

Application No: 14/1946C

Location: LAND OFF THE HILL/ MANOR ROAD, SANDBACH HEATH, CHESHIRE

Proposal: Outline Application for residential development comprising of 75 dwellings and associated vehicular and pedestrian access, open space and landscaping.

Applicant: Ms Emily Morris, Betley Court Estate

Expiry Date: 23-Jul-2014

## **SUMMARY RECOMMENDATION**

### **REFUSE**

### **MAIN ISSUES**

#### **Impact of the development on:-**

**Planning Policy and Housing Land Supply**  
**Affordable Housing,**  
**Highway Safety and Traffic Generation**  
**Trees and Landscape**  
**Ecology**  
**Design**  
**Amenity**  
**Sustainability**  
**Education**

## **REASON FOR REFERRAL**

This application is referred to the Strategic Planning Board as it relates to a major development and a departure from the development plan.

## **DESCRIPTION OF SITE AND CONTEXT**

The application relates to a parcel of agricultural land 3 hectares in size. It is relatively flat with hedgerows and trees on the boundaries and some trees within the site.

To the south is the Leonard Cheshire Care Home including 'The Hill' which is a Grade II Listed Building. There are residential properties to the west and the north and Open Countryside to the east.

The site is designated as being within the Open Countryside in the adopted Local Plan. It is also identified in the Strategic Housing Land Assessment (SHLAA), as being suitable with policy change, uncertain if it is available, achievable, but not within the 1-5 year period and developable.

## **DETAILS OF PROPOSAL**

This is an outline application for the erection of 75 dwellings on land off The Hill/Manor Road, Sandbach. The application is in outline form with all matters reserved apart from access. However an **indicative** site layout plan has been submitted with the application.

Vehicular access is proposed from a junction to be created off The Hill (A533). Two pedestrian accesses are proposed onto Manor Road at the eastern and western ends of the site.

An **illustrative** master plan has been submitted with the application indicating that a total of 75 dwellings are proposed comprising 13, two-bed terraced and semi-detached units, 46, three-bed semi-detached units, 7, four-bed semi-detached and detached units and 9, two-bed bungalow units. All units would have 200% parking provision.

## **RELEVANT HISTORY**

No relevant planning history relating to this site.

## **POLICIES**

### **National Guidance**

National Planning Policy Framework

### **Local Policy**

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.

The relevant policies of the **Cheshire East Local Plan Strategy – Submission Version** are:

- SD 1 Sustainable Development in Cheshire East
- SD 2 Sustainable Development Principles
- SE 1 Design
- SE 2 Efficient Use of Land
- SE 3 Biodiversity and Geodiversity
- SE 4 The Landscape
- SE 5 Trees, Hedgerows and Woodland
- SE 9 Energy Efficient Development
- SE 12 Pollution, Land Contamination and Land Instability
- PG 1 Overall Development Strategy
- PG 2 Settlement Hierarchy
- PG5 Open Countryside
- EG1 Economic Prosperity
- IN1 Infrastructure
- IN2 Developer Contributions

The relevant policies saved in the **Congleton Borough Local Plan First Review 2005** are:

- PS8 Open Countryside
- GR1 New Development
- GR2 Design
- GR3 Residential Development
- GR5 Landscaping
- GR6 Amenity and Health
- GR9 Accessibility, servicing and provision of parking
- GR14 Cycling Measures
- GR15 Pedestrian Measures
- GR17 Car parking
- GR18 Traffic Generation
- GR21 Flood Prevention
- GR 22 Open Space Provision
- NR1 Trees and Woodland
- NR2 Statutory Sites (Wildlife and Nature Conservation)
- NR3 Habitats
- NR5 Habitats
- H2 Provision of New Housing Development
- H6 Residential Development in the Open countryside

H13 Affordable Housing and Low Cost Housing

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

### **Environment Agency:**

No objection subject to conditions relating to flooding and drainage.

### **Flood Risk Manager:**

None received at the time of report writing.

### **Strategic Highways Manager:**

Recommends refusal of the application due to lack of information. The details of this are contained within the Highways section of this report.

### **Natural England:**

Refer the Council to their standing advice.

### **Environmental Health:**

Recommend conditions and informatives relating to contaminated land, air quality, construction management plan, noise generation, light pollution, electric vehicle infrastructure and travel plans.

### **United Utilities:**

No objection.

### **Ansa Environmental Services Ltd:**

#### ***Amenity Greenspace (AGS)***

The developer is providing on site AGS and having calculated the existing amount of accessible AGS within 800m of the site and the existing number of houses which use it, 75 new homes will generate a need for 2,100 sq m of amenity greenspace.

Applying the standards and formulae in the 2008 Guidance the Council would need a commuted sum of £24,832.50 to maintain an area of this size.

Two larger areas would be preferred however four areas are proposed for AGS on plan P3918 – 002A. Collectively they appear larger than the 2,100 sq m in accordance with policy. I leave it to you to ascertain this and decide whether you wish to secure the larger area for landscaping or other purposes and, if so (1) whether you want to secure it for private use of residents or as Public Open Space and (2) what arrangements will be appropriate for its long term ownership and maintenance.

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

Having calculated the existing amount of accessible Children and Young Persons Provision

within 800m of the site and the existing number of houses which use it, new homes will generate a need for a new NEAP play facility.

The Interim Policy Note September 2008 updated the legacy Borough's SPG1, however the legacy SPG1 remains relevant in the absence of a new Cheshire East Borough wide SPD. Therefore when developments of 75+ dwellings are proposed, a NEAP standard play facility is required.

Ansa can confirm that the NEAP (Neighbourhood Equipped Area for Play) standard play area would be acceptable due to the size of the development and should be suitable for all ages.

The play facility should include at least 8 items/activities incorporating DDA inclusive equipment and be in line with the standards set out by Fields In Trust Planning and Design for Outdoor Sport and Play. Ansa request that the final layout and choice of play equipment is agreed with CEC, the construction should be to BSEN standards.

Full plans showing the design must be submitted prior to the play area being installed and this must be approved, in writing prior to the commencement of any works. A buffer zone of a least 30m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

Due to the complex management required for play facilities, Ansa considers the Council has the best competencies required to carry out effective maintenance to protect these community facilities. The new children's play facility and amenity green space should be secured for public use and transferred to the Council together with a 25 years commuted maintenance sum of £62,685.00 and this should be provided before 75% of the dwellings are occupied.

#### **Countryside Access Development Officer:**

The proposed pedestrian links on to Manor Road should be designed to accommodate both pedestrians and cyclists. The legal status, maintenance and specification of the proposed paths within the open space of the development site would need the agreement of the Council as Highway Authority.

The developer should be tasked to assess the pedestrian and cyclist route from the proposed site into the town centre, and to contribute to the improvement of any shortfalls in facilities.

The developer should be tasked to provide new residents with information about local walking and cycling routes and public transport options for both leisure and travel purposes.

#### **Education:**

Would require contributions as set out below:

Primary - £195,233 for 18 pupils

Secondary - £212,455 for 13 pupils

#### **VIEWS OF THE PARISH COUNCIL**

Object to the application on the grounds that the proposal is outside the urban zone, brownfield sites should take priority for development, development is not sustainable as edge of town site and proposals contravene Policies GR1, GR3 and GR5 of the local plan saved policies.

## **OTHER REPRESENTATIONS**

At the time of report writing, approximately 58 objections have been received relating to this application. These can be viewed on the application file. They express concerns about the following issues

### **Highways:**

- Highway safety
- Highway capacity and traffic generation
- Dangerous access
- Pedestrian access on to Manor Road would be extremely hazardous as there is no pavement, if approved traffic calming measures should be introduced
- Would cause on-street parking
- No provision for pedestrians crossing near the site
- Public transport is limited
- Residents of the Leonard Cheshire Care Home use the pavement with mobility scooters and the access would put them in danger
- Not within reasonable walking distance of local amenities and services
- Travel plan has little substance

### **Land Use**

- Loss of open countryside/green fields
- Loss of good quality agricultural land
- Brownfield land should be used first
- Allotments and tennis courts would be a better use of the land
- If we continue to build on Greenfield sites Sandbach will become another characterless place
- The site is not in the local plan or in the Council's 5 year housing land supply
- Site was discounted in the Sandbach Town Plan Strategy
- Does not meet any of the criteria for sustainable development in the Development Strategy
- There is no need for additional development in Sandbach
- The land was left in trust by the previous owner who wished for it to remain as fields and be rented out to local farmers

### **Design**

- If allowed the properties should be high class detached dwellings
- Bungalows should be built along Manor Road
- Inappropriate design would create a separate commuter estate
- Over intensive development on elevated land
- Over development of the site

## **Amenity**

- Loss of privacy
- Noise, disturbance and light pollution
- Overlooking
- Visually overbearing impact
- Air quality
- Adverse impact on the amenities of the residents of the Leonard Cheshire Care Home

## **Trees/Landscape**

- The Landscape and Visual Impact assessment only takes account of three places where residents overlook the land
- The Oak tree in the centre of the site has weathered gales and come back to life each spring and should not be removed
- Would like to retain our view over open land
- Loss of trees and vegetation

## **Other Matters**

- Unacceptable adverse impact on wildlife
- Surface water run-off/flooding
- Concern that services such as drainage and electricity could not cope
- Lack of infrastructure such as schools and medical facilities
- Inadequate level of consultation
- Being an outline application it denies the opportunity to comment on detail
- The summary of comments received at the consultation event is not fully representative, many people did not want the scheme
- Are we content to see suburban infill as the product of pecuniary interest?
- The developer has adopted the 'salami slicing' approach to housing development which is unacceptable and unlawful. If the application is only the first stage of a much larger housing proposal on this site, then it must be rejected out of hand
- Shortage of jobs in Sandbach
- A good number of people are planning to move out of Sandbach due to rampant development
- Due the significant amount of development proposed in Sandbach an Environmental Impact Study should be carried out

These can be viewed on the application file.

## **OFFICER APPRAISAL**

### **Principal 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 an approximate supply of 8 years. (It should be noted that the figure is dynamic and will be subject to almost constant minor changes).

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 Local Plan 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.

### **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”.*

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

The applicant has submitted an Agricultural Land Classification study which concludes that is an area of Grade 2 land, which is ‘very good quality agricultural land with minor limitations which affect crop yield, cultivation or harvesting.’

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 very good quality Grade 2 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 Cheshire East Local Plan Strategy – Submission Version and the provisions of the NPPF in respect of loss of agricultural land.

### **Sustainability**

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. A 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 relates to current planning policies set out in the North West Regional Spatial Strategy for the North West (2008).

The Checklist 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:

- post box (500m),
- local shop (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).
- secondary school (2000m)
- Public Right of Way (500m)
- Children’s playground (500m)

The application does not include such an assessment but it is considered that as the site lies adjacent to existing residential development in Sandbach, within easy walking distance of a bus route into the town centre, with bus stops on Manor Road, Heath Road and The Hill. There is a small shop on Heath Road, which whilst further away than 500m, is still within reasonable walking distance as is the public house on The Hill. There is a primary school on School Lane which is a short distance away and secondary schools within Sandbach itself. It would therefore be difficult to uphold a reason for refusal on the grounds of the site not being in a sustainable location.

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.

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, or a short bus journey from the town centre. This centre offers a wide range of essential facilities and means that occupiers of the development will have a choice of means of transport.

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.

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 is repeated within the Submission Version of the Local Plan. This could be dealt with by condition in the interests of sustainable development.

### **Economic Role**

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

Paragraph 19 states that:

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

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

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

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

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

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

In addition, the proposed development will help to maintain a flexible and responsive supply of land for housing, business and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal will also deliver economic benefit in the form of the New Homes Bonus, additional Council Tax revenue, all of 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 75 new family homes, including 30% affordable homes, on site public open space and financial contributions towards education provision and highway improvements.

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

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

### **Affordable Housing**

The site falls within the Sandbach sub area for the purposes of the Strategic Housing Market Assessment (SHMA) Update 2013. This identified a net requirement for 94 affordable unit per annum for the period 2013/14 – 2017/18. Broken down this is a requirement for 18x 1bd, 33x 2bd, 18x 3bd, 9x 4+bd general needs units and 11x 1bd and 5x 2bd older persons accommodation.

In addition to this, information taken from Cheshire Homechoice shows that there are currently 336 applicants who have selected one of the Sandbach lettings areas as their first choice. These applicants require 180x 1bd, 111x 2bd, 40x 3bd and 5x 4bd units.

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population of more than 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 IPS also states 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. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

The scheme is for 75 units, therefore there is a requirement for 22 units to be provided as affordable, with 14 to be provided as affordable or social rent and 8 to be provided as intermediate tenure. The applicant in their accompanying Planning Statement states that 30% will be provided as affordable and that this will comprise 22 units as affordable. However they do not confirm the tenure proposals for the affordable units and that they meet the required tenure split.

The IPS outlines that in order to ensure full integration with open-market homes the affordable units should not be segregated in discrete or peripheral areas and therefore should be pepper-potted within the development. The external design, comprising elevation, detail and materials should be compatible with open-market homes on the development. The affordable homes should be constructed in accordance with Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).



In order to ensure the proper integration of affordable housing with open market housing, particularly on larger schemes, conditions and/or legal agreements attached to a planning permission will require that the delivery of affordable units will be phased to ensure that they are delivered periodically throughout the construction period. The actual percentage will be decided on a site by site basis but the norm will be that affordable units will be provided not later than the sale or let of 50 % of the open market homes. However, in schemes that provide for a phased delivery and a high degree of 'pepper potting' of affordable homes, the maximum proportion of open market homes that may be completed before the provision of all affordable units may be increased to 80%.

The IPS states that: -

"The Council will require any provision of affordable housing and/or any control of occupancy in accordance with this statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended).

The IPS goes on to state: -

"In all cases where a Registered Social Landlord is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996.

The Council's preference is that the affordable housing is secured by way of a S106 agreement, which: -

- Secures 30% of the units as affordable, with 65% as rented and 35% as intermediate tenure
- requires them to transfer any rented affordable units to a Registered Provider
- provide details of when the affordable housing is required
- includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy.
- includes the requirement for an affordable housing scheme to be submitted at reserved matters application stage that includes full details of the affordable housing on site including location, type, tenure and size.
- Requires the affordable units to be constructed to HCA Design and Quality Standards (2007) and Level 3 of the Code for Sustainable Homes (2007).

## **Amenity**

The application is in outline form and the site layout submitted is only indicative. Nonetheless, it is considered that the site is capable of accommodating 75 dwellings without having a significant adverse impact having regard to privacy, light loss or outlook.

Adequate private residential amenity space could be provided within the domestic curtilages of each property and minimum separation distances could be achieved between the dwellings.

In order to protect the amenity of neighbouring properties, should the application be approved conditions should be imposed relating to piling operations, external lighting, noise mitigation and contaminated land. In addition, electric vehicle charging infrastructure should be required in order to benefit air quality.

## Highways Implications

This development proposal was the subject of a pre-application meeting with the developer's team. In that meeting it was made clear to the developer's agent that the traffic generation for the proposed development should be assessed for impact on the highway network via the Highway Authority's own VISSIM vehicle micro-simulation model for Sandbach.

This would allow an assessment of the traffic impact from the development against the model and allow a clear judgement to be made regarding the affect on the A534 corridor through Sandbach which is both constrained and congested and has local highway improvements identified against it.

This is consistent with other sites local to the A534 corridor which have been tested in the same way in recent months.

This application is outline with all matters reserved except for access. The application is supported by a Transport Assessment (TA) which is written in accordance with the guidelines laid down by the Department for Transport in the guidance document: 'Guidance on Transport Assessments'.

Unfortunately the TA does not include for the assessment of the site via the VISSIM model and therefore the Highway Authority is unable to examine the relationship of the traffic generation with the in-house model. This level of assessment is important as the A534 corridor through Sandbach is both constrained and heavily congested and it is important that the Highway Authority identify necessary mitigation from local developments which will impact on this corridor.

A review of the TA does suggest that the impact from the development would be acceptable in the long term however it is clearly stated in the TA that the proposed development on this site would be reliant on the delivery of local junction improvements from other development sites to mitigate for its traffic impact. The Strategic Highways Manager (SHM) is concerned that there is no offer of mitigation of traffic impact in the TA and that the reliance on improvement by other development which may not progress is not a robust position.

The S.H.M. considers therefore that as originally agreed with the applicant's agent, this development should put its traffic generation figures through the Authority VISSIM model so that an agreed level of mitigation can be determined for this development impact in traffic terms.

There is only limited information on the proposed access into the development site from the A533 'The Hill', which claims the use of Manual for Streets visibility splays. The splays offered are not adjusted against bonnet length and are not supported by an approach speed survey which is the norm for the use of MfS2 on an existing classified road and it is considered that this substantiation of the proposed visibility splays should also be provided.

This development proposal has provided reasonable assessment via the Transport Assessment however it does lack some detail and an agreed method of assessment from the pre-application discussions.

The Strategic Highways Manager considers this lack of information an issue given this site claims to rely on the delivery of junction improvements from other potential developments to mitigate for its own traffic impact when those improvements cannot be considered guaranteed at this time.

The Strategic Highways Manager recommends refusal of this application on lack of information but does recognise that this information could reasonably be delivered for assessment. The applicant's agent was made aware of this at the pre-application stage

Should this development proposal gain a planning permission the Strategic Highways Manager recommends the following conditions and informatives are attached to any planning permission which may be granted:

- Condition: Prior to first development the developer will provide a detailed suite of design and construction plans for new access junction and the internal road infrastructure of the development to the satisfaction of the LPA.
- Condition: Prior to first development the developer will enter into a Section 106 agreement with regard to the provisional sum for the funding requirement for the identified improvement scheme to the traffic signal junction at the A534/The Hill/High Street junction. The required contribution is 25% of the junction improvement cost estimate which is £62,500. Should the junction improvement be provided via alternate development the sum of monies be retained by the Authority against other A534 corridor improvements identified through the Authority VISSIM model.
- Prior to first development the developer will provide a provisional sum of £25,000 for the improvement of two local bus stops to a quality partnership standard and design. This will be secured within the S106 agreement.
- Informative: Prior to first development the developer will enter into and sign a Section 38 agreement under the Highways Act 1980 with regard to the formal adoption of the proposed internal highway infrastructure for the site.

## **Landscape**

This is an outline application for a mixed development of up to 75 residential dwellings with associated vehicular and pedestrian access, open space and landscaping. The application site is located on agricultural land situated between Manor Road and The Hill (A533) in Sandbach Heath. Residential properties are located along the northern side of Manor Road and along the southern side of The Hill; the Leonard Cheshire Home is located to the south of the application area. The application site covers an area of approximately 3 hectares.

As part of the application a Landscape and Visual Impact Assessment has been submitted. This identifies the baseline character of the application site and identifies the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge, and also to the Cheshire Landscape Character Assessment 2009, which identifies the application as being located within Type 10 Lower Farms and Woods , specifically LFW2 Brereton Heath Character Area; the application area exhibits many of the characteristics of this landscape type. The assessment also identifies the local landscape character as included in the Congleton Landscape Character Assessment. The Congleton Landscape Character Assessment identifies this as Cheshire Plain. It should be noted that the Congleton Landscape Character assessment was not superseded by the Cheshire landscape Character Assessment, both offer different scales of assessment and remain mutually compatible.

The visual assessment includes 13 viewpoints and offers sensitivity, magnitude of visual change and a significance of visual effect for each of these viewpoints. While the assessment of these is accepted, it is considered that the significance of visual effect will be greater for Viewpoint 5 – The Hill (A533). It is considered that the predicted magnitude of change will be larger than indicated and that consequently the significance of landscape effect will be larger, although not significantly greater.

The application is an outline application and the illustrative Masterplan does show that the majority of trees and hedges on the site will be retained; it will not be apparent exactly what will be retained until the reserved matters stage, but the development of the Masterplan must respect the existing landscape characteristics and retain and conserve the majority of the trees and hedgerows. Attention to design and specification of landscape boundary treatments to the existing properties will also need to be given serious consideration at reserved matters stage.

## **Design & Layout**

This is an outline planning application therefore the layout drawing is only **indicative**. Should the application be approved, appearance and layout would be determined at reserved matters stage.

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 **indicative** layout shows a development of relatively high density in comparison to development immediately adjacent to the site. However; given adequate landscaping measures, it is considered that the development would not have any significant adverse impact on the character and appearance of the area.

## **Trees**

There are 3 trees within the main part of the site and others on the boundaries. Of the three trees within the site, one is considered to be in a poor condition and is to be removed, another is to be removed in order to facilitate the development and one is to be retained within the site. Additional tree planting within the development is proposed and this should be secured by condition, should the application be approved.

The plots backing on to Hill House are shown with their garden areas extending to the boundary with Hill House thus including the existing trees along this boundary. It is considered that it would inevitably lead to pressure to fell or severely prune the trees, therefore at reserved matters stage, the landscape master plan should be amended to include these important trees, as set out in the landscape report submitted with the application, within the Green Infrastructure of the application.

Tree retention and protection conditions should be imposed, should the application be approved.

## **Ecology**

### ***Barn Owls***

The Council's Nature Conservation Officer is satisfied that roosting barn owls are unlikely to be directly affected by the proposed development.

### ***Bats***

A number of trees on site have been surveyed for roosting bats. However no information has been provided on the location of the surveyed trees and so it is not possible to determine which of these trees are likely to be lost as a result of the proposed development.

The applicant should therefore provide a plan showing the locations of the trees surveyed. Any trees identified as falling with 'Category 1' for their bat roost potential which are also likely to be lost as a result of the proposed development should be subject to a further bat activity survey to establish the presence/absence of roosting bats prior to the determination of the application.

At the time of report writing, this information has not been submitted therefore an update will be provided to members prior to a decision being made. If this information is not forthcoming in time, it would **not** be appropriate to secure this by condition and a reason for refusal on the grounds of insufficient information should be used.

### ***Hedgerows***

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. It appears likely that the proposed access would require the removal of a section of hedgerow. If outline planning consent is granted it should be ensured that all other hedgerows are retained and enhanced as part of the detailed design and that compensatory native hedgerow planting is included in the detailed landscaping scheme for the site to compensate for that lost.

### ***Breeding Birds***

The proposed development appears unlikely to be of significant ornithological value. However, the site does have the potential to support more widespread Biodiversity Action Plan priority species which are a material consideration for planning. In the event that planning consent is granted standard conditions to safeguard breeding birds will be required.

### ***Hedgehog***

Hedgehogs are a biodiversity action plan priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so the species may occur on the site of the proposed development. If planning consent is granted it is recommended that a condition be imposed measures to facilitate their free movement through boundary and garden fencing.

### ***Great Crested Newts***

A full Great Crested Newt survey was undertaken in 2012. The survey was slightly constrained due to the relatively short survey period and the low water levels of the pond. No evidence of great crested newts was recorded during this survey.

A further Great Crested Newt appraisal was undertaken in 2014. This was a single site visit in January. The submitted report acknowledges that this assessment was constrained by the time of year when it was undertaken. No evidence of Great Crested Newts was recorded during this

further appraisal and the pond was assessed as being of 'poor quality' for newts and the terrestrial habitats affected by the development were assessed for the large part as being of 'below average' suitability for amphibians. The assessment concludes that there remains a possibility that great crested newts may occur on site but states that the impacts of the development would be 'Low' if great crested newts were present.

The report recommends a suite of non-licensable Reasonable Avoidance Measures to mitigate the impacts of the development in the event that great crested newts were present.

It is considered that given the lack of any evidence of Great Crested Newts being recorded during the 2012 survey and the low quality of the pond Officers are satisfied that Great Crested Newts are not reasonably likely to be present at the identified pond. In the unlikely event that Great Crested Newts were in fact present at the identified pond, Officers are also satisfied, that the risk of newts occurring on the development site is low and that the implications of the proposed Reasonable Avoidance Measures would be sufficient to mitigate any potential impact upon newts.

Therefore provided a condition requiring development to proceed in accordance with the recommendations in the Survey, is imposed, Officers consider that the proposed development would be unlikely to have an adverse impact upon Great Crested Newts. An offence under the Habitat Regulations is also not likely to occur consequently it is therefore not necessary for the Council to have regard to the Habitat Regulations in respect of Great Crested Newts during the determination of this application.

## **Education**

A development of 75 dwellings is anticipated to generate 18 primary and 13 secondary aged pupils. As such there is a requirement for a s106 contribution towards educational provision, this is set out below:

Primary = £195,233

Secondary = £212,455

## **Flood Risk**

At the time of report writing, a response has not been received from the Flood Risk Manager; however a Flood Risk Assessment has been submitted with the application. This concludes that there is not a risk of flooding from artificial sources or fluvial sources. It also concludes that the risk of flooding from, groundwater, sewers and overland flow, is considered to be low. As such, if the application were to be approved, conditions should be imposed requiring submission of drainage and surface water run-off details.

## **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, education contributions and the provision of affordable housing would help to make the development sustainable and would be fair and reasonable.

## **CONCLUSIONS**

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

The site is within the Open Countryside where under Policy PS8 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. The Council can demonstrate a 5 year housing land supply and as a result the principle of development is not considered to be acceptable and the development would be contrary to Policy PS8.

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

There would be an adequate level of POS on site to comply with policy.

In terms of sustainable design, the scheme does not demonstrate its performance in terms of climate change mitigation and adaptation. However, as this is an outline application, this could be dealt with by condition.

30% affordable housing is to be provided which should be secured by Section 106 Agreement.

Subject to a suitable Section 106 package, the proposed development would provide adequate public open space/play space and equipment, the necessary affordable housing requirements to the requisite tenure mix and monies for education provision.

The proposal is considered to be acceptable in terms of its impact upon residential amenity and drainage/flooding. Conditions could be imposed to ensure this. 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.

However, the benefits of the scheme in terms of the addition to the affordable housing stock in the area, the economic and social benefits via the new homes bonus and spending in local shops by new residents are considered to be insufficient to outweigh the harm that would be caused in terms of the loss of open countryside and agricultural land when there is no over-riding need to release the site for that purpose given the housing supply position of the Council.

The proposal is considered to be contrary to policies of the Local Plan, the Submission Version of the Local Plan and the provisions of the NPPF in this regard.

The site comprises very good quality Grade 2 Agricultural Land and as the developer has failed to demonstrate that there is a need for the development, its loss cannot be justified.

Insufficient information has been submitted in order to properly assess traffic generation on already constrained and congested roads. There is also insufficient information relating to visibility splays serving the access onto the A533.

## **RECOMMENDATIONS**

### **REFUSE:**

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan, to the emerging Development Strategy and the principles of the National Planning Policy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.**
- 2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.**
- 3. Insufficient information has been submitted with the application relating to traffic generation and visibility splays in order to assess adequately the impact of the proposed development having regard to highway safety. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with Development Plan Policies and other material considerations.**

**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 Chairman/Vice Chairman of the**



**Strategic Planning Board, 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 Chairman/Vice Chairman of the Strategic Planning Board 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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