

Application No: 14/3976N

Location: 22, HEATHFIELD ROAD, AUDLEM, CW3 0HH

Proposal: Outline application for erection of up to 26 dwellings, access and open space.

Applicant: Frank Hockenhull, Hockenhull Properties Ltd

Expiry Date: 20-Nov-2014

### **SUMMARY:**

It is acknowledged that the Council is unable to robustly demonstrate a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing that can demonstrate that they meet the definition of sustainable development.

There is an environmental impact in the locality due to the loss of open countryside and agricultural land. However, the proposal will not have a significant impact on the landscape character of the area and will represent a partial rounding off of the settlement without resulting in an unacceptable intrusion into the open countryside.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing adjoining an existing settlement where there is existing infrastructure and amenities. The proposal would provide policy compliant levels of affordable housing, contributions to education and local health care. In addition it would also provide appropriate levels of public open space both for existing and future residents.

The boost to housing supply is an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release.

Local concerns of residents are noted, particularly in respect of highway matters but the impact is not considered to be severe under the NPPF test. An appropriate quality of design can be secure at reserved matter stage as can any impacts on amenity.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, flood risk, drainage, landscape and ecology.

The scheme represents a sustainable form of development and that the planning balance weighs in favour of supporting the development subject to a legal agreement and conditions.

### **RECOMMENDATION:**

**Approve subject to the completion of a Section 106 Agreement**

## PROPOSAL

This is an outline application for the erection of up to 26 dwellings, provision of open space and access works on land east of Heathfield Road, Audlem. The application is in outline form with all matters reserved apart from access. However several indicative plans have been submitted with the application including layout and house types.

Access is proposed from a junction to be created off Heathfield Road, opposite Hilary Road and would be created by the demolition of number 22 Heathfield Road. This would run through the site to the proposed dwellings forming a 'T' shape.

The previous proposal was for up to 39 dwellings and included two further parcels of land to the east and south of Mill Lane. This proposal does not include that land.

## SITE DESCRIPTION

The application site covers an area of approximately 1.27 ha and is located to the east of Audlem on land to the east of Heathfield Road. The site comprises the curtilage of 22 Heathfield Road and an adjacent field to the south. It is bounded by residential dwellings on Heathfield Road to the west, Mill Lane to the north east and properties known as The Paddock and Mill Cottage to the north.

The majority of the site is designated as being within the open countryside, with the access point from Heathfield Road being within the settlement boundary.

## RELEVANT HISTORY

Two previous applications have been refused by Strategic Planning Board and Southern Planning Committee, the first being 13/3210N the reasons for which are below:

1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*
2. *The proposed access to plots 19 and 20, on Mill Lane is not suitable for further development. The proposal would therefore have a significant adverse impact on highway safety. The development would therefore be contrary to Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the National Planning Policy Framework.*
3. *Insufficient information has been submitted with the application relating to bats in order to assess adequately the impact of the development having regard to the issue of protected species. In the absence of this information, it has not been possible to demonstrate that the*

*proposal would comply with Development Plan policies, the NPPF and other material considerations.*

*4. The proposal fails to make adequate provision for infrastructure requirements and community facilities, in the form of medical provision, the need for which arises directly as a consequence of the development, contrary to Policy BE 5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan. It is therefore socially unsustainable contrary to the provisions of the National Planning Policy Framework.*

The second application, 13/5162N, was refused for the following reasons:

*1. The proposed residential development is unsustainable because it is located within Open Countryside, contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

*2. The proposal fails to make adequate provision for infrastructure requirements and community facilities, in the form of medical provision, the need for which arises directly as a consequence of the development, contrary to Policy BE.5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan. It is therefore socially unsustainable contrary to the provisions of the National Planning Policy Framework.*

The second application is now the subject of an appeal and a Public Inquiry is scheduled to begin on 13<sup>th</sup> January 2015 and Proofs of Evidence must be with the Planning Inspectorate by 16<sup>th</sup> December 2014.

## **NATIONAL & LOCAL POLICY**

### **National Policy:**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 47.

### **Development Plan:**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates part of the site as being within the Settlement Boundary of Audlem but largely within Open Countryside.

The relevant Saved Policies are: -

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources  
BE.5 – Infrastructure  
BE.6 – Development on Potentially Contaminated Land  
NE.2 – Open Countryside  
NE.5 – Nature Conservation and Habitats  
NE.9 – Protected Species  
NE.17 – Pollution Control  
NE.20 – Flood Prevention  
RES.7 – Affordable Housing  
RES.3 – Housing Densities  
RT.3 – Provision of Recreational Open Space and Children's Playspace in New Housing Developments

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

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

The following are considered relevant material considerations as indications of the emerging strategy:

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

### **Other Considerations:**

Interim Planning Statement: Affordable Housing (Feb 2011)  
North West Sustainability Checklist  
The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

### **CONSULTATIONS:**

#### **Highways:**

No objection subject to a condition relating to construction of the access.

#### **Environmental Health:**

Recommend conditions/informatives relating to contaminated land, noise generation, lighting, electric vehicle infrastructure, travel plans and bin storage.

**Housing:**

Require that the proposed 30% provision of affordable housing comprises a balanced mix and that any social rented/affordable rented units should be provided through a registered provider of affordable housing.

**Environment Agency (EA):**

Issue their standing advice on flood risk which advises that for developments of greater than 1 hectare in Flood Zone 1 - a Flood Risk Assessment should be submitted.

**Flood Risk Manager:**

No objection subject to a condition relating to the disposal of surface water.

**United Utilities:**

No objection subject to no building over a public sewer that runs through the site and submission of scheme for the disposal of foul and surface water.

**Education:**

No comments received at the time of reporting, however their response on the previous application for 26 dwellings sought a contribution of £49,028 towards secondary education.

**Public Open Space:**

Greenspaces have not commented on this application but on the previous one they stated that they would like to see a floodlit multi use games area on the open space within the development.

**Audlem Parish Council:**

Object to the application on the characteristics, design and vitality of the village, safety of the villagers and potential environmental and sustainability hazards caused by the proposed development of the site. The full objection letter (21 pages) can be viewed on the Council's website.

In addition the Parish Council have commissioned and submitted a Highways Report that can also be viewed on the Council's website.

**REPRESENTATIONS:**

Neighbour notification letters were sent to all adjoining occupants and a site notice posted.

24 representations have been received which can be viewed on the Council website. The express the following concerns:

Principal of the development

Circumstances have not changed since the Local Plan Inspector rejected the site as a housing allocation

The site is outside the settlement boundary in open countryside

Loss of good quality agricultural land

The proposal does not comply with

Adverse impact when considered in conjunction with the proposed Gladman development

Unplanned development in open countryside

Contrary to the Audlem Village Design Statement and Landscape Character Assessment  
Cheshire East can now demonstrate a 5 year housing land supply  
The amount of development is excessive in relation to local plan requirements  
The site is in an unsustainable location  
The SHLAA does not deem that this site is suitable for development  
Development should be on 'Brownfield' land  
The site is inaccessible peripheral and has a rural character

#### Design and Scale

Inappropriate design and scale of the proposed development  
The dwellings would be out of keeping with the bungalows on Heathfield Road  
Adverse impact on the visual amenity of the area  
Excessive density of the development  
Disproportionate size  
The development would be over dominant due to its elevated position  
Poor quality design  
The design is a 'stereotypical reproduction of urban twee'  
The properties are of the 'standard identikit Legoland cottage pastiche'  
The development would be a visual eye-sore

#### Amenity

The land is elevated and would lead to a loss of privacy  
Noise and disruption  
Overshadowing/Loss of outlook  
Overlooking/loss of privacy  
Light pollution  
The car park on the public open space will affect the peace and quiet of existing local residents  
The site should not have a floodlit multi-use games area

#### Highways

Increased traffic congestion  
Parking problems  
Highway safety  
The roads in the area are in a poor state of repair  
Lack of pavements on Heathfield Road  
Danger to children walking to school from additional traffic  
75% of the traffic will use Heathfield Drive as evidenced by a traffic survey undertaken by local residents  
There was no pre-application consultation with the local community  
Inappropriate access through a residential estate  
Heathfield Road unsuitable for additional traffic  
This is urban sprawl

#### Infrastructure

General lack of the necessary infrastructure in the village  
Existing secondary schools are full  
Medical has reached capacity and would have 'to close our list'  
The local drainage system would not be able to accommodate further development

### Ecology

- Impact upon protected species
- Loss of habitat
- Adverse Impact upon wildlife
- Loss of protected hedgerow
- Loss of protected trees
- Inadequate protected species surveys

### Heritage

- The development would help connect Salford and Audlem and have an adverse impact on the Woore Road (Audlem) Conservation Area
- Adverse impact on the character of the Conservation Area
- Adverse impact on the setting of 'The Mount'
- Loss of an iconic view

### Other issues

- The reduction in the amount of houses does not change the objections
- No demand for new houses
- Audlem needs more low cost housing
- The location of the site is not sustainable
- The flood risk assessment is wholly inaccurate
- Increased flooding from the site caused by the development of the site
- Lack of employment in Audlem
- The site was used for burying cattle during a Foot and Mouth outbreak
- Loss of biodiversity
- Increased surface water run-off
- Inadequate notification to local residents
- Formal notification of local residents during the Christmas period
- No information on who will maintain the open space and car park
- Would open up the opportunity for further development

## **APPRAISAL**

The key issues to be considered in the determination of this application are set out below.

### **Principle of Development**

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

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

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

## **Housing Land Supply**

Paragraph 47 of the National Planning Policy Framework requires that Councils identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.

This calculation of Five Year Housing Supply has two components – the housing requirement – and then the supply of housing sites that will meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

The current Housing Supply Position Statement prepared by the Council employs the figure of 1180 homes per year as the housing requirement, being the calculation of Objectively Assessed Housing need used in the Cheshire East Local Plan Submission Draft.

The Local Plan Inspector has now published his interim views based on the first three weeks of Examination. He has concluded that the Council's calculation of Objectively Assessed Housing Need is too low. He has also concluded that following six years of not meeting housing targets, a 20% buffer should also be applied.

Given the Inspector's Interim view that the assessment of 1180 homes per year is too low, we no longer recommend that this figure be used in housing supply calculations. The Inspector has not provided any definitive steer as to the correct figure to employ, but has recommended that further work on housing need be carried out. The Council is currently considering its response to these interim views.

Any substantive increase of housing need above the figure of 1180 homes per year is likely to place the housing land supply calculation at or below five years. Consequently, at the present time, our advice is that the Council is unable to robustly demonstrate a five year supply of housing land. Accordingly recommendations on planning applications will now reflect this position.

## **Open Countryside Policy**

In the absence of a 5 year housing land supply we cannot rely on countryside protection policies to defend settlement boundaries and justify the refusal of development simply because it is outside of a settlement, but these policies can be used to help assess the impact of proposed development upon the countryside. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Policy NE.2, seeks to protect the intrinsic character and beauty of the countryside.



The proposal is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth, it is immediately adjacent to existing residential development in the local service centre of Audlem and there are dwellings to the south, east and north of the site. As such it is considered that whilst the majority of the site is designated as Open Countryside in the adopted local plan, its loss would not cause a significant level of harm to the character and appearance of the countryside that would significantly and demonstrably outweigh the benefits provided by the proposed development.

## **Sustainability**

There are three dimensions to sustainable development:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

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

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

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

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

## **Environmental Role**

The site is a greenfield site and therefore not the first priority for development. One of the core principles of the Framework is to protect “the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

The application does not include an assessment using the North West Sustainability Checklist but puts forward the argument that the Development Strategy identifies Audlem as a ‘Local Service Centre’ that provides a range of services and facilities.

It is considered that as the site lies adjacent to existing residential development in Audlem, it would therefore be difficult to uphold a reason for refusal on the grounds of the site not being in a sustainable location.

Accordingly, it is considered that this is a locationally accessible site.

## **Economic Role**

Government policy is committed to supporting sustainable economic growth.

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

“the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

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

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

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

In addition, the proposed development will help to maintain a flexible and responsive supply of land for housing, business and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal will also deliver economic benefit in the form of additional Council Tax revenue which is a material consideration.

Similarly, the NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

According to paragraphs 19 to 21:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”

### **Social Role**

The proposal will provide new family homes, including 30% affordable homes, on site public open space. The site is also within walking distance of the centre of Audlem village, which offers a wide range of essential facilities.

### **Affordable Housing**

The Interim Planning Statement: Affordable Housing states that for both allocated sites and windfall sites the Council will negotiate for the provision of a specific percentage of the total

dwelling provision to be affordable homes. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the 2010 Strategic Housing Market Assessment. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social or affordable rented and intermediate housing. Pepper Potting and phasing of the provision is also required.

There is currently a shortfall of affordable housing delivery in Audlem and therefore there should be affordable housing provision as per the Interim Planning Statement: Affordable Housing, based on the proposal for a total of up to 26 dwellings this equates to a requirement for 5 social or affordable rented dwellings and 3 intermediate tenure dwellings.

The applicants are offering 30% of the total dwellings as affordable. As there is evidence of need for a variety of sizes of affordable homes a balanced mix of affordable dwellings would be required and the applicant should have further discussions with the Council about the type of affordable housing to be provided prior to the submission of any Reserved Matters application. Any social rented/affordable rented units should be provided through a registered provider of affordable housing.

### **Highways Implications**

Considerable concern has been expressed by local residents and the Parish Council that the development would have a severe adverse impact on highway safety due to lack of footways and high levels of existing traffic being exacerbated by increased vehicle movements generated by the proposed development.

The Parish Council have also submitted a Highway Statement.

#### *Access*

Access to the site can be gained from either Heathfield Road which is a narrow rural road or Hillary Drive which is a residential road that has been traffic calmed with road humps. The main access to the site is proposed to be an extension of Hilary Drive with Heathfield Road becoming effectively a side road giving way to Hilary Drive.

The proposed new access is a traffic calmed table with a change of priority and is shown on the applicant's drawing SCP/13092/F01, in terms of highway design this is considered to be acceptable solution to serve a development of 26 units.

#### *Internal Site Layout*

As the application is in outline site layout remains to be determined the reserved matters stage.

#### *Traffic Generation*

The morning and evening peak hour traffic generation associated with the development is expected to be modest, at around 15 two-way trips per peak hour.

Although the access roads to this site are in some cases narrow and not suited to large traffic flows, once distributed on the road network the development traffic would only result very small increases in the traffic flow. Given that the Highway Authority would have to prove that

there is severe harm arising from this increase, this would not be possible given the level of trip generation predicted.

The trip rates submitted by the applicant are not unduly low and even if a higher trip rate is used as suggested by Mr Boone, it will not result in significant additional trips. This is due to the fact that the applicant has estimated that the site will generate 14 trips and the difference is a further 5 trips. This level of additional traffic cannot be deemed to have a severe impact on the road network.

#### *Road Safety*

There have been no recorded Personal Injury Accidents (PIA) since 2007 during this period of time and the development proposals would be unlikely to have a negative impact on road safety.

The Council has assessed the Highways Statement prepared by Simon Boone and submitted by the Parish Council and makes the following points.

#### *Accidents*

There is no evidence that there are no accidents at all because only locals use these roads, clearly there are visitors, deliveries and other vehicle movements on a daily basis.

#### *Safety Audit*

Cheshire East Council commissioned an independent safety audit on the access design which concluded that there were no major design issues.

The proposal is therefore considered to be acceptable in highway safety terms subject to a condition requiring the access to be constructed prior to development of the housing being commenced.

### **Amenity**

An indicative layout has been submitted with the application and this shows that minimum separation distances could be achieved between the proposed and existing dwellings adjacent to the site.

Having regard to the amenity of future occupiers of the dwellings, adequate private residential amenity space could be provided, although it is considered that plots 1-7 may be dominated by trees on the northern boundary that overhang the site. However; as this proposal is in outline with all matters other than access to be determined at reserved matters stage, this issue could be addressed at that stage.

### **Design**

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided along with an indicative layout and house types.

Whilst the application is in outline form with access as the only matter to be agreed at this stage, the design and access statement has put forward that the development would be

appropriate and in keeping with the area. The site is elevated in parts and it is considered that substantial dwellings in excess of two-storeys dwellings could appear quite prominent because of this. The density of the scheme appears to be attainable such that an appropriate design and layout can be accommodated at reserved matters stage.

## **Landscape**

The Cheshire Landscape Character Assessment identifies the application site as being located beyond the urban edge of Audlem in Landscape Type 10: Lower Farms and Woods and specifically within the Audlem Character Area (LFW4). This identifies this character area as being broadly undulating, with steeper slopes along watercourses and an area where settlement is of relatively low density, with settlements linked by a network of narrow country lanes. The assessment also identifies that around Audlem specifically the topography is more undulating, with tree-lined streams and small woodlands and copses and that the resulting landscape is a verdant and enclosed landscape on a smaller scale. The application site would appear to be representative of the Audlem Character Area (LFW4).

Unfortunately a landscape and visual appraisal or assessment has not been submitted as part of this application, but the agricultural nature of the application site together with the topography, relatively intact nature of the agricultural landscape, and proximity of adjacent conservation areas would indicate that there will inevitably be a landscape impact on the landscape character, as well as a visual impact as well – many of the receptors and the location of a bridleway running through the site would normally be considered to be the most sensitive of receptors.

While the Design and Access Statement indicates (4.17) that ‘The scheme provides the an opportunity to create additional landscaping which will expand the existing context and further enhance the ecological opportunities’, this is an outline application and since no landscape or visual appraisal or assessment has been submitted it is not clear how any landscape works can enhance or exactly what is meant by this statement. In reality the proposals do have the potential to have a significant landscape and visual impact on an attractive rural local and an area that is identified in the Crewe and Nantwich Replacement Local Plan 2011 as being Open Countryside, as such policy NE:2 would also be relevant. This policy specifically states that approval will only be given for 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. As justification this policy indicates that such works themselves would be expected to respect the character of the open countryside. Since this is an outline application for housing in the Open Countryside it is not clear how this will respect the character of the Open Countryside.

The impact is not considered to be so severe as to warrant refusal on these grounds. However, careful consideration of the size and siting of the proposed dwellings will need to be given at reserved matters stage, should the application be approved. It may be necessary to limit the development to no more than two storey dwellings.

## **Trees and Hedgerows**

Two mature Lime trees standing to the north west of the site are the subjects of TPO protection.

The submission is supported by an Arboricultural Statement prepared by Cheshire Woodlands which incorporates a tree survey, a tree constraints plan and an evaluation of the Illustrative site layout.

The submitted arboricultural evaluation of the Illustrative site layout indicates that the development would require the removal of one moderate value category B tree to accommodate the access road, 4 individual and 3 groups and one area of low value category C trees, 2 hedges and 5 sections of hedge.. Two dead trees are recommended for felling. The evaluation concludes that the loss of trees will have only a modest impact on the wider amenity that can be mitigated by silvicultural management and the provision of new trees and landscaping. It suggests all trees, shrubs and hedges proposed for retention can be retained and protected in accordance with current best industry best practice guidance.

As an outline application with only access included, limited weight can be afforded to the indicative layout. It would appear that the provision of access as indicated would result in the loss of one medium grade early mature Ash tree and several lower grade trees. In addition, potentially, it is considered that plots in the vicinity of proposed plots 1 – 7 would be dominated by trees on the northern boundary which overhang the site

The wider arboricultural impacts could only be assessed in a comprehensive manner with a detailed layout at reserved matters stage and with full detail of services, proposed levels etc. Nonetheless, the indicative layout appears to suggest the site has the potential capacity of the site to accommodate the scale of development proposed without significant tree losses. The location of the proposed POS in the former garden of the residential property makes provision for the retention of significant trees.

Should the development be deemed acceptable, comprehensive arboricultural conditions should be imposed. At reserved matters stage the applicant would need to ensure that the layout took full account of tree constraints and provided adequate space associated with the new dwellings for the future growth potential of retained trees. Particular attention would need to be given to levels to ensure no changes in tree or hedge root protection areas.

### **Public Rights of Way**

Public Bridleway No. 30 in the Parish of Audlem) would appear to be unaffected by the proposal.

This route is a popular route of a distinct track nature, forming a key link in the network of Public Rights of Way and lanes for non-motorised users to access the countryside. This category of Public Right of Way is relatively sparse in number in Cheshire East, as recognised in the Council's statutory Rights of Way Improvement Plan. Therefore the integrity of the route is important to retain – the Illustrative site layout suggests that this will be achieved 'where possible'.

The Illustrative site layout plan also depicts a 'potential footpath link' from the proposed development site to the Public Bridleway. As the Public Bridleway is available to users on foot, bicycle and horseback, it could be anticipated that at least the first two categories of users may wish to use this potential link, and this should be borne in mind during detailed

design. The legal status of this link path would require the agreement of the Council as the Highway Authority, and the developer would be expected to include the maintenance of the path within the arrangements for the open space of the site. This would assist in making the development more readily sustainable in terms of walking and cycling.

## **Ecology**

The stream within the blue line of the application has been identified as having potential to support water voles and is a feature of some nature conservation value in its own right. Based on the submitted indicative layout it is considered that the proposed development is unlikely to have an adverse impact on the stream.

No evidence of roosting bats was recorded within the bungalow on site and the building appears to have relatively limited potential to support a roost.

Three trees on site have been identified as having bat roost potential one of these trees will be removed as part of the proposed development. As is often the case of surveying trees for bats this survey has been constrained by the height of the trees and dense ivy cover. None of the trees are considered as having high bat roosting potential and so in accordance with best practice the submitted report recommends that a bat worker be present during the felling process. This approach is acceptable and bats are not reasonably likely to be present or affected by the proposed development.

The proposed development is unlikely to affect Great Crested Newts due to its distance from any potential breeding ponds.

Hedgerows are a Biodiversity Action Plan priority and a material consideration. A number of hedgerows are present around the boundaries of the proposed development site. As no detailed landscaping proposals have been submitted it is unclear whether there will be any hedgerows lost to the development however it is likely there would be some loss of existing hedgerows. It is therefore recommended that new appropriate native species hedgerows be incorporated into any landscaping scheme produced for the site.

If planning consent is granted standard conditions will be required to safeguard breeding birds and to incorporate features for them in the development.

## **Public Open Space**

An area of Public Open Space is identified adjacent to the access to the site. The Public Open Space Officer has requested that a floodlit, multi use games area is provided within the site. Details of this should form part of any reserved matters application. The Section 106 Agreement should ensure that this area is passed on to a Management Company.

Objectors expressed concerns about this in terms of noise and anti-social behaviour. Whilst these concerns are noted, there is no evidence to uphold that such a facility would have this sort of negative effect.

## **Education**

The Education Department were consulted on this application but have not responded at the time of report writing. However on the previous application they anticipated that the development would generate the need for 5 primary and 3 secondary aged school places. They confirmed that the local primary school has spare capacity to accommodate this group of pupils, but the catchment secondary school, Brine Leas is forecast to be oversubscribed. Therefore a contribution of £49,028.00 would be required. This should be secured by Section 106 Agreement.

### **Flood Risk and Drainage**

The site is within Flood Zones 1, 2 and 3. A Flood Risk Assessment was submitted with the previous application and this was assessed by the Environment Agency. They did not object to the proposal but recommended that several conditions be imposed in order to protect against flood risk and retain the integrity of Audlem Brook.

The Council's Flood Risk Manager has no objections to the proposal provided that the disposal of surface water is addressed in detail. This should be secured by condition.

Several of the objections refer to flood risk, in particular that if the site is developed it would cause additional flooding to existing properties in Audlem. Whilst these concerns have been given careful consideration, it is considered that a refusal on these grounds would not be sustainable given the advice from the Environment Agency and the Council's Flood Risk Manager.

Many of the objections to the proposal have referred to existing problems with drainage and the sewers in Audlem. United Utilities have stated that they do not object to the development but emphasise that there is a public sewer that runs through the site that they would not permit building over. The developer would need to use this information to inform the design of the layout of the site at reserved matters stage. A condition should be imposed requiring submission of full details of foul and surface water drainage for approval.

### **Agricultural Land**

Local Plan Policy NE.12 has been saved. The National Planning Policy Framework advises that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The supporting statement submitted with the application states that the proposal would not lead to the loss of the best and most versatile agricultural land but does not define its grading. However; given the scale of the proposal and the existing topography of the land, it is not considered that its loss would be significantly detrimental.

### **Infrastructure**

One of the reasons for refusal on the previous applications related to the lack of adequate provision for medical facilities. The Council was contacted by a representative of the NHS who has confirmed that a s106 contribution could be deposited with the Council and then utilised when suitable works at the local surgery are identified.



The sum agreed with the applicant to contribute to health care is £25,000. However as stated in this report, the previous application is the subject of an appeal to be heard in January 2015. As such, it is recommended that should the Inspector for that appeal conclude that this is not required, or that other contributions should apply, delegated authority should be given to the Chairman of Strategic Planning Board and the Principal Planning Manager to agree any necessary changes to the Section 106 Agreement.

## **Response to Objections**

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. However the disbenefits of the development identified by the objectors are not considered to significantly and demonstrably outweigh the benefits provided by the development.

## **S106 Contributions:**

### **LEVY (CIL) REGULATIONS**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

As explained within the main report, affordable housing, open space and the financial contributions the local medical facility and high school would help to make the development sustainable and is a requirement of the Interim Planning Policy, local plan policies and the NPPF. It is directly related to the development and is fair and reasonable.

## **Conclusion – The Planning Balance**

Taking account of Paragraphs 49 and 14 of the NPPF there is a presumption in favour of the development provided that it represents sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The proposal is contrary to development plan policy NE.2 (Open Countryside) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise, however given the lack of a demonstrable supply of housing land at this time it is considered that the policy in this context is out of date and cannot be relied upon.

The development would provide market and affordable housing to meet an acknowledged shortfall and contributions to education and health care. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

Balanced against these benefits must be the loss of an area agricultural land. All of the site will be lost from agriculture, whether built upon or subject to open space. However, much of Cheshire East comprises best and most versatile land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, previous Inspectors have attached very limited weight to this issue in the overall planning balance.

Previous highways concerns and the lack of a contribution to health care have now been resolved and can be addressed through appropriate conditions and a Section 106 Agreement, and it is no longer considered that these provide sustainable reasons for refusal.

It is also necessary to consider the negative effects of this incursion into Open Countryside by built development. Nevertheless, it is not considered that this is sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.

On the basis of the above, it is considered that the application should be approved subject to the imposition of appropriate conditions and the completion of a Section 106 Agreement to secure contributions to education and health care, provision of 30% affordable housing and the provision of public open space to be passed to a Management Company.

## **RECOMMENDATION**

### **Approve subject to the completion of a Section 106 Agreement**

Heads of Terms:

- Contribution of £25,000 to health care provision,
- £49,028 to secondary education,
- provision of 30% affordable housing
- provision of public open space to be transferred to a Management Company

and the following conditions:

1. Commencement
2. Submission of reserved matters (all matters other than access)
3. Approved plans
4. Submission of a Phase II Contaminated Land Survey
5. Submission and approval of a construction management plan including any piling operations and a construction compound within the site
6. Reserved matters to include a detailed suite of design construction plans for the adoptable highways
7. The access shall be completed prior to commencement of development
8. Submission of drainage scheme to include foul and surface water
9. Tree and hedgerow protection measures
10. Breeding bird survey for works in the nesting season
11. Reserved matters to include details of boundary treatments
12. Reserved matters to include details of bat and bird boxes
13. Reserved matters to include details of existing and proposed levels
14. Reserved matters to include details of bin/cycle storage
15. Reserved matters to include a single electric vehicle charging point for each dwelling
16. The proposed dwellings of two-storey or less, with a maximum ridge height of 8 metres

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.**

**Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.**

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