

Application No: 14/1991M

Location: 20, Priory Lane, Macclesfield, SK10 3HJ

Proposal: Demolition of existing residential dwelling (20 Priory Lane). Construction of ten residential properties (5x semi-detached) with associated parking new access road etc

Applicant: Mark Edwards, Contour Homes Ltd

Expiry Date: 05-Aug-2014

**Date Report Prepared:** 28 July 2014

#### **SUMMARY RECOMMENDATION**

Approval is recommended subject to conditions and an agreement under S.111 of the Local Government Act (*securing the completion of a S.106 agreement*).

#### **MAIN ISSUES**

- Principle of the Development (*Windfall Housing Sites*);
- Principle of the Development (*Need for Affordable Housing*);
- Housing Policy;
- Developer Contributions;
- Requiring good design and character and appearance of the area;
- Highways;
- Residential Amenity; and
- Other material planning considerations.

#### **REASON FOR REPORT**

The proposal is a major development as defined by The Town and Country Planning (Development Management Procedure) Order 2010. Under the Council's constitution such applications are required to be considered by Committee.

Subject to the recommended conditions and Legal agreement, the proposal is considered to be acceptable for the reasons set out in the appraisal section of this report.

#### **DESCRIPTION OF SITE AND CONTEXT**

The site is located with Macclesfield. The site is located opposite St Alban's Catholic Primary School. The existing site comprises one residential house with associated gardens, an area

containing several trees and some open space, and is accessed via a priority junction with Priory Lane along an un-surfaced track.

The vacant site is bounded predominantly by two storey residential dwellings to the North, West and South and by Priory Lane to the East, vehicular and pedestrian access to the site is proposed via Priory Lane which runs adjacent to the eastern boundary.

The site is well served from Priory Lane which is a major road through the surrounding residential area. The site has good public transport links, the nearest bus stops to the site are located on Priory Lane, approximately 75m north of the proposed site access. These stops are served by a regular bus service. These routes provide convenient connections to Macclesfield town centre and Prestbury Additional services can be accessed on Fallibroom Road, approximately 300m from the site access.

## **DETAILS OF PROPOSAL**

Full planning permission is sought for the construction of a residential housing development comprising a total of 10 units.

The application is made by the Affordable Housing Consultancy for development comprising 100% affordable housing.

The proposed development will include the creation of 10 new residential properties, 2 no. 3 bedroom houses and 8 no. 2 bedroom houses each over two storeys.

## **RELEVANT HISTORY**

There is no site history relevant to the determination of this application.

## **POLICIES**

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

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

### **Local Plan Policy:**

The application site lies within a predominantly residential area in Macclesfield and is in employment use, therefore the relevant Macclesfield Local Plan policies are considered to be:

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- Policy BE1 (Design Guidance);
- Policy H1 (Phasing policy);
- Policy H2 (Environmental quality in housing developments);
- Policy H5 (Windfall housing sites);

- Policy H13 (Protecting residential areas);
- Policy E1 (Employment Land Policies);
- Policy E14 (Employment in Housing Areas);
- Policy DC1 (High quality design for new build);
- Policy DC3 (Protection of the amenities of nearby residential properties);
- Policy DC6 (Circulation and Access);
- Policy DC8 (Requirements for Landscaping);
- Policy DC35 (Materials and finishes);
- Policy DC36 (Road layouts and circulation);
- Policy DC37 (Landscaping);
- Policy DC38 (Guidelines for space, light and privacy for housing development);
- Policy DC41 (Infill housing development);
- Policy NE11 (Nature Conservation); and
- Policies RT5 and DC40 (Children's Play Provision and Amenity Space).

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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 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.

Replacing MBLP policies NE11, BE1, H4, and H13 (CELP) policies SE3, SE1, SD2, SE1, EG3 and CO1, which are summarised below: -

- Policy SE3: which seeks to protect and enhance biodiversity and geodiversity;
- Policy SE1: sets out requirements for design;
- Policy SE12: Pollution and Unstable Land ensures that development protects amenity;
- Policy SD2: sets out sustainable development principles; and
- Policy CO1: deals with sustainable travel and transport including public transport.

### **The National Planning Policy Framework**

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight.

### **Supplementary Planning Documents:**

Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- Section 106/Planning Obligations Supplementary Planning Guidance Note; and
- Interim Planning Statement on Affordable Housing.

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

#### **HIGHWAYS:**

No objections, subject to conditions and a commuted sum for the proposed waiting restrictions on Priory Lane.

#### **UNITED UTILITIES:**

United utilities (UU) have raised no objection to the application. UU have stated that the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. UU have requested that the developer consider the various drainage options to accord with the hierarchy outlined in Building Regulations H3.

A public sewer crosses this site and UU will not permit building over it. A easement condition is suggested that will allow UU an access strip width of 6 metres, 3 metres either side of the centre line of the sewer.

#### **ENVIRONMENTAL HEALTH:**

No objections subject to conditions controlling the hours of construction, hours and method of pile foundations (if necessary), and submission of a scheme to minimise dust emissions.

The Contaminated Land team has no objection to the above application subject to an informative being placed on any decision to deal with the scenario that unexpected contamination is found on the site during construction.

## **VIEWS OF THE PARISH / TOWN COUNCIL**

Not applicable.

## **REPRESENTATIONS**

The application has been advertised in accordance with the General Development Management Order 2010, in this case incorporating the following elements:-

- On site, by the means of a site notice on Priory Lane making reference to major development;
- The site notice was posted on 16 May 2014;
- Notice was published in the local press (Macclesfield Express) on 21 May 2014; and
- Surrounding residential properties (6 on Birchgate Close, 4 on Drummond Way, 5 on Rayleigh Close, 4 on Priory Lane and 13 on Keats Drive) have also been written to directly.

This extended publicity period for this application expired on 16 June 2014.

### **AMENITY GROUPS:**

Macclesfield Civic Society has stated that they welcome the provision of affordable housing in small scale schemes such as this. They believe that the design and external appearance is consistent with the mixed residential character of the area. With tree retention and new planting the impact will be lessened though it is acceptable in any event

### **LOCAL RESIDENTS:**

12 letters of objection have been received from local residents and their objections can be summarised as follows: -

### **GENERAL/OTHER ISSUES:**

- Questioned who would be responsible for the maintenance of boundary fences;
- Would like members of the Planning Committee to see the complete objection letters;
- 100% rented scheme, would prefer at least some owner occupancy of the units;

### **LOSS OF AMENITY THROUGH OVERLOOKING, OVERSHADOWING AND LOSS OF PRIVACY:**

- The kitchen, living room, dining room and back gardens of Rayleigh Way will be overlooked by the development;
- The close position of Plot 7 to the boundary of Rayleigh Way;
- Plot 7 will cause a loss of morning light to the houses and gardens on Rayleigh Way;
- Concerns due to the upward slope of the gardens of 16, 14 and 12 Birchgate Close and the elevation of these houses, these dwellings will lose their privacy as the new development will bear down their gardens;

### **DESIGN:**

- Too many dwellings are proposed;
- Design is out of keeping with the character of the area;
- Density of the scheme should be reduced;

- The plot would be much more suited to a small development of larger family homes for the owner occupied market in keeping with the existing long established and pleasant community;

#### GENERAL AMENITY ISSUES:

- The area is currently a very quiet neighbourhood and 10 family homes and parking for 20 cars will have a detrimental impact on noise levels;
- Lack of screening on boundaries with Rayleigh Way;

#### HIGHWAY AND PEDESTRIAN SAFETY:

- Access to and from the new development will increase the amount of traffic;
- Pedestrian and vehicular traffic is already heavy at peak times due to the 2 schools in the area;
- Having another access road opposite the existing flat/school entrance will not ease the situation and at peak times will make matters worse;
- The plans do not show 20 car parking spaces;

#### ARBORICULTURAL IMPLICATIONS

- Loss of trees;
- The removal of trees which makes 1 Rayleigh Way and the proposed development very visible to each other;
- The removal of trees and shrubs particularly the 'laurel' on the boundary with 3 Rayleigh Way will remove any screen to Plot 7;
- Lack of proposed boundary screening;

#### ECOLOGY:

- We have seen bats flying in the area so it is hoped that their welfare will also be considered;
- Neighbours have observed numerous bats both accessing and exiting the derelict building from both sides of the site (Drummond Way and Rayleigh Close);
- Concerns about the accuracy of the bat report and further studies should be made, and advice sought, as the bat report submitted is inconclusive;

#### LEGAL BOUNDARY ISSUES:

- Concerns regarding the building process and how the shared wall marking the boundary with Rayleigh Close will be maintained; and
- Legal concerns regarding the removal or alteration of shared boundaries without permission or consent.

A full copy of all the comments made by the local residents regarding this application as summarised above, can be viewed on the electronic file on the Council's public access website.

#### APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted the following reports/documents in support of the application, details of which can be read on the electronic file on the Council's public access website.

- Planning, Design and Access Statement;

- Ecological Report;
- Arboricultural Statement;
- Transport Statement; and
- Bat Survey.

## **OFFICER APPRAISAL**

Having considered this application, it is the considered view that the main issues in this case are:

- Principle of the Development (*Windfall Housing Sites*);
- Principle of the Development (*Need for Affordable Housing*);
- Housing Policy;
- Developer Contributions;
- Requiring good design and character and appearance of the area;
- Highways access, parking, servicing and highway safety;
- Residential Amenity; and
- Other material planning considerations.

### **Principle of the Development (Windfall Housing Sites):**

The site lies within the settlement boundary of Macclesfield and within a Predominantly Residential Area where policies within the Local Plan indicate that there is a presumption in favour of development.

Para 14 of The Framework indicates that there is a presumption in favour of development except where policies indicate that development ought to be restricted.

Policy H5 within the Local Plan seeks to direct residential development to sustainable locations – this policy accords with guidance within the NPPF and therefore carries full weight. The site constitutes a sustainable location as it is located within the settlement boundary of Macclesfield and by virtue of its proximity to shops and services within Macclesfield.

Therefore, permission should only be withheld where any adverse impacts would significantly and demonstrably outweigh the benefits as noted above.

### **Principle of the Development (Need for Affordable Housing):**

This application is for 10 Affordable Rented units made up of eight 2 bed houses and two 3 bed houses. The applicant is Contour Homes Ltd who are a Registered Provider of Social Housing registered with the Homes and Communities Agency (HCA). They have also secured funding with the HCA to support delivery of this scheme.

The site falls within the Macclesfield Sub-Area for the purposes of the Strategic Housing Market Assessment (SHMA 2013). This identifies a net annual requirement of 180 units for the period 2013/14 to 2017/18. Within 2013/14 there have been 20 completions in the Macclesfield sub-area. In addition to this, information taken from Cheshire Homechoice, shows there are currently 1,160 active applicants who have selected one of the Macclesfield

lettings areas as their first choice. These applicants require 548x 1bd, 88x 2bd, 339x 3bd and 112x 4+bd units.

The mix of types of dwelling proposed for the affordable homes would meet some of the identified need for the Macclesfield sub-area and is in line with the type of affordable housing need identified from the SHMA Update 2013 and also current applicants on Cheshire Homechoice.

### ***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 Position Statement set out that the Borough's five year housing land requirement as 8,311. This is based on the former RSS housing target of 1150 homes pa – mindful that the latest ONS household projections currently stand at 1050 pa. This was also 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.



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.

Members will be aware that the Housing Supply Figure is the source of constant debate as different applicants seek to contend that the Council cannot demonstrate a five year supply. This has been the source of the many and on-going appeals as the Council's defends its position against unplanned development. Despite the high number of appeals only a limited number of decisions have been determined at this time, but they in themselves demonstrate the apparent inconsistency of approach.

*Elworth Hall Farm, Sandbach (11 April 2014).* It was 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. 1150 dwellings pa was the agreed target figure. The Inspector accepted the use of windfalls but considered a 20% buffer should be employed

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 the last few months and more are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 6.11 year housing land supply with a 5% buffer or 5.35 year housing land supply with a 20% buffer.

*Dunnockfold Road, Alsager (14 July 2014).* Inspector considered that the RSS figure was now historic and that the SHMA, SHLAA and populations forecasts were more recent along with the emerging Pre-Submission Core Strategy which proposes a target of 1350 dwellings pa. 1350 should therefore be the target (6750 as a 5 year supply figure). The Inspector also accepted the appellants' backlog figure but agreed that a 5% (not 20%) buffer should be applied. However the use of windfalls was rejected. This gave a five year requirement of 10146 dwellings or 2029 pa. This results in a supply figure of 3.62 years. Even using the Council's assessed supply figure of 9897 this only provided 4.8 years of supply.

Members should note that this Inquiry also took place just a few days after the introduction of the position statement when there was little or no time to prepare the full evidence case.

*Newcastle Road, Hough (14 July 2014).* In the absence of evidence to the contrary the Inspector accepted the position statement and that the Council could demonstrate a five year supply - 5.95 years with 5% and 5.21 with a 20% buffer. It was also considered that the RSS figures of 1150 pa represented the most recent objectively assessed consideration of housing need.

There is hence little consistency over the treatment of key matters such as the Housing Requirement, the Buffer and use of windfalls.

This state of affairs has drawn the attention of the Planning Minister Nick Boles MP who has taken the unusual step of writing to the Inspector for the Gresty Oaks appeal (14 July 2014) highlighting that the Planning Inspectorate have come to differing conclusions on whether Cheshire East can identify a five year supply. While he acknowledges that decisions have been issued over a period of time and based upon evidence put forward by the various parties he asked that “especial attention” to the evidence on five supply is given in the subsequent report to the Secretary of State. It is therefore apparent that the Planning Minister does not consider the matter of housing land supply to be properly settled.

Taking account of the above views, the timing of appeals/decisions the Council remains of the view that it has and can demonstrate a five year supply based upon a target of 1150 dwellings per annum, which exceeds currently household projections. 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.

However, if the application were to be approved, it would relieve pressure on other edge of settlement sites and the Green Belt as part of the provision of housing and strengthen the Councils 5 year land supply position.

#### **Developer Contributions:**

Additionally in accordance with the Councils SPG on S106 (Planning) Agreements, the proposal triggers the need for both Public Open Space (POS) and Recreation / Outdoor Sports (ROS) provision, in line with the current CEC policy.

10 Affordable dwellings would generate a need for £30,000 Public Open Space (POS) based on £3000 per dwelling. The commuted sum for ROS is £10,000, based on £1,000 per dwelling. However, for 100% affordable housing schemes, the commuted sum for ROS is normally waived.

The POS would be spend at Juniper Rise play and amenity space, Birtles Road allotments and Amenity space at Macclesfield Leisure Centre

There is a highway concern about the possible impact of parking on Priory Lane and the internal access road and therefore a S106 contribution of £6,000 has been requested by the Strategic Highways Manager as part of the development to implement waiting restrictions should they become necessary. The Strategic Highways Manager has stated that a standard time limit of 5 years would suffice and should they not prove necessary the monies can be returned to the developer.

The developers (Contour Homes Ltd) have offered £10,000 in lieu of onsite provision and £6,000 for the waiting restrictions. This is due to the viability of the scheme.

A financial appraisal for the scheme has been submitted and this shows a small return on the scheme over a 40 year period. This is due to increased external works costs of £77,000 and additional site abnormal cost of £23,000

It is considered that an exception could be made in this case and a lower POS contribution agreed as the scheme has been specifically designed in consultation with the Council's Housing Department to meet a locally identified demand and urgent requirement for affordable housing in Macclesfield. Members should also be aware that the scheme is dependent on Homes & Communities Agency (HCA) grant subsidy.

#### **Requiring good design and character and appearance of the area:**

The application proposes a row of semi detached dwellings that front onto Priory Lane. These dwellings are accessed from the rear. Two pairs of semi detached houses are located within the site accessed from the internal road proposed. All the dwellings have rear gardens and a communal garden is also proposed. The dwellings are two storey constructed in brick and tile.

Due to the levels within the site a retaining wall will be required. The application proposes the use of gabion baskets for the retaining wall. Whilst this is not ideal, given the relatively small height of the wall and its location, it is considered acceptable on this occasion. The proposed gabion baskets will be of dressed stone but this can be conditioned in order to secure specifications and details.

Whilst a number of objections have been raised to the density and design of the scheme, it is considered that the proposal would improve the character of the area given the state of the current site.

#### **Highways access, parking, servicing and highway safety:**

The proposal is to demolish the existing dwelling on the site and to erect 10 new dwellings; there is only one access to the site from Priory Lane.

The access is to be constructed to an adoptable standard with a standard turning head to accommodate refuse and delivery vehicles.

Given the low number of units proposed by this application, the traffic generation impacts of the development are very small and cannot be considered severe and as such, no concerns are raised on these grounds.

The main highway issue is whether there is adequate parking being provided for each of the units, there is 200% parking for each of the units which is considered acceptable.

During discussions the possibility of providing some parking on the frontage of Priory Lane was discussed although this was discounted due to the level difference between the road and floor level of the dwellings. In addition, as this development would be adoptable and publically accessible the issue of on-street parking from the nearby school was raised and potentially blocking the access and interfering with visibility at the junction.

In summary, the Strategic Highways Manager raises no objections to the application, subject to conditions and the proposed waiting restrictions on Priory Lane.

A Construction Management Plan condition is suggested to ensure that all construction traffic can be accommodated within the site.

**Residential Amenity:**

Policy DC3 seeks to prevent development which would cause a significant injury to amenity through issues such as overbearing impact, loss of light and loss of privacy. Policy H13 seeks to retain existing high standards of amenity. Policy DC41 seeks to prevent the overlooking of existing private gardens in a housing redevelopment. Policy DC38 sets out the standards for space, light and privacy in new housing development.

The site is located within a well established residential area and can be classified as an infill development. The site is bounded on three sides by existing residential properties with a principal front elevation that directly addresses Priory Lane.

The front row of dwellings that would front onto Priory Lane would be 17.4m (at the closest point) to 19a Priory Lane, which is on the opposite side of the street. Although this distance is below the required 21m, it is considered acceptable given the existing and proposed screening and boundary treatment and given the character of the area. The end side elevations of the front row of dwellings that would front onto Priory Lane would be 25 metres to the rear elevation of 16 Birchdale Close and 17.5 to the side gable of number 18a Priory Lane. These distances are in excess of the minimum separation standards in the Local Plan.

The rear set of proposed semi detached houses would be 23.6m for the rear elevation of 25 Rayleigh Way and 28m from the rear elevation of 15 Birchdale Close. These distances are considered acceptable as the dwellings above are at an oblique angle to the application site. The side end elevation of these semis would be 15.5m from the main house elevations of numbers 3 and 5 Rayleigh Way and 15.3m from 8 Birchgate Close on the opposite side. There is only a bathroom window in the side elevations, which would be obscurely glazed. Whilst it is accepted that there will be a chance for the neighbours in these properties and that the end gable will be close to the boundary, which is unfortunate. These distances are over the 14m minimum separation standards in the Local Plan and therefore a refusal on this basis cannot be sustained.

Overall it is considered that the application proposals would not have a detrimental impact on residential amenity to the surrounding properties through overlooking, loss of privacy or overbearing. A final levels and boundary treatment conditions are proposed to ensure continued protection of the amenity of surrounding residents.

**Other material planning considerations:****ARBORICULTURAL IMPLICATIONS:**

The applicant has discussed the issues of trees on this site with the Council's Arboricultural Officer in detail prior to submitting the application.

The recognition of the removal of several 'low and moderate' value trees in order to facilitate development has been accepted by the Council's Arboricultural Officer. Whilst there will be an impact on amenity of the immediate area this is considered to be relatively low, and possibly to be off set with an amount of specimen planting.

A cluster of retained trees has been facilitated within the north east corner of the development. These are clearly visible from Priory Lane and help to assimilate the development in terms of forming a backdrop or partially screening the site. These trees can be protected in accordance with current best practice; a detailed specification will be required but can be dealt with by condition.

A minor incursion in respect of the root protection area associated with a tree (T7) is required in order to accommodate designated hard standing. However, a detailed engineered no dig specification will be required; again this can be dealt with by condition.

#### ECOLOGICAL IMPLICATIONS:

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that no European Protected Species have been recorded on site. Therefore the planning authority do not have to consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) maintenance of the favourable conservation status of the species and (iii) that the development is of overriding public interest.

The Council's Ecologist was consulted on the application. The house proposed for demolition has some potential to support roosting bats. No evidence of roosting bats was recorded during the submitted survey and whilst there remains a low possibility that the building may be used by small numbers of bats on an occasional basis there are numerous other properties nearby which are likely to offer a similar level of opportunities. The Council's Ecologist therefore advises that roosting bats are unlikely to be present or affected by the proposed development.

A small stand of woodland is present in the north eastern corner of the application site. This is shown as being retained on the submitted proposed layout plan.

The Council's Ecologist has therefore advised that with the exception of the possible disturbance of breeding birds, there are unlikely to be any significant ecological issues associated with the proposed development. If planning consent is granted the Council's Ecologist has recommended that conditions be attached to safeguard breeding birds and ensure some additional provision is made for birds and roosting bats.

#### ENVIRONMENTAL HEALTH:

Whilst other legislation exists to restrict the noise impact from construction and demolition activities, this is not adequate to control all construction noise, which may have a detrimental impact on residential amenity in the area. Therefore, a condition is suggested to control hours

of demolition and construction works in the interest of residential amenity. A condition has also been suggested by the Council's Environmental Health Section in the event that piled foundations are used. A condition to control dust from the construction is suggested to reduce the impacts of dust disturbance from the site on the local environment. Details of waste and refuse provision would also be conditioned.

#### LAND CONTAMINATION:

As stated above, the Contaminated Land team has no objection to the above application subject to an informative being placed on any decision to deal with the scenario that unexpected contamination is found on the site during construction.

#### DRAINAGE MATTERS:

The site is not at risk of flooding as it is within Flood Risk Zone 1. A water supply can be provided and a separate metered supply to each unit will be required. There is a sewer that crosses the site. United Utilities have raised no objection to the application subject to a sewer easement condition and foul and surface water details being secured via condition.

#### **Responses to issues raised by third parties:**

The comments provided by consultees and neighbours in relation to infrastructure issues, highways issues, environmental issues, neighbouring amenity, housing need and affordable housing, design and built environment issues and loss of employment land are noted. It is considered that the majority of issues are addressed in the report above. Responses to any other issues raised by third parties are listed below:

- It is the Council's understanding that the Registered Social Landlord would be responsible for the maintenance of the site.
- Although 20 Priory Lane is currently council owned land, Contour Homes have started a dialog with the owners of 18a Priory Lane, regarding their right of access over the strip of land on the southern boundary. Contour Homes has agreed the boundary position with the owner on the basis that Contour transfers the Council's leasehold interest in the strip of land to No.18a at completion.
- Contour Homes has also employed a Party Wall Surveyor to assess any potential party wall issues on site. He wrote to 1, 3, 5 & 7 Rayleigh Close on 6 June 2014 regarding their fence line and boundary to 20 Priory Lane, to which he has received one reply. Moving forward if any of the neighbours wish to discuss their boundary line the applicant has stated that they are more than happy to engage their Party Wall Surveyor to do so.

#### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The proposed scheme is a sustainable form of development for which there is a presumption in favour. The provision of 100% affordable housing is a significant benefit of the scheme and should be viewed in the context of wider social sustainability, as well as the development being located in a sustainable location.

At the heart of the National Planning Policy Framework is a **presumption in favour** of sustainable development. Paragraph 14 of NPPF states that decision takers should be approving development proposals that accord with the development plan without delay; and

- 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 this Framework taken as a whole

As such Members should only be considering a refusal of planning permission if the disbenefits of the scheme significantly and demonstrably outweigh the benefits of approval.

## **HEADS OF TERMS**

The application site is currently owned by Cheshire East Council. Consequently a S.106 agreement cannot be entered into at this time because as a matter of law, no Council can enter into an agreement as landowner and Local Planning Authority.

Instead the applicant will be required to enter into an agreement under S.111 of the Local Government Act 1972, in which the applicant will covenant to enter into a S.106 agreement as soon as the land is transferred from the Council to the applicant.

- Mechanism to ensure that the proposed dwellings provide affordable housing in perpetuity and are of an appropriate tenure;
- Commuted sums of £10,000 for POS in lieu of onsite provision; and
- Commuted sums of £6,000 for waiting restrictions on Priory Lane.

## **Community Infrastructure 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.

The mechanism to ensure that the proposed dwellings provide affordable housing in perpetuity and are of an appropriate tenure is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum in lieu for recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide 10 dwellings, the occupiers of which will use local facilities, and there is a necessity to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The commuted sum in lieu for waiting restrictions on Priory Lane is necessary, fair and reasonable, as there is a highway concern about the possible impact of parking on Priory Lane and the internal access road.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development

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*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Enforcement Manager has delegated authority to do so in consultation with the Chairman of the Northern 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 shall be delegated to the Planning and Enforcement Manager in consultation with the Chairman of the Northern 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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#### Application for Full Planning

RECOMMENDATION: Approve subject to a Section 106 Agreement and the following conditions

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A23MC - Details of ground levels to be submitted
4. A02EX - Submission of samples of building materials
5. A13HA - Construction of junction/highways
6. A07HA - No gates - new access
7. A01LS - Landscaping - submission of details
8. A04LS - Landscaping (implementation)
9. A12LS - Landscaping to include details of boundary treatment
10. A01TR - Tree retention
11. A02TR - Tree protection
12. A19MC - Refuse storage facilities as approved
13. A04HP - cycle parking provision as approved
14. A04NC - Details of drainage
15. A04NC\_1 - Sewer Easement
16. A22GR - Protection from noise during construction (hours of construction)



17. A23GR - Pile Driving
18. A32HA - A scheme to minimise dust emissions
19. A32HA\_1 - Construction Management Plan
20. A06NC - Protection for breeding birds
21. Measures to encourage nesting birds
22. Contamination Informative
23. NPPF Informative

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