

Application No: 14/1161N

Location: Land South of Newcastle Road, Shavington.

Proposal: Removal of Condition 30 on approved application 12/3114N - Outline application for residential development of up to 400 dwellings, local centre of up to 700 Sq M (with 400 Sq M being a single convenience store), open space, access roads, cycleways, footpaths, structural landscaping and associated engineering works.

Applicant: Mactaggart & Mickel Homes Ltd

Expiry Date: 12-Jun-2014

#### **SUMMARY RECOMMENDATION:**

#### **REFUSE**

#### **MAIN ISSUES:**

- Planning Policy And Housing Land Supply
- Affordable Housing
- Highway Safety And Traffic Generation
- Contaminated Land
- Air Quality
- Noise Impact
- Landscape Impact
- Hedge and Tree Matters
- Ecology
- Design
- Amenity
- Open Space
- Drainage And Flooding,
- Sustainability
- Education

#### **REASON FOR REFERRAL**

This application is referred to the Strategic Planning Board as it involves a variation to condition for a large scale major development previously considered by SPB

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

The application site falls within the Open Countryside and relates to a large (17.38 ha) triangular parcel of land that is bound on 2 sides by residential development (Stock Lane and Dig Lane) and by Newcastle Road on the other.

The site is made up of a number of fields of varying size. The larger fields occupy the western, central and southern parts of the site which is predominantly in arable use. The north-eastern part is smaller pasture fields and paddocks defined by hedgerows and fences. There are groups of hedgerow trees on the site and several isolated trees.

The site straddles the boundary between Shavington-cum-Gresty and Wybunbury Parishes and is relatively level.

Outline Planning Permission was granted on the 23<sup>rd</sup> January 2014 for the erection of up to 360 dwellings.

## **DETAILS OF PROPOSAL**

A revised indicative layout plan has been submitted to vary Condition 30 from approved planning permission 12/3114N.

Planning permission 12/3114N was granted approval on the 23<sup>rd</sup> January 2014 and was for *'Outline Application for Residential Development of up to 360 Dwellings, Local Centre of up to 700 sqm (with 400 sqm being a single convenience store), Open Space, Access Roads, Cycleways, Footpaths, Structural Landscaping, and Associated Engineering Works.'*

The applicant seeks to remove Condition 30 from this approval which states;

*'Notwithstanding the details included within the submitted application, the maximum number of dwellings constructed within the site shall be 360.'*

*Reason: In the interests of visual amenity and to comply with Policy BE2 (Design Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.'*

The applicant now seeks to increase the number of dwellings on the site by 96 to 456 upon that granted by permission 12/3114N.

The original plan submitted in support of this application was not to scale.

## **RELEVANT HISTORY**

**14/1160N** - Variation or removal of Conditions 48 - 51 Inclusive of Planning Permission 12/3114N - Outline application for residential development of up to 400 dwellings, local centre of up to 700 Sq M (with 400 Sq M being a single convenience store), open space, access roads, cycleways, footpaths, structural landscaping and associated engineering works – Under consideration

**12/3114N** - Outline Application for Residential Development of up to 360 Dwellings, Local Centre of up to 700 sqm (with 400 sqm being a single convenience store), Open Space, Access Roads, Cycleways, Footpaths, Structural Landscaping, and Associated Engineering Works – Approved 23<sup>rd</sup> January 2014

## **POLICIES**

### **Local Plan Policy**

NE.2 - Open countryside  
NE.5 - Nature Conservation and Habitats  
NE.9 - Protected Species  
NE.20 - Flood Prevention  
NE.21 - Land Fill Sites  
BE.1 - Amenity  
BE.2 - Design Standards  
BE.3 - Access and Parking  
BE.4 - Drainage, Utilities and Resources  
RES.5 - Housing in the Open Countryside  
RT3 – Provision of Recreational Open Space and Children's Play Space in New Housing Developments  
RT.6 - Recreational Uses on the Open Countryside  
TRAN.3 - Pedestrians  
TRAN.5 – Cycling

### **National Planning Policy**

National Planning Policy Framework (NPPF)

### **Other Material Policy Considerations**

Interim Planning Policy: Release of Housing Land (Feb 2011)  
Interim Planning Statement: Affordable Housing (Feb 2011)  
Strategic Market Housing Assessment (SHMA)  
Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994  
North West Sustainability Checklist

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

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

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

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

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

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

PG5 – Open Countryside  
CS6 – The Shavington / Wybunbury Triangle  
SC1 – Leisure and Recreation  
SC2 – Outdoor Sports Facilities  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE1 – Design  
SE2 – Efficient Use of Land  
SE3 – Biodiversity and Geodiversity  
SE4 – The Landscape  
SE5 – Trees, Hedgerows and Woodland  
SE6 – Green Infrastructure  
SE7 – The Historic Environment  
CO1 – Sustainable Travel and Transport

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

**Environmental Protection (Cheshire East Council)** - No objections

**Strategic Highways Manager** – No objections, subject to a further financial contribution of £28,750 for infrastructure improvements due to the increase in units above 400. The agreed contribution under permission 12/3114N was £230,000. Therefore revised contribution will be £258,750.

**Countryside and Rights of Way (Cheshire East Council)** – No objections, subject to a condition that the PROW not be altered without the prior approval of the Local Planning Authority.

**Green spaces (Cheshire East Council)** - No objections

**Environment Agency** - No objections, subject to a number of conditions including; Planning permission shall be carried out in accordance with the approved Flood Risk Assessment; the prior submission of a scheme to manage the risk of flooding from overland flow; the prior submission of a scheme for the provision and management of a 5-metre wide undeveloped buffer zone alongside the water courses and ponds; the prior submission of a river channel and corridor method statement.

**Natural England** - No objections

**Education (Cheshire East Council)** – No objections, subject to an increased contribution of £889,396 towards primary school education

**United Utilities** – No objections, subject to a condition requiring the prior submission of revised drainage details

**Mid-Cheshire Footpath Society** - No comments received at time of report

**Ramblers Association** - No comments received at time of report

**Open Space Society** - No comments received at time of report

## **VIEWS OF THE PARISH COUNCIL**

**Wybunbury Parish Council** – Object to the proposal on the following grounds;

- Over-development of site
- Loss of ecologically important areas
- Loss of green space
- Already too much housing development in Shavington
- Additional housing not required for Cheshire East Housing Land Supply totals
- Individual responses to applicant's statement of case

**Shavington Parish Council** – Object to the proposal on the following grounds;

- Principle of the increase in housing numbers
- Amenity – Loss of open space within site

**Hough Parish Council** - Object to the proposal on the following grounds;

- Impact upon local infrastructure

## **OTHER REPRESENTATIONS**

77 letters of objection to the proposal have been received. This main concerns raised include;

- Principle of housing development
- Impact upon open countryside
- Drainage
- Impact upon local schools, health facilities
- Design – Over-development of site (density), visual amenity, overlooking/loss of privacy, not respect local character (3-storey), materials
- Amenity – Loss of light, loss of screening, air pollution, overcrowding, noise and disturbance
- Highway safety – Impact upon infrastructure, increased traffic/congestion, pedestrian safety

- Unsustainable – Lack of jobs, insufficient bus services
- Additional housing not required for Cheshire East Housing Land Supply totals
- Already too much housing development in Shavington
- Individual responses to applicant's statement of case
- Ecology – Loss of wildlife habitat, conditioned wildlife corridor, impact upon Wybunbury SSSI
- Trees – Loss of
- Flooding
- Anti-social behaviour
- Procedural – In contradiction of approved plans condition (condition 3)
- Impact on house values

## **APPLICANT'S SUPPORTING INFORMATION**

Flood Risk Assessment  
Response to Urban Design Officer comments

## **OFFICER APPRAISAL**

### **Principle of Development**

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

As such, the development would be considered to be contrary to the Local Plan.

However, this application site has been specifically allocated for housing within the Cheshire East Local Plan Strategy – Submission Version under Policy CS6. Policy CS6 advises that the development of The Shavington / Wybunbury Triangle over the Local Plan Strategy period will be achieved through the delivery of 350 houses. In addition, planning permission has been granted on the site for 360 houses (ref: 12/3114N).

As such, the principle of residential development on this site has already been agreed.

This assessment shall consider whether a condition which restricts the number of dwellings on the site to 360 units meets the 6 tests for planning conditions within the NPPF/NPPG. These tests are whether the conditions are; necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

In order to make this assessment, all the planning matters considered as part of the original permission need to be re-considered in light of the proposed increase in housing numbers.

Although the council can now demonstrate a 5-year housing land supply, plus buffer, this is a minimum figure and not a maximum. It is important that this supply remains 'topped-up' as some housing planning permissions may expire.

The principal acceptability of residential development on this site has been agreed. The additional development would not incur further into the Open Countryside than the existing development as it is bound by physical development to all sides.

The fact that this proposal would provide an additional 96 houses, which would keep the Council's Housing Land Supply totals 'topped up', is an important material consideration to be made in the planning balance in the determination of this proposal.

## **Sustainability**

The sustainability of the site was considered on the outline application where it was concluded that the adverse impacts of the proposal with regards to sustainability were not considered to be significant or demonstrable.

Furthermore, the provision of a local centre comprising a total of 700sqm square metres of retail floor space made up of a neighbourhood food store of 400sqm and three smaller 100sqm units is still proposed which would considerably improve the sustainability credentials of the site.

## **Loss of Agricultural Land**

It was concluded within the assessment of 12/3114N that because previous Planning Inspectors have determined that the need for housing land supply outweighs the loss of agricultural land, the loss of the agricultural land on this site was considered to be acceptable. An extant permission for up to 360 dwellings on the site has already been permitted.

## **Affordable Housing**

The site is located in both the Shavington and Wybubury Parishes. The Council's Interim Planning Statement for Affordable Housing states that the Council will seek affordable housing on all sites with 15 units or more, and the general minimum proportion of affordable housing for any site will be 30% of the total units. However it also states that for rural settlements with a population of less than 3,000 that the Council will negotiate for an appropriate element of affordable housing on all sites of more than 3 dwellings or larger than 0.4ha in size, and that the minimum proportion will generally be 30%.

In response to planning permission 12/3114N, the Council's Housing Officer concluded that the following was a requirement of this approved planning permission;

- 30% of the dwellings should be affordable, this equates to up to 120 dwellings.
- The tenure split of the affordable housing required is 65% rented, 35% intermediate tenure, which equates to 78 dwellings provided as either social or affordable rent and 42 dwellings provided as intermediate tenure.
- The mix of affordable homes should ideally be 25% x 1 bed, 40% x 2 bed, 20% x 3 bed and 15% x 4 beds.
- Affordable Homes should be pepper-potted (in clusters is acceptable)
- The affordable homes should be built to the standards adopted by the HCA at the time of development and achieve at least CFSH L3

- The affordable homes should be provided no later than occupation of 50% of the market dwellings unless the development is phased, in which case 80% of the market dwellings can be occupied.

These requirements were secured through the Section 106 Agreement.

In response to this application, considering the proposed increase in the number of houses, the Council's Housing Officer concluded that his original comments still apply.

A deed of variation to the S106 Agreement would need to be secured to reflect the change in numbers should the application be approved.

### **Highway Safety**

As part of permission 12/3114N, the applicant proposed the following suite of mitigation measures in order to alleviate the impact of the development upon the highway network;

- Underwrite the cost of introducing evening bus services between Crewe and Nantwich via Shavington (effectively extending the existing day time service) up to a maximum cost of £215,000.
- Contribute £230,000 towards upgrading existing bus stops on Newcastle Road and other improvements (including speed limit reduction and crossing facilities) on Newcastle Road
- Contribute £75,000 towards either a planned improvement of the northern end of the Gresty Road corridor into Crewe and /or the construction of the Crewe Green Link.

These mitigation measures were secured through the S106 Agreement.

In response to this application, the Strategic Highways Manager has concluded that *'...given that consent has already been given for the development of this site, the increase of some 50 units is not considered to be such an impact that warrants refusal. However, it does require an additional financial contribution of £28,750 for infrastructure improvements due to the increase in units above 400 units previously approved.'*

As such, the agreed contribution of £230,000 towards upgrading the existing bus stops on Newcastle Road and other improvements will need to be varied to £258,750.

This can be secured via a deed of variation to the signed S106 Agreement should the application be approved.

### **Drainage and Flooding**

The applicant submitted a detailed Flood Risk Assessment (FRA) with application 12/3114N. This report was re-submitted with this application.

United Utilities and the Environment Agency considered this report to 12/3114N and raised no objections subject to the imposition of appropriate planning conditions. It was therefore concluded that the proposed development would not adversely affect onsite, neighbouring or downstream developments and their associated residual flood risk.

In response to this variation of condition, the Environment Agency have once again advised that they have no objections to the development subject to the original conditions proposed. United Utilities have also advised that they have no objections, subject to the prior approval of an updated drainage plan.

The Council's Flood Risk Manager has advised that he has concerns regarding the adequacy of receiving watercourses and culverts to deal with identified discharges from the site. It is advised that the affected reach lengths downstream are statutory Main River (which are controlled by the EA), and a number of defects and problems are identified.

It is the opinion of the Council's Flood Risk Manager that the watercourse is not fit for purpose to drain a development site of this size, irrespective of any requirements for managed Greenfield site equivalent flows. The impacts of any proposed discharges should be fully investigated in context of the identified problems, and must clearly demonstrate that flooding will not be exacerbated to those properties at risk of Flooding from Main River.

It is advised that *'...Further discussions will be required with the developer concerning proposals to drain this site in conjunction with the EA, to agree how these off site problems can be overcome without exacerbating flood risk to properties adjacent to the site...'*

Although the Council's Flood Risk Manager has concerns, his concerns relate to the suitability of the local drainage infrastructure which is controlled by the Environment Agency (Main River).

As the Environment Agency have not objected to the proposal, it is not considered that a refusal on these grounds would be sustained at appeal.

As such, it is considered that the proposal would adhere with Policies BE.4 and NE.20 of the Local Plan.

## **Layout and Design**

The applicant has submitted an updated indicative layout plan in order to demonstrate that 456 dwellings could be accommodated within the site. The revised layout has been drawn to scale.

During the assessment of 12/3114N, the Council's Design Officer had concerns that when it comes to the Reserved Matters stage, the 400 unit maximum figure could lead to a more cramped scheme than is suggested by the information in the D & A statement, or may impinge upon strategic design objectives set out in the statement.

It was therefore agreed by members of the Strategic Planning Board to restrict the numbers of dwellings on the site to 360 units.

The Newcastle Road frontage currently has an open character and is opposed by lower density housing with reasonable sized frontages. The Design and Access information, submitted with application 12/3114N, identified this area as part of "character area 2", which is higher density (33-45 dph) but noted that the Newcastle Road frontage would be 20-32dph.

The Council's Design Officer commented that he understood the urban design rationale for a higher density centre but the fringes should reflect the relationship and character of nearby housing and of the local environment. Therefore, it was suggested that the front block onto Newcastle Lane be re-defined as 'character area 1' with the associated density parameters for that block reduced. This would contribute toward the suggested reduction in numbers discussed above and the detail could be agreed at the Reserved Matters stage.

Around the shared boundaries with existing properties it was suggested that further greening take place to help soften the relationship. This could be achieved through the Reserved Matters layout and the landscaping conditions.

In response to the proposal to increase the amount of dwellings on the site, the Council's Design Officer has provided the following consultation response;

*'... I have attached the original comments made in respect to the outline, which prompted the condition to limit the number of residential units, to provide comfort regarding the deliverability of a scheme more in context with its surroundings and therefore the better prospect of achieving a more successful, high quality scheme in this **village** setting. This was recommended in the absence of the submission of a full testing layout.*

*I was involved in the pre-application meeting with Persimmon and it is my recollection of that meeting that the density and numbers and the associated townscape impacts emerging through the layout were highlighted as a detrimental issue. This was discussed in the context of the reduction in numbers imposed by condition 30 and the desire to achieve a slightly lower density scheme in this **village** context...*

*The supporting layout to this application solidifies the concerns that prompted me to seek a reduction in the overall numbers for the outline. Rather than positively responding to those concerns, this proposal seeks to further exacerbate and compound those design quality issues. It amounts to site 'cramming' that will create an alien and uncharacteristic large housing estate within the village of Shavington, rather than a development that seeks to interpret village characteristics within the framework and opportunities presented by the site, something the DAS [Design and Access Statement] makes great play upon.*

*There are aspects of this scheme that are very hard and urban in character and the illustrative layout departs in several crucial areas from the principles set out in the DAS, not least in respect to the principles of street design and associated layout, and the accommodation of parking principally on plot and in rear courts (a high number of units are served by extended frontage parking, a very urban and potentially alien characteristic in a village environment) and in terms of place making - creating focal building opportunities and positively defining corners, creating distinct street environments, with squares and spaces defining nodes, crossings and key corners, and creating distinct character areas and responding positively to the relationship with the spaces that form the green framework within the site.*

*The density also departs from that identified within character areas with more higher density forms encroaching within the peripheral lower density zone. Exploring the issue of density and developable areas, an issue I would highlight from the outset is that, in the Colliers covering letter dated 12<sup>th</sup> March there is an anomaly. It refers to the developable part of the site for residential being 13.11 ha, with 0.51 ha for the local centre. This is inaccurate. The*

parameters for 12/3114N identified 12.6 ha for residential land with a further 0.51 ha for the local centre (add the 2 together and you get 13.11 ha).

I have looked again at the original parameters information to compare the net density between that originally proposed, that limited by condition 30 and that based on the current number being indicated in this application.

In the original application, the parameters information identified a net residential area (developable) of 12.6 hectares. Consequently, the original proposal for 400 units equated to approximately 32dph. The condition limits the number of dwellings to 360 which equates to 28.5 dph. In the present application it is indicated that 456 dwellings are indicated on the submitted application (I have counted 435 dwelling houses, I assume the rest is made up of apartments as part of the local centre?). Taking the original net site for housing of 12.6 ha the net density based on 435 dwelling houses (excluding apartments) is 34.4ha.

Whilst I appreciate that this net figure falls within the range set out in policy RES.3 [of the Crewe and Nantwich Local Plan] Housing densities, it should be stressed that this policy pre-dates the NPPF and also includes the provisos that:

- The proposal is in accordance with Policies BE.1 – BE.5
- The quality of the local environment is not compromised

BE.2 states that proposals for new development will be permitted provided that specific criteria are met, including:

- They achieve a high standard of design and, wherever possible, enhance the built environment
- Respect the pattern, character and form of the surroundings
- Provide a layout of buildings, roads and spaces which create areas of identifiable character and, where appropriate, enhance or create public views and vistas and increase public safety

Para 56 The NPPF states that “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people...”

Para 58 of the Framework states: that “Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities
- and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation

- *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping.”*

*(it should be stressed that these objectives for achieving good design should be read co-jointly rather than in isolation)*

*The increased number as indicated in the submitted layout will not achieve a high standard of design, neither will it help to establish a strong sense of place or respond to local character and history and reflect the identity of local surroundings. It will lead to a large, seemingly dense and car dominated housing estate poorly grafted into the village of Shavington, when the development of this site could have led to something much more distinctive and special, building upon the generally positive principles for place making set out in the DAS.*

*In this respect it is felt that the increase in numbers should continue to be opposed, to enable a more responsive, place led approach to be developed as part of the detailed design of the site, particularly with the benefit of the requirements for further design development, concurrent to the phase 1 ARM to satisfy condition 29 of the outline planning approval.*

*I would conclude by emphasising paragraph 64 of the Framework, which states;*

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*

*In my opinion, continuing to resist the numbers proposed originally and now potentially increased by seeking to remove the condition, is crucial to achieve the objective of securing a high quality scheme that meets this fundamental test of good design as set out in the Framework.*

*Building for Life 12 is the national standard supported by Government, the development industry and public agencies. Built for Life 12 is the quality mark for schemes that reflect BfL 12 principles...*

*This gives a strong flavour of the quality of new housing development that we should be securing as a matter of course. Many of these schemes are volume developer schemes not architectural icon schemes (as with the now superseded Building for Life exemplars). This shows that, with the right approach, and a will to address housing quality at a fundamental level, high quality places can be delivered and also be profitable for developers.*

*My concern with respect to this site is that the increase in numbers that would arise if this condition were removed is a fundamental obstacle to achieving this type of quality development, ably illustrated by the layout submitted with the application and reinforced by experience of trying to secure quality on several schemes where excess numbers at outline have effectively killed any hope of achieving a quality outcome (several of those schemes being approved on appeal with no proper consideration of numbers upon final character and place making). In respect to those cases, it has become a damage limitation exercise, rather than a collaborative approach with developers to deliver the type of quality illustrated on the*

*Built for Life website (Building for Life 12 is meant after all to be a collaborative process). Consequently, there is a need to resist that outcome on this site.'*

As such, the Council's Urban Design Officer concludes that although the proposed increase in numbers would adhere with the density policy of the local plan (RES.3), concerns in the context of the design policy, (BE.2) and the NPPF are considered to outweigh the proposal's adherence with the broad density criteria.

As such, although the detail of the layout is yet to be determined, in this village context, it is not considered that the granting of an additional 96 units would result in a development of an acceptable design given the village context of the site. As such, it is considered that the increase in numbers would be contrary to Policy BE.2 of the Local Plan and the NPPF.

In response to the Council's Urban Design Officer's comments, the applicant's agent has provided a letter of response. Within this letter, the agent has advised that it was agreed at pre-application stage that the development would be kept at a lower density on the edges of the site bounded by existing homes and at the entrance, but higher density could be planned within the central areas.

It is advised that they disagree with the Council's urban Design Officer's conclusions that the density would be too high as it would adhere with the criteria within Local Plan policy RES.3. It is stated that by reviewing house types, sizes and layouts of the plots, the overall density of the sought proposal would be 34.8 dwellings per hectare. It is advised that the Council's Housing Officer has requested an increase in the number of 1 bedroom units for affordable housing, which has a knock-on effect on the density of the development.

It is stated that lower densities are proposed at the entrance to the north, west, south and eastern edges where it adjoins existing rear garden boundaries.

It is advised that; *'We believe that it is important that the council strikes a balance between the most efficient use of the site and good design, bearing in mind the pressing need for new homes across the district.'*

### Planning Balance

The removal of this condition would permit (in principle) an additional 96 houses on this site, which will keep the Council's Housing Land Supply totals 'topped up'. Therefore, a balance between the benefit of permitting this additional volume of housing in its wider Cheshire East context against the design concerns of the Council's Urban Design Officer created by the additional volume is a key consideration.

In this instance, it is not considered that the wider benefit of the additional dwellings on this site would outweigh the design concerns that it would create.

### **Amenity**

It is generally considered that in new residential developments, a distance of 21m between principal windows and 13.5m between a principal window and a flank elevation is required to maintain an adequate standard of privacy and amenity between residential properties. A

minimum private amenity space of 50sq.m is usually considered to be appropriate for new family housing.

The layout and design of the site are reserved matters and it is considered that the dwellings could be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It is also considered that the same standards can be achieved between the proposed dwellings within the new estate and adequate amenity space could be provided for each new dwelling. This is demonstrated on the submitted indicative layout plan.

It is therefore concluded that the proposed development would be acceptable in amenity terms and would comply with the requirements of Policy BE.1 of the Local Plan.

### Contaminated land

The developer submitted a Phase 1 desk study for contaminated land with application 12/3114N.

This report was examined by the Council's Environmental Health Officers, who accepted its conclusion's and raised no objection subject to the imposition of conditions requiring an updated contaminated land Phase I report to assess the actual/potential contamination risks at the site to be submitted.

It was advised that should the updated Phase I report recommend that a Phase II investigation is required, this should be carried out and the results should be submitted to, and approved in writing by, the LPA. Should the Phase II investigations indicate that remediation is necessary, a Remediation Statement to be submitted. The remedial scheme in the approved Remediation Statement must then be carried out and a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted prior to the first use or occupation of any part of the development.

This variation of condition application does not alter these conclusions and the Council's Environmental Health department have raised no new objections.

### Air Quality

The developer submitted an Air Quality Impact Assessment with application 12/3114N.

The Environmental Health Officer examined the report and accepted the majority of the conclusions, subject to conditions relating to the submission of a scheme to minimise dust emissions during construction. However, Environmental Health also commented that the assessment did not consider the traffic and emission impact of the development on the Nantwich Road Air Quality Management Area (AQMA). It had become apparent from reviewing traffic data that there could be an impact on Nantwich Road, including the area of the AQMA. Traffic modelled evening peaks in 2015 and 2030 have predicted an increase in delay of up to 20% on Nantwich Road which could lead to increases in idling vehicles and emissions in the AQMA. The AQ assessment needed to take this into consideration and provide mitigation against any such increases. This was secured by condition. In addition, the

submission of a travel plan to encourage low carbon infrastructure such as the provision of infrastructure and sustainable travel to reduce the Air Quality impact was also conditioned.

It was concluded that subject to the imposition of the above conditions, it was not considered that a refusal on air quality grounds could be sustained.

This variation of condition proposal does not alter these conclusions and the Council's Environmental Health department have raised no new objections.

### **Noise Impact**

The developer submitted an Acoustic Report with application 12/3114N.

The report was examined by the Council's Environmental Health officers. They accepted its conclusions and raised no objection subject to the imposition of conditions requiring full details of proposed mitigation measures to be submitted, approved and implemented. As a result, it was not considered that a refusal on noise grounds could be sustained.

This variation of condition does not alter these conclusions and the Council's Environmental Health department have raised no new objections.

### **Countryside and Landscape Impact**

The Council's Landscape Officer considered the application as part of the assessment of planning permission 12/3114N. It was concluded that there are no landscape designations on the application site.

The Landscape Officer was of the opinion that in the development of a site Master plan (a reserved matters stage), the key objectives of the Landscape Framework proposals should be addressed, namely:

- Respect existing landscape and townscape characteristics of the site (principally the mature trees and some hedgerows);
- Conserve and enhance the vast majority of the existing mature trees and any notable hedgerows as an integral and structuring part of the Landscape Framework;
- Minimise any potential adverse landscape or visual effects through the application of best practice design principles and careful attention to design through all stages of the development process – particularly, attention to design and specification of landscape boundary treatments to the existing surrounding properties;
- Create a high quality and robust new Landscape Framework, including public open space, new trees, structure planting, hedgerows and other mixed habitats and open spaces;
- Adopt an appropriate landscape management and maintenance regime to ensure the successful establishment and continued thriving of the existing and new planting and landscape areas.
- Retention of the north-south pedestrian link across the site and extension of this wherever possible to increase the connectivity throughout the site. New footways and/or cycleway provision throughout the proposed development

This could be dealt with at the reserved matters phased and secured through appropriate conditions.

This application does not alter these conclusions.

## **Forestry**

Application 12/3114N was supported by an Arboricultural Assessment (fpcr Environment and Design Limited on behalf of Mactaggart and Mickel dated August 2012 Rev A) which provided a tree survey and assessment of existing trees based on their current condition and which may be affected by the development proposals.

The trees within the site are currently not protected by a Tree Preservation Order and the site is not located within a designated Conservation Area.

The report identified a total of 53 individual and fifteen groups of trees within the site which have been categorised in accordance with the current British Standard BS5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations. The categories identified:

- 7 'A' (High Value) category individual Oak trees;
- 20 'B' category individual Oak, Sycamore, Alder Scots Pine, Ash and Willow;
- 24 'c' category (low value) trees
- 2 'U' category trees (a Pear and a Beech) which are deemed unsuitable by virtue of their condition.

Of the 15 groups of trees, 4 groups were categorised a category 'B' (moderate) and 11 as category 'C' (low value) trees.

In response to this information, the Council's Landscape Officer commented that he was mindful that this application was an outline application of up to 400 dwellings and, in this regard, was not altogether clear whether the maximum number of dwellings quoted would be achievable on the site taking into account the constraints. However, it was concluded that the proposed reduction in numbers achieved on the previous application would assist with this issue.

In response to this proposal, the Council's Tree Officer requested a plan which over-laid the sites existing constraints onto the proposed indicative layout plan. This plan was received and in response, the Council's Tree Officer concluded that *'...it appears that the root protection areas of a number of retained trees would be affected and that the long term retention of these cannot be guaranteed without adjustment to the layout.'*

As this application considers the outline of the development only, the full impact of the proposal upon trees could only be evaluated at reserved matters stage once the layout is agreed. Furthermore, tree protection conditions can be imposed to protect certain trees at this later stage.

## **Hedgerows**

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. The criteria cover the ecological, historical and archaeological significance of the hedgerow.

Two hedgerows on site (H4 and H5) were identified as 'Important' under the ecological criteria of the Hedgerow Regulations. Whilst, some of the hedgerows can be retained as part of the indicative master plan, the proposed development will result in the significant loss of hedgerow.

A Hedgerow Assessment (Schedule 1 Part II para 5A Archaeology and History) was submitted with application 12/3114N and was considered to be acceptable. The submitted assessment identified 13 Hedgerows deemed to be 'Important' under the Archaeology and History criteria.

The layout will require adjustment to account for their retention at Reserved Matters stage. A condition should therefore be applied to ensure retention of those Important Hedgerows identified.

## **Education**

The Council's Education Officer, in response to the application 12/3114N, concluded that a development of 400 dwellings would generate 65 primary aged pupils and 52 secondary aged pupils.

Taking into account primary schools within 2 miles of the development and secondary schools within 3 miles of the development and information on numbers on roll, capacities and forecasts, cumulatively the primary schools are forecast to be oversubscribed by 2013. In light of this a contribution of  $65 \times 11919 \times 0.91 = £705,009$  was required, and subsequently agreed as part of the S106 Agreement.

It was concluded that the secondary schools have sufficient places to accommodate this development.

As the proposal now seeks 456 units, the Council's Education Officer has concluded that this would equate to 82 primary aged school pupils. On this basis,  $82 \times 11919 \times 0.91 = £889,396$ .

This change can be secured through a Deed of Variation to the Section 106 Agreement should the application be approved.

## **Open space**

Policy RT.3 of the Local Plan requires that on sites of 20 dwellings or more, a minimum of 15sqm of shared recreational open space per dwelling is provided and where family dwellings are proposed 20sqm of shared children's play space per dwelling is provided.

This equates to 6,840sqm of shared recreational open space and 9,120sqm of shared children's play space which is a total of 15,960sqm of open space.

It was advised during the assessment of application 12/3114N, that the proposal should provide an equipped children's play area. The equipped play area needed to cater for both young and older children - 6 pieces of equipment for young, plus 6 pieces for older children. The proposal states that a Neighbourhood Equipped Area for Play (NEAP), with 12 pieces of equipment will be provided. It does not however provide details of exactly what is proposed. However, this was secured through the Section 106 Agreement.

A Multi Use Games Area (MUGA) was also proposed. Again, the detailed specification was incorporated into the Section 106 Agreement.

An outdoor gym was also proposed, with 16 activities. However further details were not provided. Again, a detailed specification, with regard to exactly what is proposed, was a requirement of the Section 106 Agreement.

An area of allotments, with 20 plots was also proposed. They would be surrounded by 2.4m high metal palisade fencing, painted green. Further information, with regard to exactly what is proposed, should be provided as part of the Reserved Matters and was secured through the Section 106 Agreement. Two areas of community woodland were also proposed. They would comprise of regionally native species and perhaps could assist with the drainage issues for the site. The applicants confirmed that the future management of the green space on the site will be carried out by a private management company. This was also built into the Section 106 Agreement.

The applicant has advised within the Design and Access Statement and further e-mail correspondence that the amount of Greenspace proposed on the revised master plan has not changed from the amount proposed and agreed to at outline stage under the approved application (3.97 hectares).

The Council's Greenspaces team have advised that they have no objections to the removal of this condition.

## **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places.

(a) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon species specially protected under Schedules 1, 5 or 8 of the wildlife and Countryside Act 1981 (as amended), or their habitats. Where development is permitted that would affect these species, or their places of shelter or breeding, conditions and/or planning obligations will be used to:

- Facilitate the survival of individual Members of the species
- Reduce disturbance to a minimum
- Provide adequate alternative habitats to sustain the current levels of population

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In response to application 12/3114N, specific advice was sought from the Council's Ecologist, who provided the following comments:

### Bats

The site supports habitats that are being utilised by bats for foraging and commuting, however I advise that habitat present is relatively limited and the usage of the site by bats is accordingly low.

A number of trees on site have been identified as having potential to support roosting bats. However, no evidence of roosting bats within these was recorded during the survey and it appears from the submitted master plan that it will be feasible to retain these trees within areas of open space/semi natural habitat.

No bat survey has been undertaken of 90 Stocks Lane. The submitted master plan appears to indicate this property will be removed as part of the proposed development. However, the applicants have agreed to the retention of this property by means of a planning condition. Accordingly no surveys of this property are required.

### Water Vole

Confirmation was received that a water vole survey of the site has been undertaken. No evidence of this species was recorded and accordingly the Council's Ecologist advised that this species does not present a constraint on the development.

### Common Toad

Common toad is a biodiversity action plan priority species and hence a material consideration. This species has been recorded as breeding at one of the ponds at this site. Whilst the breeding pond will be retained the Council's Ecologist advised that the proposed development will result in the loss of a significant area of terrestrial habitat associated with the breeding pond.

### Breeding Birds

The proposed development site has the potential to support breeding birds including a number of Biodiversity Action Plan priority species which are a material consideration for planning. A number of species have been recorded during the surveys undertaken to inform the ecological assessment and in addition anecdotal records for the presence of a number of other additional species including lapwing have also been identified. Whilst the proposed open spaces areas will provide habitats for some of the bird species present on site the Council's Ecologist advised there will be a loss of habitat for some species such as lapwing which are associated with more open habitats.

The Council's Ecologist recommended that the conditions are required to safeguard breeding birds.

### Barn owls

The submitted ecological assessment stated that an owl pellet was recorded near to one of the small buildings on site however no information was provided as to which species of owl the pellet relates. It is now impossible to confirm the species of owl that had been present on site. However, a single pellet is likely to be indicative of a low level of usage and the Council's Ecologist advised that as a commuted sum is to be provided to offset the potential loss of habitat on site this would also be adequate to address any potential loss of barn owl foraging habitat.

### Other Protected Species

Other Protected Species were recorded on site. It is likely that removal of their habitat would be required to facilitate the proposed development. This would be done under the terms of a license from Natural England. An outline method statement for this work has been provided and it is proposed that the loss of the habitat on site will be compensated for by means of the provision of artificial habitat.

The proposed mitigation is therefore acceptable. However the Council's Ecologist recommended that a condition to any permission granted requiring any future reserved matters application to be supported by a survey and mitigation proposals.

## Ponds

Ponds are a local Biodiversity Priority habitat and hence a material consideration. There are four ponds on this site that the submitted ecological assessment stated will be retained and enhanced as part of the proposed development.

The retention of these ponds is welcomed. However, to ensure the ponds retain their nature conservation value the Council's Ecologist recommended that the ponds should not be utilised as part of any sustainable urban drainage scheme for the site and the ponds should also not be linked by flowing water.

The Council's Ecologist recommended that any outline planning permission granted should include a condition requiring any reserved matters application to be supported by detailed proposals for the retention and enhancement of the on-site ponds.

## Hedgerows

Hedgerows are a Biodiversity Priority habitat and a material consideration. In addition two hedgerows on site (H4 and H5) were identified as 'Important' under the Hedgerow Regulations.

Whilst, some of the hedgerows on site can be retained as part of the indicative master plan the proposed development will result in the significant loss of hedgerow.

## Wybunbury Moss

The proposed development is located 400m to the north of Wybunbury Moss (national nature reserve, Special Area of Conservation, Ramsar). The submitted ecological assessment included a scoping assessment which concluded that there are unlikely to be any adverse impacts on the moss as a result of the proposed development.

Natural England were consulted on this application and their views obtained on the potential impacts of the proposed development upon Wybunbury Moss. They concluded that there would not be any significant adverse impact in this case. Subsequently, additional information was received from local residents, via Cllr Clowes and Mr. Mark Donlan with regard to the impact on Wybunbury Moss. This was forwarded to Natural England, who confirmed that their initial advice still stands.

## Conclusion

The proposed development site has some broad nature conservation value in the very local context. The Council's Ecologist recommended that the potential residual adverse impacts associated with the scheme includes the loss of; hedgerows, semi-improved grassland, common toad terrestrial habitat, breeding bird and potential barn owl foraging habitat, associated with this development be offset by means of a commuted sum secured by means of a section 106 agreement. The commuted sum could be used to deliver habitat creations within the Meres and Mosses Natural Improvement Area (NIA) which is located to the immediately to the south of the proposed development site.

The applicant offered an appropriate commuted sum of £50,000 which was agreed to by the council's Nature Conservation Officer. This was secured via a S106 Agreement.

In response to this variation of condition, the Council's Nature Conservation Officer has no further comments to make. As such, the proposed change in housing numbers sought would not create any additional ecology impacts.

### **Impact on Public Right of Way**

The public rights of way team objected to the original permission on the grounds that the submitted master plan showed the diversion of the public right of way across the site, and no diversion application has submitted. Furthermore, they were concerned that whilst part of the proposed route was through a green space, part was along a road, which should be discouraged.

However, it was noted that because the application submitted was for outline permission only, and the masterplan only indicative, it was considered that the exact route of the footpath could be agreed at reserved matters and that appropriate conditions could be attached to ensure that the path runs through greenspace and is fronted by houses rather than running between back gardens or in alleyways, which would discourage natural surveillance and footpath use.

The Countryside Access Team acknowledged that the application represented an opportunity to upgrade the route to make it more accessible to all users including cyclists. The precise detail of the route, specification and surfacing can be agreed at reserved matters, and provision can be made for its maintenance via the management company that was set up through the terms of the Section 106 Agreement.

In response to this proposal, the same conclusions apply as confirmed by the Council's Public Rights of Way team.

### **Archaeology**

In response to the original submission, the archaeologist commented that the archaeological report submitted with the application was missing a geophysical survey data for part of the site that this was received. No further comment was provided to indicate that this has been received. It is therefore considered to be appropriate to secure this, and any necessary mitigation which may be required as a result of its findings, via condition.

This conclusion is considered to still apply.

### **CONCLUSIONS**

The applicant seeks to remove condition 30 from planning permission 12/3114N which restricted the number of dwellings on site to 360 units.

On an indicative layout plan, the applicant has proposed 456 units. As such, a potential increase of a further 96 units on site is considered.

The site is within the Open Countryside where, under Policy NE.2, there is a presumption against new residential development. However, the site is allocated for housing under Policy CS6 of the Cheshire East Local Plan Strategy – Submission Version. Furthermore, there is an extant consent for 360 dwellings on the plot of land.

As such, the principle of residential development on this land is accepted.

The proposed increase in numbers would result in a density of development which would adhere with Policy RES.3 of the Local Plan. However, given the village context of the location, there are significant concerns that the increase in number of dwellings cannot be achieved with an acceptable design which would respect the local character. As such, it is considered that the proposal would be contrary to Policy BE.2 of the Local Plan and the design aspects of the NPPF.

Notwithstanding the above, the proposal is considered to be acceptable, subject to appropriate conditions, in terms of its impact upon residential amenity, contaminated land, air quality, noise impact, built heritage, ecology, flooding and drainage, landscape and trees and 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 sustainable.

A suitable Section 106 package has already been negotiated and this will need to be varied to allow for the additional commuted sums required in relation to highways improvement and secondary school education. It would also provide the policy compliant level of affordable housing provision (30%).

In respect of the 6 tests for a planning condition it is considered that the original condition satisfied those tests in all respects due to the concerns raised. Those same concerns in respect of design and character remain and it is not considered that any change in view on the appropriateness of the condition should lead to a different conclusion on this application.

As a result of the increase in the numbers proposed on site resulting in a density of development which would not respect the local village character, it is considered that the removal of this condition is recommended for refusal.

## **RECOMMENDATION**

### **REFUSE**

- 1. The increase in the number of dwellings sought would result in a development of increased density which would not respect the local village character. As such, the application is considered to be contrary to Policy BE.2 (Design Standards) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and the design principles within the NPPF.**

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of the Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should this application be the subject of an appeal, authority shall be delegated to the Head of Strategic & Economic Planning, in consultation with the Chairman of the Strategic Planning Board, to enter into a deed of variation of the agreed and signed S106 Agreement to secure:-

1. Relevant changes to the narrative to reflect the revised application number and revised housing numbers.
2. An increased contribution of £889,396 towards primary school education
3. An increased contribution of £258,750 for towards upgrading existing bus stops on Newcastle Road and other improvements (including speed limit reduction and crossing facilities) on Newcastle Road

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