

Application No: 14/1189C

Location: Land off, ABBEY ROAD, SANDBACH

Proposal: Proposed residential development of up to 165 dwellings, including 'affordable housing', highway and associated works, public open space and green infrastructure.

Applicant: Fox Strategic Land & Property Ltd

Expiry Date: 18-Nov-2014

SUMMARY

The proposed development would be contrary to Policy PS8 and H6 and the development would result in a loss of open countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites and the presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS provision and a NEAP, improvements to the PROW infrastructure in the area, and significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Sandbach.

The development would have a neutral impact upon education, protected species/ecology, drainage, trees residential amenity/noise/air quality/contaminated land and landscaping could be secured at the reserved matters stage.

The adverse impacts of the development would be the loss of open countryside and the loss of agricultural land.

An update will be provided in relation to the impact upon the highways network and the setting of the Listed Building at Abbeyfields.

Taking account of the context of housing developments within the Sandbach area and the relative weight to be attached to emerging policies it is considered that in this case the development would be premature following the publication of the draft Sandbach Neighbourhood Plan and this will form the reason for refusal.

RECOMMENDATION

Refuse

PROPOSAL

This is an outline planning application for up to 165 dwellings (reduced from 190 dwellings during the course of the application). Access is to be determined at this stage with all other matters reserved.

The access point to serve the site would be taken off Abbey Road to the west of the site. The site would include the provision of 30% affordable housing and public open space.

The development would consist of 2-2.5 stories in height (a maximum 10 metres in height). The application extends to 9.36 hectares and would include a net development area of 5.65 hectares which would give a density of 29 dwellings per hectare.

The land to the north is known as 'Abbeyfields' and has been subject to an extensive planning history. Planning applications 10/3471C and 12/1463C have given outline approval for 280 dwellings on this site.

This application is accompanied by an Environmental Statement.

SITE DESCRIPTION

The site of the proposed development extends to 9.36 hectares and is located to the east of Abbey Road. To the east of the site is Abbeyfields a Grade II Listed Building. Sandbach United Football Club is located to the south of the site with the Wheelock Rail Trail beyond. To the south-west of the site are employment units which front Lodge Road and to the west are residential properties which front onto Abbey Road.

The land is currently in agricultural use and there are a number of trees and lengths of hedgerow to the site boundaries. Some of these trees to the boundary with the property known as Abbeyfields and north-east corner of the site are subject to TPO protection.

RELEVANT HISTORY

22740/1 - 18 Hole golf course, club house, open space, residential development and associated supporting infrastructure – Refused 2nd January 1991

22739/1 - 18 Hole golf course, club house, open space, residential development and associated supporting infrastructure – Refused 2nd January 1991

21219/1 – Residential development – Refused 22nd August 1989

21218/1 – Residential development – Refused 22nd August 1989

NATIONAL & LOCAL POLICY

National Policy

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

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68 Requiring good design

216 Implementation

Development Plan

The Development Plan for this area is the Congleton Borough Local Plan First Review 2005, which allocates the site, under policy PS8, as open countryside.

The relevant Saved Policies are:

PS3 – Settlement Hierarchy

PS8 - Open Countryside

GR21- Flood Prevention

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

NR1 - Trees and Woodland

NR3 – Habitats

NR4 - Non-statutory sites

NR5 – Habitats

H2 - Provision of New Housing Development

H6 - Residential Development in the Open countryside

H13 - Affordable Housing and Low Cost Housing

RC2 – Protected Areas of Open Space

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:

PG2 – Settlement Hierarchy

PG5 - Open Countryside

PG6 – Spatial Distribution of Development

SC4 – Residential Mix

CO1 Sustainable Travel and Transport

CO4 – Travel Plans and Transport Assessments

SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - 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 6 – Green Infrastructure
SE 8 – Renewable and Low Carbon Energy
SE 9 – Energy Efficient Development
SE 13 Flood Risk and Water Management
IN1 – Infrastructure
IN2 – Developer Contributions

Sandbach Neighbourhood Development Plan (Draft for Consultation)

H1 – Housing Growth
H2 – Design and layout
H3 – Housing Mix and type
H4 – Preferred Locations
PC2 – Landscape Character

Supplementary Planning Documents:

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
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land
Sandbach Town Strategy

CONSULTATIONS

Environment Agency: Refer to Environment Agency Standing Advice.

CE Flood Risk Manager: No objection. Conditions suggested.

United Utilities: Drainage condition suggested. UU will not permit any building over public sewers.

Strategic Highways Manager: No comments received at the time of writing this report.

Environmental Health: Conditions suggested relating to piling hours, dust mitigation, noise mitigation, travel plan, electrical vehicle infrastructure, contaminated land and an environmental management plan.

NHS England: No comments received.

Ansa (Public Open Space): Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study. Therefore there is a requirement for new Amenity Greenspace and the Design and Access Statement illustrates a community park 1.96 Ha in size.

It is recommended these areas of POS be transferred to a management company.

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

A NEAP (Neighbourhood Equipped Area for Play) standard play facility is required in accordance with the SPG1. As with the Amenity Greenspace it is recommended that future maintenance of the play area be carried out by a Management company.

Natural England: Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application will not damage or destroy the interest features of Sandbach Flashed SSSI. As such the SSSI does not represent a constraint in the determination of this application. For advice on protected species refer to the Natural England Standing Advice.

Archaeology: Condition suggested.

Countryside Access Team: The Phase 1 development is understood to have secured various proposals to improve pedestrian and cyclist facilities to the north and west of the proposed development site. In order to provide sustainable travel links to and from the proposed development site, the developer should be tasked to contribute to the improvement of facilities to the south and east:

- An aspiration has been logged under the Council's statutory Local Transport Plan/Rights of Way Improvement Plan to improve access to this western end of the Trail, which could be partly met by this improvement. Aspirations have also been registered to improve cyclist and disabled access along the Trail.
- An aspiration has been logged under the Council's statutory Local Transport Plan/Rights of Way Improvement Plan (ref. T104) for the creation of a pedestrian and cyclist link to form an easterly access point to the proposed development should it go ahead, on to Park Lane.
- The potential pedestrian link proposed to the south of the site adjacent to the football club and connecting to the Wheelock Rail Trail should be sought for the use of pedestrians and cyclists as both categories would use the Trail for leisure and commuting. It is understood, however, that this land is in third party ownership.
- The developer should be tasked to provide new residents with information about local walking and cycling routes for both leisure and travel purposes.

Cheshire Brine Board: The Board requires the incorporation of structural precautions to minimise the effects of any settlement which could occur in the future. As this is a statutory requirement, the Board expect to see this included as a condition in relation to any planning consent for this development.

Education: This development would be expected to generate up to 34 primary aged pupils and 25 secondary aged pupils. The following contributions should be secured:

Primary = $34 \times 11919 \times 0.91 = £325,388.70$

Secondary = $25 \times 17959 \times 0.91 = £343,196.49$

VIEWS OF THE PARISH COUNCIL

Sandbach Town Council: Object to the application on the following grounds:

- Goes against saved policies in place to protect green gap.
- Poor access route onto busiest road in Sandbach.
- No provision for additional facilities or infrastructure.
- Significant negative impact on infrastructure. Particularly schools, traffic and doctors surgery.

REPRESENTATIONS

Letters of objection have been received from 118 local households raising the following points:

Principle of development

- The site is outside the settlement boundary
- Brownfield land should be promoted over the use of Greenfield land
- No decision should be issued until the Sandbach Neighbourhood Plan is in place
- The site is not sustainable
- Loss of agricultural land
- Cumulative impact from the approved developments in Sandbach
- There should be more development around the other towns in Cheshire East
- Residents are unable to sell their houses due to the numbers being built
- Loss of the green gap between Elworth and Sandbach
- The developers will not provide the required level of affordable housing
- Loss of greenfield land
- The development will create urban sprawl
- The site is not included within the position statement dated February 2014
- Speculative development
- The development would be contrary to Local Plan Policy
- The site is not currently identified for residential development
- The development would be crammed onto the site
- Sandbach is a commuter town
- There is a 5 year supply of housing within Cheshire East
- Local residents do not want any further housing development

Highways

- The highway network does not have capacity for the additional dwellings without an adverse impact
- Increased traffic congestion
- Increased danger to pedestrians
- The highway network is poorly maintained
- Abbey Road is not suitable to serve a development of this size
- Speeding traffic along Abbey Road
- Linking phases 1 and 2 will affect the traffic flows from Phase 1

- The submitted Transport Assessment is not accurate
- There is a greater need for cycle storage within Sandbach
- The development would result in increased dangers to cyclists
- There is a need for traffic calming measures along Hind Heath Road
- The highway network cannot cope if there is an accident on the M6
- The proposed access point is not adequate
- The vehicular access to the site should be via Middlewich Road
- There are on-street parking problems along Abbey Road
- The trees along Abbey Road will obscure the site lines at the access point

Green Issues

- Increased flooding
- Impact upon wildlife
- The site is well used by bird life
- Impact upon protected species
- Loss of biodiversity
- Other applications which impact upon the tree along Abbey Road have been refused
- Loss of trees
- Increased air pollution
- The impact upon the trees along Abbey Road

Infrastructure

- Increased pressure on local schools (both primary and secondary)
- Impact upon local health provision
- Poor water and gas pressure in the area
- The development will provide minimal improvements to infrastructure

Amenity Issues

- Disturbance caused during the construction phase of the development
- Harm to the amenities of the dwellings which front Abbey Road
- A buffer should be provided to Abbey Road
- Loss of light
- Loss of privacy
- Visual Intrusion
- Noise and disturbance caused by the access to the site
- Increased light pollution
- Increased noise pollution

Other issues

- The site suffers from subsidence
- Impact upon property values
- Lack of consultation as part of this application
- Archaeological implications of the development

An objection has been received from the Friends of Abbeyfields Action Group which raises the following points:

- The majority of residents are against further development in Sandbach
- Concerns over the high volume of committed development in Sandbach

- Residents were assured that there would not be any further development on this site following the meeting regarding the football club facility
- The development will result in the complete development of Abbeyfields
- Lack of consultation as part of this application
- Any committee meeting should be held in Sandbach to discuss these proposals
- The position statement of February 2014 satisfied the NPPF in terms of the Councils 5 year supply of housing land
- There are discrepancies in the SHLAA in relation to this site
- Impact upon town infrastructure – the road network, medical facilities and education
- Developers are attracted to Sandbach on profit grounds
- Low water pressure in the area
- Loss of trees along Abbey Road
- There is a lack of alternatives to the private motor vehicle in Sandbach
- Cars are the only viable mode of transport
- Sandbach does not have the correct ratio between employment and housing
- Loss of high value agricultural land

A representation has been received by CTC – The National cycling Charity raising the following points:

- Improvements to Cycle route between Park Lane and Abbey Road. This would require coordination with the proposed developments 'Abbey Road' (14/1189C) and 'Abbeyfields' (12/1463C) which provide access points to Abbey Road. Another potential access point for this route exists opposite Fields Drive within the 'blue boundary/Wider Ownership'.
- The development provides the opportunity for a link between the site and the Wheelock Rail Trail

APPRAISAL

The key issues are:

- Loss of open countryside
- Impact upon nature conservation interests
- Design and impact upon character of the area
- Landscape Impact
- Amenity of neighbouring property
- Highway safety
- Impact upon local infrastructure

Principle of Development

The site lies largely in the Open Countryside as designated by the Congleton Borough Local Plan 2005, where policies PS8 and H6 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 would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it

constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

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

Sandbach Neighbourhood Development Plan

Sandbach Neighbourhood Development Plan Working Group, in conjunction with the Sandbach Town Council has prepared a draft Neighbourhood Development Plan for the Parish of Sandbach. The consultation period for the plan will run until 1st May 2015.

Paragraph 216 of the NPPF states *From the day of publication, decision-takers may also 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 this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

The NPPG states that an emerging neighbourhood plan may be a material consideration.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

The NPPG also states that ‘*refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process*’.

The Neighbourhood Plan is therefore a material consideration which must be weighed in the planning balance taking account of the stage that the neighbourhood plan is currently at and the context, location and scale of the proposed development relative to the Sandbach area.

Members may be aware there have been a number of legal cases that have supported Neighbourhood Plan policies even when a Local Plan has not been fully adopted. There have also been recent High Court cases which have rejected the Secretary of State's judgement on the weight he has given to emerging neighbourhood plans with the 'Woodcock' case further emphasising the clarity needed to refuse applications on prematurity grounds. Therefore the weight to be attached to the plan depends on the particular circumstances in each case with particular emphasis on scale and context.

Policy H1 within the Neighbourhood Plan aims to limit development to sites of up to 30 dwellings with exceptions being made for brownfield sites. The site is clearly a greenfield one which proposes a development of up to 165 dwellings. The size of the development would therefore be contrary to the draft policy and the wider vision for Sandbach within the draft Neighbourhood Plan.

Sandbach is an area that has been under significant development pressure over the last two years with a number of large scale unplanned developments which have been approved and/or granted at appeal due to the housing land supply situation. To give this some context the expected level of development for Sandbach within the plan period identified in the CELP – Submission Version is 2200 dwellings. Existing committed developments already account for some 2700 dwellings which clearly already exceed the planned figure by a significant margin. Even accounting for the uplift in the OAN figures that have come through the review of the housing position for the Local Plan Examination a further development of some 165 dwellings is a significant and substantial increase which threatens the proper planning of the Sandbach area.

The draft Neighbourhood Plan clearly recognises the CELP position and the existing committed developments. It will be for the Examination into the Neighbourhood Plan to determine the further extent and form of development in the Sandbach area. Comments and objections into the draft Neighbourhood Plan are noted. Nevertheless there are a number of other large-scale applications for housing developments within the Sandbach area awaiting determination all of which could be said to share similar characteristics in terms of their sustainable credentials. To allow this proposal at this time would further add to the committed but unplanned developments. Taking account of the proposals scale and cumulative impact relative to the Sandbach area it is considered that the development would have a significant impact that would be 'so substantial' that it would threaten the function that the Neighbourhood Plan is trying to perform

The scale of this development would prejudice the outcome of the neighbourhood plan making process and this issue will form a reason for refusal.

Housing Land Supply

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

The calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing sites that will help 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.

Following the suspension of the Examination into the Local Plan Strategy and the Inspectors interim views that the previous objectively assessed need (OAN) was 'too low' further evidential work has now taken place and a fresh calculation made.

Taking account of the suggested rate of economic growth and following the methodology of the NPPG, the new calculation suggests that need for housing stands at 36,000 homes over the period 2010 – 2030. Although yet to be fully examined this equates to some 1800 dwellings per year.

The 5 year supply target would amount to 9,000 dwellings without the addition of any buffer or allowance for backlog. The scale of the shortfall at this level will reinforce the suggestion that the Council should employ a buffer of 20% in its calculations – to take account 'persistent under delivery' of housing plus an allowance for the backlog.

While the definitive methodology for buffers and backlog will be resolved via the development plan process this would amount to an identified deliverable supply of around 11,300 dwellings.

This total exceeds the total deliverable supply that the Council is currently able to identify – and accordingly it remains unable to demonstrate a 5 year supply of housing land.

SOCIAL SUSTAINABILITY

Affordable Housing

The accompanying planning statement outlines that 30% of the units will be provided as affordable. In the draft heads of terms the tenure split outlined is 65% affordable rent and 35% intermediate tenure. This is in line with the requirements of the IPS and represents a benefit of this development.

Public Open Space

This indicative layout shows that an area of POS would be located to the east of the site. The Design and Access Statement identifies that the development would provide 1.96 hectares of open space in the form of a community park.

The level of open space would exceed the requirements for a development of this size and would be maintained by a management company.

In terms of children's playspace, the Public Open Space Officer has requested an on-site Neighbourhood Play Area (NEAP) with at least 8 pieces of equipment. This would be secured as part of a S106 Agreement together with the management of the NEAP.

Education

The proposed development would be expected to generate up to 34 primary aged pupils and 25 secondary aged pupils.

In order to mitigate the impact of this development a contribution of £325,388.70 will be required towards primary school education and a contribution of £343,196.49 will be required towards secondary school education. These contributions will be secured as part of a S106 Agreement.

Location of the site

To aid a sustainability assessment, a toolkit was developed by the former North West Development Agency. With respect to 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:

- Amenity Open Space (500m) – To be provided on site
- Children's Play Space (500m) – To be provided on site
- Primary School (1000m) – 725m
- Leisure Facilities (leisure centre or library) (1000m) – 965m
- Secondary School (1000m) – 965m
- Bus Stop (500m) – 50m
- Community Centre/Meeting Place (1000m) – 965m
- Post Box (500m) – 280m
- Bank/Cash Point (1000m) – 320m
- Public Right of Way (500m) – 320m
- Pharmacy (1000m) – 885m
- Railway Station (2000m where geographically possible) – 960m

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

- Child Care Facility (nursery or crèche) (1000m) - 1125m
- Public House (1000m) – 1125m

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Sandbach, there are some facilities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned.

However, this is not untypical for suburban dwellings and will be the similar distances for the residential development directly to the south of the application site. However, all of the services and amenities listed are accommodated within Sandbach and are accessible to the proposed development on foot or via a short bus journey, with a bus stop directly outside the site. Accordingly, it is considered that this site is a sustainable one.

ENVIRONMENTAL SUSTAINABILITY

Residential Amenity

In terms of the surrounding residential properties, these are mainly to the west of the site. The application is outline and there is no reason why adequate separation distances could not be provided to the adjacent properties.

Noise

Monitoring undertaken at the site indicates that the required external and internal noise limits, applicable to road noise, would be met even with windows open during both daytime and night-time, without the need for mitigation. It is therefore considered, unlikely that traffic noise would have an unacceptable impact on the proposed development.

Noise from the Elmbank Internet Logistics Limited premises may be audible on this site, and may therefore require some form of noise mitigation to protect the amenity of future occupants of the proposed development. This would be secured through the imposition of a planning condition.

Air Quality

An Air Quality Impact Assessment has been submitted as part of the Environmental Statement. The report considers whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to local traffic flows. The proposed development is considered significant in that it is highly likely to change traffic patterns in the area.

In particular, the development has the potential to impact upon the A5022/A534 Junction 17, M6 Air Quality Management Area (AQMA) declared as a result of breaches of the European Standard for nitrogen dioxide (NO₂). There is also concern that the cumulative impact of developments in the area will lead to successive increases in pollution levels, and thereby increased exposure.

The assessment uses ADMS Roads to model NO₂ and PM₁₀ impacts from the predicted additional road traffic associated with this development and other permitted/proposed developments.

The Air Quality Impact Assessment concludes that all modelled impacts from road traffic on air quality conditions for residential units on the proposed development site will be below the air quality objectives.

Regarding existing receptor impact, it is highlighted that there is likely to be a negligible increase in exposure to airborne pollution at all receptors for all scenarios modelled. A number of these receptors are within the AQMA or at highly sensitive locations in accordance with guidance.

It is the view of the Environmental Health Officer that any increase in concentrations within an AQMA is significant as it is directly converse to our local air quality objectives and the Air Quality Action Plan. The NPPG requires that development be in accordance with the Council's Air Quality Action Plan.

Taking into account the uncertainties associated with air quality modelling, the impacts of the development could be significantly worse. Poor air quality is detrimental to the health and wellbeing of the public, and also has a negative impact on the quality of life for sensitive individuals.

Mitigation to reduce the impact of the traffic pollution can range from hard measures to softer measures such as the provision of infrastructure designed to support low carbon (and polluting) vehicles.

As a result of a worsening of air quality, the reports recommend the following mitigation measures be implemented:

- Robust Travel Plans for each householder focusing away from private vehicle use. These are to be monitored and enforced throughout the lifetime of the development;
- Incorporation of electric vehicle recharge technology into properties, these shall be maintained throughout the use of the development;
- Reserved residential parking will be provided for low emission vehicles

The mitigation measures described form the basis of a low emission strategy for the development. Subject to conditions to secure a low emissions strategy and a scheme of dust control the Environmental Health Officer raises no objection to this development on air quality grounds.

Contaminated Land

The contaminated land officer has no objection to the above application but states that the application is for new residential properties which are a sensitive end use and could be affected by any contamination present. As such, and in accordance with the NPPF a condition is suggested in relation to contaminated land.

Public Rights of Way

There are no public footpaths crossing the site. The Wheelock Rail Trail is located to the south of the site and is not designated as a PROW.

There have been a number of requests for improvements to the footpath network within the vicinity of the site with the following items requested:

- To improve access to the western end of the Wheelock Rail Trail
- The creation of a pedestrian/cycle link onto Park Lane
- The provision of a pedestrian link to connect to the Wheelock Rail Trail

The contribution required would be £25,000 for the Wheelock Rail Trail this contribution could be secured as part of the S106 Agreement.

The suggestions in relation to the links to Park Lane and the Wheelock Rail Trail would involve third party land and could not be achieved at this stage.

Impact upon the setting of the Listed Building

No comments from the Councils Built Heritage Officer had been received at the time of writing this report. An update report will be provided in relation to this issue.

Highways

No comments from the Strategic Highways Manager had been received at the time of writing this report. An update report will be provided in relation to this issue.

Trees and Hedgerows

The Sandbach Urban District Council (Abbeyfields) TPO 1970 protects individual and groups of trees within parcels of land around Abbeyfields to the south and east of the application site.

Access to the site will be provided off Abbey Road between Nos 83 and 93 across a wide highway grass verge. The proposed access will necessitate the removal of two unprotected Oak trees and categorised as category C (low quality) and Category B (moderate quality). The report concludes that both trees provide a wider collective landscape value to the group of trees along Abbey Road, however their individual quality has been downgraded due to previous stem failures, exposed heartwood and poor crown form.

The Councils tree officer considers that it would be difficult to justify the retention of both trees as individual specimens as both their current form, past failures and physiological condition limits their future contribution to the amenity of the area. It is accepted that they provide some modest contribution to the wider group of trees along Abbey Road, but that their loss is not significant in amenity terms and that there is scope for replacement planting in mitigation within the highway verge. Other existing Oak trees and a Lime adjacent to the access will not be significantly affected by the proposed access. There appears to be a slight intrusion within the Root Protection Area (RPA) of one Oak. However this is de minimis and subject to a satisfactory tree protection scheme the development is unlikely to present any long term implications for the health of the trees.

Two A and two B category unprotected trees located on the site boundaries are located within the development area. In this regard the design of the development will need to be addressed at reserved matters in accordance with the criteria set out in Section 5 of BS5837:2012 to ensure their long term retention.

Protected trees (Oaks T6-T9 of the TPO) also border with the edge of the development to the south east. Again the design of the development will need to be addressed at reserved matters in accordance with the criteria set out in Section 5 of BS5837:2012 to ensure their long term retention

The trees at part of Area A2 of the TPO located to the eastern section of the site will be located within the proposed Community Park. Therefore these trees will not be affected by the development proposals.

It is noted that the five hedgerows identified within the ecological appraisal have been assessed under the wildlife and landscape criteria of the Hedgerow Regulations with none been considered important under these criteria. However it should be noted that the hedgerows with around the boundaries of the site would be retained.

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.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

The developable area of the proposed dwellings (as shown on the development framework plan) would be 29 dwellings per hectare. This is considered to be reasonable on this site.

According to the development framework plan, the open space would be located as a buffer to the Listed Building at Abbeyfields and would be well overlooked. There is no reason that an acceptable design could not be secured at the Reserved Matters stage.

Landscape

There are no Public Rights of way that cross the applications site, neither does the application site have any landscape designations. The Wheelock Trail follows a disused rail route to the south of the application site, and is in a cutting with fairly mature vegetation.

A detailed landscape masterplan broadly in accordance with the Development Framework drawing should include an adequate screen buffer between and the development would not result in a detrimental impact upon the landscape character of the area.

It should be noted that as part of the appeal for the Abbeyfields site directly to the north of this site the Inspector found that:

‘The presence of open fields between Elworth and Sandbach is highly valued by local people. Clear views are difficult to obtain from public vantage points. The fields can be glimpsed between the houses in Middlewich Road, Abbey Road and Park Lane, but the best views are from rear gardens. Public footpaths do not cross the appeal site, and the fields do not have

any special landscape designation. The proposed 3.4ha community park would ensure that a large swathe of land would remain open and, unlike at present, the park would allow public access and enjoyment. I have therefore reached the view that the loss of part of the green gap between Elworth and Sandbach would not in itself be sufficiently harmful to make the appeal proposal unacceptable'

It is considered that the similar comments could apply to this application site.

Ecology

Designated Sites

Natural England have confirmed that they do not consider that this application would impact upon Sandbach Flashes SSSI

Barn Owls

Based upon the submitted survey the Councils Ecologist advises that this species is unlikely to be present or affected by the proposed development.

Great Crested Newts and Reptiles

The Councils Ecologist advises that Great Crested Newts and reptiles are unlikely to be present or affected by the proposed development.

Common Toad

This UK Biodiversity Action Plan priority species is likely to be present on site. Provided the community park area is designed appropriately the Councils Ecologist advises that sufficient terrestrial habitat is likely to be retained as a result of the proposed development to avoid a significant impact occurring in respect of this species. The provision of an additional purpose designed wildlife pond on site would considerably enhance the available breeding habitat for this species. This could be secured by means of a condition if outline consent is granted.

Other Protected Species

A number of setts have been recorded around the boundaries of this site. These include a main sett and a series of outlying setts. Based upon the submitted illustrative master plan it appears feasible to retain the main sett and an associated area of foraging habitat. However it is likely that a number of the outlying setts would require either temporary or permanent closure to avoid any risk of disturbance by the proposed development. Any sett closure would be undertaken under the terms of a Natural England license. The Councils Ecologist advises that this approach is acceptable. However as the status of the setts is likely to change over time and if outline planning consent is granted a condition should be attached requiring each future reserved matters application to be supported by an updated badger survey report and mitigation strategy.

Bats

A number of trees have been identified on site as having potential to support roosting bats including a tree with a confirmed roost. All of the identified trees are shown as being retained within or adjacent suitable open space on the illustrative masterplan and arboricultural assessment. The Councils Ecologist advises that the proposed development is unlikely to have a direct adverse impact upon roosting bats.

Hedgerows

Hedgerows are a habitat of principal importance and hence a material consideration. Based on the submitted layout plan it appears that much of the existing hedgerows could be retained as part of the proposed development. There are however likely to be losses associated with the site entrance and access roads. The Councils ecologist advises that any losses of hedgerows must be compensated for by means of appropriate native species planting. If planning consent is granted this matter could be dealt with by means of a landscape condition.

Woodland

There is an existing area trees/woodland associated with Abbeyfields. The existing habitat is shown on the submitted indicative plan as being 'buffered' from the proposed development by means of additional planting associated with the community park area. This approach is supported.

Ecological enhancements

Opportunities exist to secure significant ecological enhancements as part of the proposed development through the incorporation of native planting and other wildlife enhancements in the eastern part of the site identified as a community park.

Flood Risk

The application site is located within Flood Zone 1 (low probability of river/tidal flooding) according to the Environment Agency Flood Maps. A Flood Risk Assessment (FRA) has been submitted as part of this application.

The submitted FRA indicates that the site is at a low risk from all forms of flooding. Surface water will be directed to an attenuation pond. The surface water networks will be designed in accordance with the British Standard guidance up to the 100 year storm event including an allowance for climate change.

The FRA also identifies that there is no flood displacement or increased rate of runoff and the proposal will not increase flood risk in this locality.

The Environment Agency, United Utilities and the Councils Flood Risk Manager have been consulted as part of this application and have raised no objection to the proposed development subject to the imposition of planning conditions.

As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Archaeology

The application is supported by an archaeological desk-based assessment. It concludes that the area has a limited archaeological potential and that this may be addressed by a targeted programme of trenching. This would examine features such as paths, boundaries, and structures which are depicted on the historic mapping and are primarily associated with the former park around Abbeyfields House. The archaeological assessment defines an appropriate scheme of archaeological mitigation, a report on the work will be required and it is recommended that the work may be secured by condition, a suggested wording for which is given below.

One further point that should be noted concerns the programme of archaeological evaluation recently carried out on the fields to the north, in connection with a separate planning application. This work detected the line of the Roman road from Middlewich and demonstrated that it will not cross the application area. However, it also revealed traces of early industrial activity on the eastern side of the road. It seems entirely possible that similar remains are present on the western side of the road, which lies at the eastern extremity of the present application area.

The remains detected included waterlogged deposits and, in view of the complexity of remains of this type, there is a case for pre-determination evaluation trenching to establish their presence or absence in the relevant part of the present application area. The Development Framework Plan, however, shows the area of interest as part of the proposed community park. In these circumstances, it is accepted that pre-determination trenching would not be reasonable although this advice has been formulated on the clear understanding that development will not be permitted in this part of the application area.

A scheme of archaeological work will be secured as part of a planning condition.

Agricultural Land Quality

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

Although no survey of the site has been undertaken the applicant has stated that the land is Grade 2 and 3a (the same as Phase 1).

In this case the loss of BMV agricultural land will form part of the planning balance.

Ground Conditions

A number of the objections submitted as part of this application make reference to the ground conditions on this site. In relation to this issue paragraph 121 of the NPPF states that planning policies and decisions should also ensure that:

‘The site is suitable for its new use taking account of ground conditions and instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation’

In relation to this issue the Brine Board has suggested the use of a planning condition and as such it is considered that this issue can be addressed. Should the application be approved it is considered that this issue should be dealt with at the Building Control stage.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Sandbach including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

CIL Regulations

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations 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 increased demand for primary and secondary school places in Sandbach where there is very limited spare capacity. In order to increase capacity of the school(s) which would support the proposed development, a contribution towards primary and secondary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, POS and children’s play space is a requirement of the Interim Planning Policy. It is directly related to the development and is fair and reasonable.

The Wheelock Rail Trail contribution is required to improve the Wheelock Rail Trail in the vicinity of the site which is in a poor state of repair and does not have cyclist access. The development would result in increased use of the Wheelock Rail Trail and upgrades are required. As a result the contributions are necessary, directly related to the development and fair and reasonable.

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

PLANNING BALANCE

The proposed development would be contrary to Policy PS8 and H6 and the development would result in a loss of open countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites and the presumption in favour of sustainable

development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- The development would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.
- In terms of the POS provision and the proposed NEAP this is considered to be acceptable. The provision of a NEAP would provide a facility for future residents and other residents in this part of Sandbach.
- The improvements to the Wheelock Rail Trail would be a benefit to future and existing residents.
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Sandbach.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution.
- The impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation.
- There is not considered to be any drainage implications raised by this development.
- The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/noise/air quality and contaminated land could be mitigated through the imposition of planning conditions.
- The impact upon the landscape would not in itself be sufficiently harmful to make the appeal proposal unacceptable

The adverse impacts of the development would be:

- The loss of open countryside
- The loss of agricultural land

An update will be provided in relation to the highways impact and the impact upon the setting of the Listed Building at Abbeyfields.

Taking account of the proposals scale and cumulative impact relative to the Sandbach area it is considered that the development would have a significant impact that would be 'so substantial' that it would threaten the function that the Neighbourhood Plan is trying to perform. Having regard to the relative weight that can be attached, it is considered that the development would be premature following the publication of the consultation of the Sandbach Neighbourhood Plan.

RECOMMENDATION:

REFUSE for the following reasons:

- 1. The Local Planning Authority considers that having regard to the context of developments in the Sandbach area and the scale of the proposed development that it would be premature following the publication consultation draft of the Sandbach Neighbourhood plan. As such allowing this development would prejudice the outcome of the neighbourhood plan-making process and would be contrary to guidance contained at Paragraph 216 of the NPPF and guidance contained within the NPPG.**
- 2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is unsustainable and contrary to the provisions of the National Planning Policy Framework.**

In order to give proper effect to the Board's/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 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 the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

- 1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:**
 - The numbers, type, tenure and location on the site of the affordable housing provision**
 - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
 - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
 - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
 - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**
- 2. Provision of Public Open Space and a NEAP (8 pieces of equipment) to be maintained by a private management company**
- 3. Primary school education contribution of £325,388.70**
- 4. Secondary school education contribution of £343,169.49**
- 5. PROW Contribution of £25,000**

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