000m) - 1770m
- Leisure Centre (1000m) – 1770m
- Outdoor Sports Facility (500m) – 1770m

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 Shavington, 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 a sustainable village (Shavington is classed as a local service centre in the Cheshire East Local Plan Policy Principles document) and will be the same distances for the residential development on Newcastle Road from the application site. However, all of the services and amenities listed are accommodated within Shavington, Nantwich or Crewe and are accessible to the proposed development via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Landscape

The application site covers an area of approximately 0.9 hectares and is located to the rear of a number of dwellings along Newcastle Road; it is currently extended rear garden for no's 447 and 449 Newcastle Road. The application site is currently characterised by boundary hedges to the north and fencing along the western, southern and western boundaries by fencing, beyond which are the gardens of adjacent properties; to the north is agricultural land. It appears that much of the existing boundary hedgerows and trees will be retained, although a number of trees and shrubs will need to be removed from within the site for the proposed layout arrangement.

No Landscape appraisal or Landscape and Visual Impact Assessment has been submitted as part of the application. Much of the application site is identified in The Cheshire Landscape Character Assessment 2009 as being located within Type 10 Lower Farms and Woods, specifically LFW7 Barthomley Character Area; while the application site has some of the characteristics of this character area, the current condition of the land is greatly influenced by its use as gardens, nevertheless it is an attractive area that bounds the agricultural land to the north.

There are intermittent views of the site from the surrounding properties; there are no footpaths in close proximity to the application site. There are no landscape designations on the site.

As part of the application a Landscape proposal Plan has been submitted (Drwg no. 4597.03), this indicates that much of the existing boundary vegetation will be retained.

It is noted that at the appeals as part of applications P03/0884 and P03/1282 the Inspector raised concerns about the impact upon the landscape through potential loss of the rear boundary hedgerow and trees. In this case it is considered that this site has the capacity to support this development and the design as part of this application includes longer rear gardens which would allow for the retention of the rear boundary hedgerow/trees.

Affordable Housing

The Interim Planning Statement: Affordable Housing states that in areas with a population exceeding 3,000 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.

The SHMA Update 2013 identified a requirement for 270 new affordable homes between 2013/14 – 2017/18 in the Wybunbury & Shavington sub-area, which is made up of a requirement for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4+ bed and 1 x 1 bed older persons dwelling & 7 x 2+ older persons dwellings.

There are currently 53 applicants on the housing register with Cheshire Homechoice (which is the choice based lettings system for allocation social & affordable rented housing in Cheshire East) who have selected Shavington as their first choice, these applicants require 23 x 1 bed, 17 x 2 bed, 9 x 3 bed & 3 x 4 bed properties (1 applicant hasn't set the number of bedrooms they require).

If this application is approved there is an affordable housing requirement of 30% of the total dwellings with 65% provided as affordable or social rented dwellings and 35% as intermediate tenure dwellings.

The proposal is for 28 dwellings, this equates to a requirement for 8 affordable units providing 5 units as social or affordable rent and 3 units as intermediate tenure. The applicant in their accompanying planning statement states that the site will provide the full policy requirement of 30%. However little further detail is provided including the tenure proposals for the affordable units. As this is a full application the housing officer would expect to see the tenure proposals for the affordable units, including the arrangements for transfer to a Registered Provider, provisions for the units to be affordable in perpetuity including the intermediate units and confirmation that

the affordable homes to be let or sold to people who are in housing need and have a local connection.

The application includes a planning layout however this does not show which units are affordable. As a result it is not considered that the application demonstrates a suitable level of pepper-potting on the site. A plan is required marking where the affordable units are located and which are the rented and which the intermediate tenure.

All the Affordable homes should be 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). The supporting documentation does not confirm that the affordable units will be built to CFSH Level 3 or to HCA Design and Quality Standards and this is not acceptable.

Highways Implications

In terms of the highway impact of development the NPPF states that:

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

In this case the development would include a single point of access which would be formed following the demolition of the property at 449 Crewe Road. In this case it should be noted that there is an outline consent for the site opposite which has an outline approval for 39 dwellings (13/4675N) which was approved by the Strategic Planning Board. The consent for application 13/4675N is outline with all matters reserved but includes a condition which states that the access should be taken from the centre of the site (this was due to concerns over a conflict with vehicular movements at the nearby petrol filling station site).

The issue that this permission and condition creates is that it would result in the formation of a crossroads from the access point as part of planning permission 13/4675N and the application site. Given the scale of this proposed development and the approved development opposite the cross roads would create turning conflicts to occur onto Newcastle Road which would not be acceptable in terms of highway safety and will form a reason for refusal.

There have been some minor concerns raised regarding the size of garages to some units and the design of the footways/kerb radii. It is considered that these issues could be dealt with as part of a planning condition.

Amenity

In terms of the surrounding residential properties, the main properties affected are those which front onto Newcastle Road to the south of the site and to Crewe Road to the west of the site.

The submitted plan shows that the proposed dwellings would have a rear garden depth of 10 metres with a distance between principal elevations varying from 28 metres to 35 metres. This distance exceeds the separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The impact upon the properties which front Newcastle Road is therefore considered to be acceptable.

To the west of the site there would be a distance of approximately 75 metres between the rear elevations of the proposed dwellings and the rear elevations of the dwellings fronting Crewe Road. As a result the impact upon the properties which front Newcastle Road is therefore considered to be acceptable.

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

The Environmental Health Officer has requested conditions in relation to pile foundations, construction management plan, hours of works, dust control, travel plan, electric vehicle infrastructure and contaminated land. These conditions will be attached to the planning permission.

Trees and Hedgerows

Trees

The application is supported by an Arboricultural Impact Assessment and Method Statement. The report indicates that the assessment has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction. The report has been carried out to assess the environmental and amenity values of all trees on or adjacent to the development area and the arboricultural implications of retaining trees with a satisfactory juxtaposition to the new development.

The submitted plans and particulars illustrate which trees are suggested for retention but are cross referenced with their Root Protection Areas and respective Tree protection details onto the proposed Master Plan. As a consequence it is possible to determine the direct or indirect impact of the proposed layout on retained trees.

The Councils Tree Officer is of the view that the submitted arboricultural detail does provide the level of detail required to adequately assess the impact of development on existing trees.

The application site is formed by extended rear gardens associated with number 447 & 449 Newcastle Road. 34 individual trees 11 groups and 3 hedges have been surveyed. 12 individual trees have been identified for removal along with 5 groups and a single hedge. All have been identified as C2 low value in terms of BS5837:2012. The Councils tree officer would concur with this categorisation with the majority not clearly visible from any public vantage point by virtue of their rear garden aspect. A significant number are also categorised as small ornamental specimens with limited growth potential.

The development seeks to occupy the central aspect of the site retaining both the trees and hedges associated with the northern eastern and western boundaries some of which stand outside the site edged red.

The Lombardy Poplars located within the south west corner of the development plot are visually the most prominent specimens on the site, but given their age maturity and probable issues of stem hollowing, a characteristic of the species, formal protection is not considered appropriate

The majority of the development footprint has been accommodated outside the respective RPA's with only minor incursions associated with Plots 19, 20, and 21. The use of a no dig solution has been suggested and accepted in accordance with the details provided.

Hedgerows

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan. The Regulations require assessment on various criteria including ecological and historic value.

In this case there would be no loss of hedgerows to the northern boundary of the site.

Design

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

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

In this case the density of the site at 31 dwellings per hectare is appropriate and is consistent with that of the surrounding area of Shavington. The development would have adequate separation distances to the surrounding dwellings and would not appear cramped.

The proposed dwellings would have pitched roofs and include features such as projecting gables, canopies, header and sill detailing, plinth detailing and brick banding. It is considered that the detailed design of the dwellings would be appropriate and would not raise any design issues.

It is considered that the development would comply with Policy BE.2 (Design Standards) and the NPPF.

Ecology

Wybunbury Moss SSSI

The proposed development is located within 1km of Wrenbury Moss which holds a number of statutory nature conservation designations. Natural England have been consulted on this application and have advised that the proposed development is not likely to have an adverse impact upon the features for which the site was designated and they advise that an appropriate assessment under the Habitat Regulations is not required.

A Habitat Regulations Screening Assessment has been undertaken by the Councils Ecologist and this has concluded that the proposed development is not likely to have a significant impact upon Wybunbury Moss and its designation as a SAC and RAMSAR site.

Habitats

Hedgerows

Hedgerows are a UK Biodiversity Action Plan priority habitat and a material consideration. There are currently hedgerows along the northern and southern boundaries. The hedgerow along the northern boundary would be retained as part of this development and this could be secured as part of a condition.

Traditional Orchard

Traditional orchards are a UK Biodiversity Action Plan priority orchard and hence a material consideration. The eastern portion of the application site is provisionally included on the Natural England inventory of traditional orchards. The listing on the NE dataset advises that there is insufficient evidence to assess whether the site is in fact a traditional orchard.

The ecological assessment submitted by the applicant states that the site is not typical or wholly representative of this priority habitat type. The Councils Ecologist is satisfied with this conclusion and advises that whilst the site may meet the definition of a traditional orchard its nature conservation value is relatively limited. The submitted assessment recommends that the fruit trees present on site are incorporated into the proposed development. This recommendation does not appear to have been taken forward.

Hedgehog

The application site may potentially support this BAP species, although it was not recorded during the submitted survey. In order to ensure this species is not adversely affected by the proposed development a condition could be attached requiring any boundary fencing be raised 10cm of the ground in accordance with the recommendations of the submitted ecological survey.

Breeding Birds

In order to safeguard breeding birds the Councils Ecologist has suggested the use of conditions relating to the timing of works and bird boxes.

Other Protected Species

No other protected species would be affected by this development.

Public Open Space

Policy RT.3 states that, where a development exceeds 20 dwellings, the Local Planning Authority will seek POS on site. The Policy does also state that where sufficient recreational open space is already available in close proximity, the LPA may require the developer to enhance that Open Space instead.

In terms of children's play space Policy RT.3 states that the local planning authority will accept a contribution towards play equipment if easily accessible from the site.

In this case there is POS and children's play space within the village. This area is easily accessible from the application site and the POS Officer has suggested a contribution of £20,000 towards upgrading this site. The applicant has accepted this contribution and this will be secured as part of a S106 Agreement.

Education

There is no requirement for education contributions as part of this application.

Flood Risk and Drainage

The latest information made available by Environment Agency indicates that this site is in part, subject to surface water flooding risks during extreme storm and flood conditions (Updated Maps for Surface Water published December 2013). Available data also suggests that the site may be susceptible to groundwater flooding risks. United Utilities have also indicated that there are off-site capacity issues within their public sewer systems. The photographic evidence supplied by a local resident would also further substantiate these local flood risk concerns.

As a result the Councils Flood Risk Manager considers that it is essential that the developer can clearly demonstrate that this proposal will not exacerbate flooding and flood risk to neighbouring properties. It is also considered that the following issues should also be addressed:

- The impact of raising the land level within the site needs to be considered in the context of the loss of existing flood storage during extreme storm and flood events
- The assumptions of the assessment of the run-off need to be clarified
- A detailed Site Investigation should be carried out on this site
- The hydrobrake system is considered to be inappropriate at this stage pending further investigation of known off site drainage capacity problems

Until these issues are addressed there is insufficient information contained within this application to consider the flood risk/drainage implications. This issue will form a reason for refusal.

10. CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. However, the Council can now demonstrate a five year housing land supply.

In terms of the flood risk/drainage implications insufficient information has been submitted with this application and this issue will form a reason for refusal.

The access to the site would result in the creation of a crossroads with a site that has consent on the opposite side of Newcastle Road. This would result in conflict in terms of vehicular movements and will form a reason for refusal.

In terms of affordable housing a lack of information has been submitted with this application and this issue will form a reason for refusal.

In terms of Ecology, it is not considered that the development would have a significant impact upon ecology or protected species.

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

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

11. RECOMMENDATIONS

REFUSE for the following reasons:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies NE.2 (Open Countryside) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.**
- 2. The Local Planning Authority considers that insufficient information has been submitted in relation to the affordable housing provision of the site. In this case there is little detail in relation to the tenure proposals for the affordable units including the arrangements for transfer to a Registered Provider, provisions for the units to be affordable in perpetuity and confirmation that the affordable homes to be let or sold to people who are in housing need and have a local connection. The application does not show which units are affordable as a result it is not considered that the application demonstrates a suitable level of pepper-potting on the site and the supporting documentation does not confirm that the affordable units will be built to CFSH Level 3 or to HCA Design and Quality Standards. As a result it is not considered that the proposal would create a sustainable, inclusive, mixed and balanced community and would be contrary to the Interim Planning Policy on Affordable Housing and Policy RES.7 (Affordable Housing) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the National Planning Policy Framework.**
- 3. The proposed vehicular access would be opposite an access point to serve a development of 39 dwellings which has outline consent as part of application 13/4675N. It is considered that the access proposed as part of this application would**

result in the creation of a crossroads at the site opposite which would result in turning conflicts to occur on Newcastle Road to the detriment of highway safety. As a result the proposed development would be contrary to Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the NPPF.

4. Part of this site is subject to surface water flooding risks during extreme storm and flood conditions and is also be susceptible to ground water flooding with off-site capacity issues within the public sewer system. Insufficient information has been submitted with this application to demonstrate that the local flood risks and site drainage issues can be managed without exacerbating flood risks both on and off-site. In the absence of this information, to allow this development would be contrary to the NPPF, and Policy NE.20 (Flood Prevention) of the Borough of Crewe and Nantwich Replacement Local Plan 2011

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 Principal Planning Manager has delegated authority to do so in consultation with the Chair 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 Principal Planning Manager in consultation with the Chair 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.

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