

Application No: 14/4304C

Location: LAND OFF MOSS LANE, SANDBACH, CHESHIRE

Proposal: Outline application for 13 new dwellings

Applicant: Mr Peter Richardson

Expiry Date: 16-Dec-2014

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES:

- Principle of the development
- Housing land supply
- Sustainability
- Planning balance
- The acceptability of the Layout, Scale, Appearance, Landscaping and Access
- Impact on adjoining residential amenities
- The impact upon ecology
- The provision of open space
- Provision of affordable housing
- The impact upon the Public Right of Way
- The impact upon trees and hedgerows

REASON FOR REFERRAL

This application is referred to the Southern Planning Committee as it involves a 'departure' from planning policy.

DESCRIPTION OF SITE AND CONTEXT

This application relates to an agricultural field located on the northern side of Moss Lane, Sandbach within the Open Countryside.

DETAILS OF PROPOSAL

Outline Planning Permission is sought for the erection of 13 new dwellings.

All matters are reserved. As such, the application seeks permission for the principle of the erection of 13 dwellings on this site.

This application is a like-for-like re-submission of application 13/4911C which was refused by Southern Planning Committee for the following reasons;

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005 and the principles of the National Planning Policy Framework which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

RELEVANT HISTORY

13/4911C - Outline application for 13 new dwellings (Resubmission) – Refused 17th February 2014

13/2841C - Outline application for 13 new dwellings – Refused 19th September

POLICIES

Local Plan Policy

PS8 – Open Countryside

GR1 - General Criteria for Development

GR2 – Design

GR4 - Landscaping

GR6 - Amenity and Health

GR9 - Highways & Parking

GR16 – Footpath, Bridleway and Cycleway Networks

GR19 - Infrastructure

GR20 – Public Utilities

GR22 – Open Space Provision

H1 & H2 - Provision of New Housing Development

H6 – Residential development in the Open Countryside and the Green Belt

NR1 – Trees and Woodlands

NR2 – Wildlife and Nature Conservation – Statutory Sites

NR3 - Habitats

National Policy

National Planning Policy Framework (NPPF)

Other Material Planning Considerations

SPG2 - Provision of Private Amenity Space in New Residential Development

The EC Habitats Directive 1992

Conservation of Habitat & Species Regulations 2010

Circular 06/2005 - - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Affordable Housing Statement: Affordable Housing
Sandbach Town Strategy

Cheshire East Local Plan Strategy – Submission Version

PG1 – Overall Development Strategy
PG2 – Settlement Hierachy
PG5 – Open Countryside
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

CONSULTATIONS (External to Planning)

Strategic Highways Manager – No comments received at time of report preparation

Comments to previous submission (13/4911C);

No objections, subject to a condition requiring that the off-road parking standards adhere with the Draft Local Plan and an informative that the developer will enter into a S184 Agreement for the construction of the vehicular accesses.

Environmental Protection – No objections, subject to a number of conditions including: Hours of piling, the prior submission of a piling method statement, the prior submission of a construction phase Environmental Management Plan, the prior submission of a dust mitigation scheme and an hours of construction and a contaminated land informative.

United Utilities – No objections, subject to 2 drainage conditions. 1 for the prior submission of a foul drainage scheme and 1 for the prior submission of a surface water drainage scheme.

In addition, a number of informatives are proposed including that the site be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway/watercourse/surface water sewer and may require the consent of the Local Authority. If surface water is allowed to be discharged to the public surface water sewerage system we may require the flow to be attenuated to a maximum discharge rate determined by United Utilities.

Canal & River Trust – No comments received at time of report preparation.

Comments to previous submission (13/4911C);

No objections

Greenspace (Cheshire East Council) – No comments received at time of report preparation

Comments to previous submission (13/4911C);

Advise that there would be a deficiency in the quantity of provision of amenity Greenspace accessible in the area should the application be approved. As such a financial contribution is required towards enhancement of public open space/play provision within the vicinity of the proposed development. The contributions sought are;

Enhanced provision: £2,113.20

Maintenance: £4,730.00 (25 years)

With regards to Children and Young Person Play provision, the following contributions are sought;

Enhanced provision: £3,662.80

Maintenance: £11,940.00 (25 years)

Total: £22,446

Strategic Housing Manager (Cheshire East Council) – No comments received at time of report preparation

Comments to previous submission (13/4911C);

Advise that the 4 units to be provided for social rent would be acceptable. Recommend that the affordable housing should be provided no later than the occupation of 50% of the open market dwellings.

Public Rights of Way – No objections, subject to an informative advising the land owner of their obligations.

Ramblers Association – No comments received at time of report preparation

Comments to previous submission (13/4911C);

Recommend that the developer show the position of the Public Footpath FP34 on their plans

VIEWS OF THE PARISH COUNCIL:

Sandbach Town Council – Object on the grounds of highway safety

OTHER REPRESENTATIONS:

Objections have been received from 7 neighbouring properties. The main areas of objection relate to;

- Principle of development in Open Countryside
- No need for further housing in Sandbach
- Loss of agricultural land
- Highway Safety – Increase in traffic, congestion, visibility, poor quality of existing road
- Lack of public facilities
- Amenity – Air pollution

- Ecology – Impact upon flora
- Drainage and Flooding

SUPPORTING INFORMATION:

Highways Report
Tree Report
Hedgerow Searches

OFFICER APPRAISAL

Principle of Development

The site is designated as being within the Open Countryside where Policy PS8 (Open Countryside) of the Local Plan states that development will only be permitted if it falls within one of a number of categories including:

- Agriculture and Forestry
- Facilities for outdoor sport, recreation, tourism
- Other uses which preserve the openness of the open countryside and maintain or enhance its local character
- New dwellings in accordance with Policy H6
- Controlled infilling in accordance with Policy H6
- Affordable housing in compliance with Policy H14
- Development for employment purposes
- The re-use of rural buildings or;
- The re-use or redevelopment of existing employment sites

As the proposed development is for the erection of 13 new dwellings in the Open Countryside, it is subject to Policy H6.

Policy H6 of the Local Plan advises that residential development within the Open Countryside will not be permitted unless it falls within one of the following categories:

- An agricultural workers dwelling
- The replacement of an existing dwelling
- The conversion of a rural building
- The change of use or redevelopment of an existing employment site in accordance with Policy E10
- Limited infill for those settlements identified in Policy PS6 or;
- Affordable housing

The proposed development does not fall within any of the above categories relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal.

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.”*

Since the publication of the Housing Position Statement in February 2014 there have now been numerous principal appeal decisions which address housing land supply.

Each have concluded that the Council cannot demonstrate a five year supply of housing land, albeit for different reasons. Matters such as the housing requirement, the buffer and windfalls have all prompted varying conclusions to be made.

This demonstrates that there is not a consistent approach to housing land supply. The Planning Minister in a letter dated 14 July, noted that “differing conclusions” had been reached on the issue and requested that the Inspector in the Gresty Road appeal (Inquiry commenced 22 July) pay “especial attention” to all the evidence and provide his “considered view” on the matter.

The Planning Minister clearly does not consider the housing land supply position to be settled – and neither do the Council.

Given that some Inspectors are opting to follow the emerging Local Plan, the Council considers it essential that the correct and up to date figures be used. These are 1180 homes pa for “objectively assessed need” – and a housing requirement of 1200 homes pa, rising to 1300 homes pa after 2015. In future, calculations will be made on this basis.

Following the Planning Minister’s letter and in the absence of a consistent and definitive view, the Council will continue to present a housing land supply case based on the most up to date information. On this basis it is considered a 5 year supply is capable of being demonstrated. This position is

supplemented with the knowledge that the Council continues to boost its housing land supply position by supporting planned developments and utilising brownfield land wherever possible.

Open Countryside Policy

Countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies in so far as their primary purpose is to protect the intrinsic value of the countryside in accordance with paragraph 17 of the NPPF– and thus are not of date, even if a 5 year supply is not in evidence. However, it is acknowledged that where the Council cannot demonstrate a 5 year supply, they may be out of date in terms of their geographical extent, in that the effect of such policies is to restrict the supply of housing. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

Sustainability

Paragraph 34 of the NPPF states that decisions should ensure that developments that generate travel movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. In order to access services, it is unlikely that future residents and travel movement will be minimised and due to its location, the use of sustainable transport modes maximised.

Paragraph 55 of the NPPF refers to the promotion of sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and Local Planning Authorities should avoid new isolated homes in the Countryside.

In addressing sustainability, members should be mindful of the key principles of the National Planning Policy Framework. This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world.”

Accessibility is a key factor of sustainability that can be measured. A methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

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

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

- Post box (500m) – 450m
- Amenity Open Space (500m) – 450m
- Children’s Play Space (500m) – 450m
- Primary School (1000m) – 750m
- Outdoor Sports Facility (500m) – 450m
- Local meeting place (1000m) – 750m
- Public House (1000m) – 270m
- Child Care Facility (nursery or crèche) (1000m) - 750m
- Bus Stop (500m) – 450m
- Public Right of Way (500m) – 50m
- Pharmacy (1000m) – 600m
- Railway station (2000m where geographically possible) – 550m
- Any transport node – 550m

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

- Bank or cash machine (1000m) – 1448m
- Bank or Cash machine (1000m) – 1100m
- Supermarket (1000m) – 1270m

The following amenities/facilities fail the standard:

- Secondary School (1000m) – 1960m
- Medical Centre (1000m) – 2310m
- Convenience Store (500m) – 1100m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Sandbach, within the recommended standards for the majority of the amenities listed, it is considered that this site is a locationally sustainable site.

Notwithstanding the above, Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development. More specifically, 3 dimensions are referred to within the NPPF. This are;

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

No information has been submitted as to how principles of energy reduction would be met within the development. However, this is an outline application and a detailed scheme to achieve reduced energy consumption could be secured through the use of conditions.

Paragraph 4.3 of the submitted Highways Report advises that *'...the location of the development is very sustainable, is located close to bus stops, a train station and is also within easy walking and cycling distance of local shops. It should therefore encourage alternative modes of travelling locally with opportunities to commute right on the door stop.'*

Given the proximity of the site to a number of public transport nodes, it is considered that the site would be sustainable from a transport perspective.

No economic benefit analysis has been provided as part of the application, however, it is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest shops in Elworth for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new resident's spending money in the area and using local services. Affordable housing is also a social benefit.

From an environmental perspective, the Council's Landscape Officer, in response to the previous application advised that; *'There are no landscape designations on the site but the site is located within open countryside outside the settlement zone line as identified in the relevant Local Plan. In the Cheshire Landscape Character Assessment the site is located on the edge of the East Lowland Plan Landscape Character Type in ELP 5 Wimboldsley Character Area. The site has several of the key characteristics of the character type.'*

It was further advised that *'No landscape appraisal or visual impact assessment has been provided however, I consider encroachment of built development into the open countryside would be regrettable at this location.'*

No such appraisal accompanies this application either.

As such, it is not considered that the proposal would be environmentally sustainable.

To conclude, the benefits of the proposal include the provision of affordable housing and the close proximity of the site to public transport and public facilities. However, it is considered that these benefits are outweighed by the loss of the open countryside, which when not required for the purpose of housing land supply, is inherently unsustainable.

Planning Balance

The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, it constitutes a “departure” from the development plan and there is a presumption against the proposal.

The proposal remains contrary to Open Countryside policy regardless of the Council’s 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

From a sustainability perspective, the proposal would bring positive planning benefits such as; affordable housing, a boost to the local economy and would be sited in a sustainable location. However, it is considered that these benefits are outweighed by the loss of the Open Countryside and as such, the use of the site for housing development is considered to be unacceptable in principle.

Layout

The proposed development is for 13 new dwellings.

The submitted indicative layout plan shows that the proposed dwellings would be erected in a linear pattern fronting Moss Lane, following a similar building line to the existing dwellings to the east of the site.

The dwellings would be inset from Moss Lane between 4.5 and 10 metres. The plots would be elongated in nature and extend between 34 and 40 metres in depth.

To the adjacent sides, the dwelling proposed to the far east of the site would be approximately 11.5 metres from the side elevation of No.32 Moss Lane. The dwelling proposed to the far west would be approximately 54 metres from the side elevation of Sunnyside.

Due to the linear pattern of development along this side of Moss Lane to the east and the regular building line that these properties have been constructed at, it is considered that the addition of the 13 dwellings along this frontage would respect the local character with regards to layout.

For the above reasons, it is considered that the indicative layout of the proposed development would be acceptable and would subsequently adhere to Policy GR2 of the Local Plan.

Access

The indicative layout plan shows that the proposed dwellings would be served by their own individual accesses onto Moss Lane which would lead to private driveways which are large enough to accommodate 200% parking.

The applicant has submitted a Highways Report in support of their proposal.

This report advises that due to the small number of units sought, the traffic generation would be low. The report quotes the NPPF in that because the impact would not be severe, there is no reason to refuse the application on highways grounds.

In response to the previous submission, which has not been varied, the Council's Strategic Highways Manager (SHM) concluded that the report's conclusions are correct and *'...on balance the SHM must advise that whilst the highway report does not present ideal information it would not be sustainable at inquiry to try to uphold a reason for refusal on highway grounds for this site.'*

The SHM recommended that a condition be added to the decision notice, should the application be approved, advising that the development will provide off-road parking in accordance with the emerging CEC draft parking standards as described in the new Draft Local Plan.

Given that the Local Plan is in a draft format at this time and therefore given limited weight, it is not considered that this condition would be enforceable. Furthermore, access is not sought for approval at this stage.

Notwithstanding this, it is considered that the proposed development would adhere with Policy GR9 of the Local Plan.

Appearance & Scale

Policy GR2 (Design) of the Local Plan states that the proposal should be sympathetic to the character, appearance and form of the site and the surrounding area in terms of: The height, scale, form and grouping of the building, choice of materials and external design features.

In terms of its form, the indicative layout plan indicates that the applicant seeks to erect 5 detached dwellings and 8 semi-detached dwellings on the northern side of Moss Lane, Sandbach.

The indicative streetscene plan shows that all 13 dwellings would be two-storey in nature, consist of dual-pitched roofs and include dual-pitched-fronted features such as half-dormers, porches or gables. 7 of the 13 units would include subordinate, two-storey side outriggers which would include integral garages. 2 of the units would include detached garages.

It is detailed within paragraph 3.6 of the previously submitted Design and Access Statement that *'The scale and appearance of the proposed properties will be in keeping with the surrounding properties using facing brickwork and tile roofs.'*

Given that the majority of the surrounding properties are two-storey, detached or semi-detached with open brick finishes and dual-pitched tiled roofs, it is considered that the form and appearance of the proposed scheme would respect the local character.

With regards to scale, the indicative streetscene plan shows that the proposed dwellings would range between 7.8 and 8.2 metres in height. These heights would reflect the heights of the surrounding two-storey properties, as would the proposed footprints. As such, it is not considered that the height of the proposed dwellings would appear incongruous.

As a result, it is considered that the proposed development would adhere with Policies GR1 and GR2 of the Local Plan.

Amenity

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties in terms of loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking. Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

Having regard to this proposal, the residential amenity space minimum standard stated within SPG2 is 65 square metres. The space provided for all of the proposed new dwellings would adhere to this standard.

In terms of the separation distances, between the new dwellings themselves, all 13 units would lie parallel to each other.

No details regarding the position of openings are proposed on the side elevations of these units have been provided as this application seeks outline permission only.

In order to be deemed as acceptable, the dwellings will need to conform with the separation standards listed in Supplementary Planning Note 2: Provision of Private Open Space in New Residential Developments. These standards include a 21.3 metre gap between main windows of directly facing dwellings across both the front and rear gardens and a 13.8 metre gap between the main windows of dwellings directly facing the flank walls of an adjacent dwelling.

In relation to the impact upon the neighbouring dwellings outside of the development site, the closest units are; No.32 Moss Lane to the north-east, Sunnyside to the southwest and the properties on the opposite side of Moss Lane to the development.

The gap between the dwelling proposed closest to No.32 and the side elevation of No.32 would be approximately 11.5 metres.

On the relevant side elevation of this neighbouring property there is a first-floor side window which serves a landing.

Given that this opening does not serve a principal habitable room, subject to their not being any openings on a relevant side elevation of the proposed closest dwelling which would represent a sole window to a principal room, it is not considered that the development would create any loss of privacy, light or be visually intrusive for this neighbour.

Sunnyside would be positioned approximately 54 metres to the southwest of the closest property proposed on the site. Given this large separation distance, it is not considered that the proposal would result in a loss of privacy, light or visual intrusion for this neighbour.

On the opposite side of Moss Lane, the properties would be over approximately 25 metres away. Again, as a result of this large separation distance, it is not considered that the development would create any amenity issues for the occupiers of these properties.

The Council's Environmental Health team have advised that they have no objections to the proposed development subject to the provision of a number of conditions. These suggested conditions include; including: Hours of piling, the prior submission of a piling method statement, the prior submission of a construction phase environmental management plan, the prior submission of a dust mitigation scheme and an hours of construction and a contaminated land informative.

As such, subject to the above conditions, it is considered that the proposed development would adhere with Policy GR6 of the Local Plan.

Ecology

The Council's Nature Conservation Officer advised in response to the previous application, which is the same as the current proposal that the application will result in the loss of hedgerow along Moss Lane. As hedgerows are Biodiversity Action Plan priority habitats, they are a material consideration.

It is recommended that the loss of these hedgerows be compensated for by creating new native species hedgerows as garden boundaries for the proposed houses.

Furthermore, should the application be approved, it is recommended that a condition to safeguard breeding birds and a condition for the prior submission for details for the incorporation of features into the scheme suitable for breeding birds be imposed.

Subject to the above conditions, it is considered that the development would adhere with Policy NR2 of the Local Plan.

Open Space

No open space is to be provided as part of the scheme.

The Council's Greenspace team, in response to the previous application, have broken down the assessment of what is required into Amenity Greenspace and Children's and Young Persons Play provision.

With regards to Amenity Greenspace, it is advised that if the development were to be granted planning permission, there would be a deficiency in the quantity of provision, having regards to the local standards set out in the Council's Open Space Study.

As such, the Council would request a sum of money in order to provide enhanced provision and maintenance of local space (£6,843.20).

In terms of Young Persons Play provision, again, should planning permission be granted, there would be a deficiency in the quantity of provision and a financial contribution would be sought to account for this deficiency (£15,602.80).

As such, subject to a commuted sum being agreed and secured via legal agreement, it is considered that the proposal would adhere with Policy GR22 of the Local Plan.

Affordable Housing

The application allocates the provision of 4 of the 13 dwellings to be affordable dwellings which meets the requirements of the Interim Planning Statement on Affordable Housing.

The Interim Planning Statement advises that there should be a 30% on-site affordable housing requirement on sites over 0.4 hectares within settlements of 3000 or more. Furthermore, a tenure split of 65% affordable or social rent and 35% intermediate tenure should be sought.

The Council's Strategic Housing Development Officer, in response to the previous application, advised that the site falls within the Sandbach sub area in the 2013 SHMA update. Within this area the update illustrated an affordable housing requirement of 94 units between 2013/14 and 2017/18.

Cheshire Homechoice, the Council's Choice-based lettings systems shows that there are currently 174 live applicants who have selected one of the Sandbach letting areas as their first choice.

The 4 units proposed adhere with the 30% requirement figure; however the tenure split does not. The applicant proposes that all 4 units shall be social rented.

Notwithstanding this, the Council's Housing Officer concluded that *'...we would be willing to accept this on site.'*

It is further advised that the 4 units should be pepper-potted throughout the site and be tenure blind. Furthermore, it is recommended that the affordable housing should be provided no later than the occupation of 50% of the open market dwellings.

A legal agreement will be required to secure the delivery of this housing and trigger its release.

As a result of the above information and comments, it is considered that the affordable housing provision proposed would be acceptable.

Footpaths / Public Right of Way

The proposed would not directly impact an existing public right of way. However, there is an existing footpath to the west of the site (Public Footpath no.34).

The Council's Public Rights of Way Officer has advised that they have no objections to the proposed development but recommend an informative be added to the decision notice, should the application be approved, in order to remind the applicants of their responsibilities.

As the Council's Public Rights of Way Officer is satisfied with proposal, it is considered that the development would adhere with Policy GR15 of the Local Plan.

Trees and Hedgerows

Trees

The report advises that there are 2 Category A trees along Moss Lane. It is advised within the report that these features merit retention and the design of the individual driveways can be configured to utilise existing gaps in hedgerow and laid out to allow the retention of these 2 trees.

As such, subject to the appropriate tree protection conditions to protect these 2 trees, it is not considered that the proposed development would have a detrimental impact upon trees.

Hedgerows

If the hedgerow fronting Moss Lane is over 30 years old, it should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'important'. If they are deemed to be 'important', this would be a material consideration.

In response to the above the applicant provided a letter from the 'Cheshire Archive and Local Studies Service' who confirmed that the south side of the site boundary, directly fronting Moss Lane is considered to be an 'important' hedgerow.

Policy NR3 (Habitats) of the adopted Congleton Borough Local Plan First Review, states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development, and where the likely effects can be mitigated or the habitat successfully recreated on or adjacent to the site and there are no suitable alternatives. In order to comply with the policy, all of these criteria must be met.

In response to this policy, given that this 'important' hedgerow would be retained, but punctuated in order to provide individual domestic accesses, the historical line of the hedge would remain unchanged. Therefore, the impact upon the landscape is considered to be limited. This line is further supported in the landscape by the orientation of Moss Lane itself which lies parallel to this hedgerow. As a result of this, in addition to the fact that the Cheshire Archaeology Service have raised no objections to the proposal, subject to protection conditions, it is considered that the proposed impact upon this 'important' hedgerow would be acceptable in this instance.

Flood Risk and Drainage

The site does not lie within a flood zone and as such, flooding is not a consideration in this instance.

United Utilities were consulted with regards to drainage. UU have subsequently advised that they raise no objections to the proposal subject to conditions that plans be submitted to the LPA detailing the drainage of foul water and the drainage of surface water.

In addition, a number of informatives are proposed which include; that the site being drained on a separate system with only foul drainage connected to the foul sewer and that the surface water should discharge to the soakaway/watercourse/surface water sewer. Furthermore, it is advised that a separate metered supply must be provided for each unit.

As such, subject to the implementation of these proposals via conditions and informatives, it is considered that the proposed development would adhere with Policy GR20 of the Local Plan.

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 development would result in a deficiency in the quantity of provision of public open space within the area. In order to offset this loss, a contribution towards of site enhancement and maintenance is required. This is considered to be necessary, fair and reasonable in relation to the development. The commuted sum sought is £6,842.20.

The development would also result in a deficiency in the quantity of provision of children's space within the area. In order to offset this loss, a contribution towards of site enhancement and maintenance is required. This is considered to be necessary, fair and reasonable in relation to the development. The commuted sum sought is £15,602.80.

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

CONCLUSIONS

The site is within the Open Countryside where under Policy PS8 of the Local Plan there is a presumption against new residential development.

The Council can demonstrate a 5 year supply of housing land and therefore there is no over-riding need to release this Open Countryside site. Furthermore, the proposal would cause harm to the character and appearance of the Open Countryside contrary to Policy PS8 which is considered to be up-to-date and in accordance with the NPPF.

The sustainable benefits of the scheme such as its location, provision of affordable housing and local economic benefits are not considered to outweigh the environmental impacts of the development as a result of the loss of Open Countryside.

As such, it is considered that the proposed development would be unacceptable in principle.

Notwithstanding the above, in terms of Ecology, it is not considered that the development would have a significant impact upon ecology or protected species, subject to conditions to protect and support breeding birds.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide an adequate contribution towards off-site public open space and children's play space on site and the necessary affordable housing requirements.

The proposal is considered to be acceptable in terms of its impact upon residential amenity, highway safety and drainage/flooding. 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 facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be locationally sustainable.

However, as the proposal is for new dwellings in the Open Countryside and does not adhere to the housing policies within this designation, it is considered that the proposed application should be recommended for refusal.

RECOMMENDATION:

REFUSE

1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005 and the principles of the National Planning Policy Framework which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

In order to give proper effect to the Committee'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 Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Heads of terms;

1. A commuted payment of £6,842.20 towards off-site Public Open Space enhancement and maintenance
2. A commuted payment of £15,602.80 towards off-site Children's Play Space enhancement and maintenance
3. 30% Affordable Housing provision – All 4 units to be socially rented. Pepper-potted and tenure blind, provided no later than 50% occupation. Transferred to registered provider.

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