

Application No: 14/3024N

Location: LAND OFF, CHURCH LANE, WISTASTON, CREWE

Proposal: Outline application for a proposed residential development of up to 300 dwellings, site access, public open space, landscaping and associated infrastructure.

Applicant: Gladman Developments Ltd

Expiry Date: 18-Sep-2014

SUMMARY

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. The Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

The benefits in this case are that 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, POS provision and the proposed LEAP and economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in the area.

The development would have a neutral impact upon education infrastructure (subject to the required contributions), protected species/ecology, drainage/flood risk, trees/hedgerows, residential amenity/noise/air quality and contaminated land and highways (subject to the required contributions).

The adverse impacts of the development would be the erosion of the Green Gap between Wistaston and Nantwich, the loss of open countryside the landscape impact and the loss of agricultural land.

The adverse impacts in approving this development and would significantly and demonstrably outweigh the benefits of the development. As such the application is recommended for refusal.

RECOMMENDATION

REFUSAL

PROPOSAL

This is an outline planning application for the erection of 300 dwellings. Access is to be determined at this stage with all other matters reserved.

The proposed development includes a single access point that would be located to the northern side of Church Lane between No 127 Church Lane and an existing electric sub-station.

The development would include 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space (which includes retained ponds, wetlands, green infrastructure and habitat creation).

The application is accompanied by an Environmental Impact Assessment.

SITE DESCRIPTION

The site of the proposed development extends to 13.88 ha and is located to the northern side of Church Lane, Wistaston. The site is within Open Countryside and Green Gap. To the south of the site is residential development fronting Church Lane. To the south-west corner of the site is an existing bowling green, tennis courts and school playing fields. To the north and west of the site is agricultural land and to the north east is an area of recreational open space.

The land is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site.

The site includes a small pond to the south-west corner of the site. To the eastern boundary of the site is a watercourse known as Wistaston Brook. The land levels drop to the eastern boundary of the site.

Two Public Rights of Way cross the site from north to south (Wistaston FP1 and Wistaston FP2).

RELEVANT HISTORY

13/2649N - Outline planning application for proposed residential development of up to 300 dwellings, highway works, public open space and associated works – Refused 13th January 2014 – Appeal Lodged – Appeal Dismissed 26th February 2015. This application was refused for the following reasons:

- 1. The proposed development would cause a significant erosion of the Green Gap between the built up areas of Crewe and Nantwich which would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policy NE4 (Green Gaps) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and guidance contained within the NPPF.*
- 2. The proposed development would cause the loss of Open Countryside, which would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and paragraph 17 of the National Planning Policy Framework, which recognises the intrinsic character and beauty of the countryside.*

3. *The proposal would involve the permanent loss of best and most versatile agricultural land. The NPPF states that local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Together with the reasons stated above this would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The proposed development is contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Paragraph 112 of the NPPF.*

13/1828S - EIA scoping request for Environmental Statement – Scoping letter issued 30th May 2013

13/1395S - EIA screening for land off Church Lane – EIA Required 18th April 2013

NATIONAL AND LOCAL POLICIES

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

Development Plan

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside.

The relevant Saved Policies are:

NE.2 (Open countryside)

NE 4 (Green Gap)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RES.5 (Housing in the Open Countryside)

RES.7 (Affordable Housing)

RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)

RT.9 (Footpaths and Bridleways)

TRAN.3 (Pedestrians)

TRAN.5 (Cycling)

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
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 – Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

Other Considerations

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
Environmental Impact Assessment Regulations 2011

CONSULTATIONS

United Utilities: No objection subject to the imposition of a drainage condition.

Strategic Highways Manager: The highway comments made on the previous application are a material consideration in regard to this application as there have been no material change in circumstances since the 2013 application was considered. There are other residential schemes that are currently being considered that affect a similar part of the road network as this application but have yet to be determined and therefore cannot be considered as committed.

Therefore, given this application is slightly lower in terms of the number of units proposed, the application is considered acceptable subject to the same conditions and financial contributions being secured on this application.

Natural England: The proposed development is unlikely to affect any statutory sites. For advice on all other protected species refer to the Natural England standing advice.

Environment Agency: No objection. Conditions suggested relating to surface water run-off, a scheme to manage the risk of flooding from overland flow, and the provision of an undeveloped buffer zone along Wistaston Brook.

Environmental Health: Conditions suggested in relation to an Environment Management Plan, contaminated land, travel plan and electric vehicle infrastructure. Informatives suggested in relation to hours of construction and contaminated land.

CEC PROW: The development affects Wistaston Public Footpath Nos. 1 and 2, as recorded on the Definitive Map of Public Rights of Way. The legal line of footpath no. 2 is shown incorrectly on the plans and the definitive line is obstructed by the housing development.

As there is no currently no proposal for the path to be suitably diverted under the Town and Country Planning Act 1990 (TCPA) by the applicant. Therefore the PROW Team wish to object to the planning application.

ANSA Public Open Space: No comments received as part of this application. As part of the previous application it was stated that:

'The proposal should provide an equipped children's play area. This needs to cater for both young and older children – 6 pieces of equipment for young, plus 6 pieces for older children. A cantilever swing with basket seat, a wide slide, and a ground-flush roundabout would be required, as these cater for the needs of less able-bodied children. All equipment needs to be predominantly of metal construction, as opposed to wood and plastic. All equipment needs to have wetpour safer surfacing underneath it, to comply with BS EN 1177. The surfacing between the wetpour needs to be bitmac. The play area needs to be surrounded by 16mm diameter bowtop railings, 1.4m high, hot dip galvanized and polyester powder coated in green. Two 1.4m high self-closing pedestrian access gates need to be provided – these need to be coloured yellow. A double-leaf vehicular access gate also needs to be provided, with lockable drop-bolts. Bins, bicycle parking and appropriate signage also needs to be provided.'

A contribution for off-site provision (£225,000) towards finishing the restoration work at Queens Park should be secured'

CEC Flood Risk Manager: No objection subject to the imposition of a condition relating to a scheme for the disposal of surface water.

CEC Countryside Access: There are a number of suggestions from local communities logged under the Council's statutory Rights of Way Improvement Plan for the area surrounding the development site. The increase in users arising from the development would result in increased pressure on facilities within the area and therefore the need for these improvements is likely to increase. These suggestions, each of which would require consultation with respective landowners, local community and user groups, include:

- ROWIP Ref. W69: accessibility improvements on the Joey the Swan paths, some of which are currently not accessible to all users due to restrictive access furniture, steps and widths of bridges
- ROWIP Ref H31: upgrade of public footpath no. 1 to bridleway standard for horse riding as part of a wider circular route (this would require the agreement of adjacent landowner to the development site).

- ROWIP Ref. 259: upgrade of paths and furniture within the Joey the Swan area for horse riding
- ROWIP Ref. 309: legal process to record on the Definitive Map the 'missing link' of public footpath within the Joey the Swan park.
- ROWIP Ref. X14: development of promoted circular walks for local communities, including signage, interpretation, access improvements and leaflets.

CEC Archaeology: A condition is suggested should the application be approved.

CEC Education: Request the following contributions: £182,000 for Special Educational Needs Provision (SEN), £596,545.95 for primary provision and £702,735.67 for secondary school provision.

VIEWS OF THE PARISH COUNCIL

Wistaston Parish Council: Object to the application on the following grounds:

- The proposal would have a detrimental impact upon the openness and visual character of the countryside and the health and well-being of residents. The current public footpaths are heavily used for people taking exercise in the open countryside.
- The proposal would be visually detrimental to the landscape at Joey the Swan area which is a natural beauty spot and would cause disturbance to wildlife in the area.
- Cheshire East Council are keen not to create urban sprawl by infilling strategic open gaps. The proposal is located within the last strategic open green gap accessible to the public in Wistaston and would result in erosion of physical gaps between built up areas. Cheshire East Council have afforded their green gap as green belt status in the current Local Plan.
- The proposal does not add anything towards existing community amenities and would have a severe impact on the already oversubscribed schools and medical services of the catchment areas. Other neighbouring developments which are already under construction and in the pipeline would compete with the existing schools and services.
- Wistaston is already considered to be developed to its full capacity. It is expanded to the size of a small town, any large scale developments would lead to urbanisation with Crewe.
- The proposal is in conflict with the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and Cheshire East Council's submitted Local Plan – Shaping our Future Development Strategy for Jobs and Sustainable Communities. New settlements in the Crewe area have already been identified at: Crewe Town Centre; West Street (Dunwoody way); Basford East; Basford West; Leighton West and Shavington.
- The development would have a significant increase in the volume of traffic through Wistaston on adjacent roads and thoroughfares, in close proximity to existing junctions. There are no infrastructure plans for major road improvements. The proposed site access does not address the fundamental problems of increased traffic flow at peak times.
- It is well known in the area that the stretch of Church Lane between Park Drive and Valley Road is a local accident hotspot at peak times. This is also the location of the proposed development sole entry and exit junction. Also cross traffic to/from employment sites on the South East of Crewe along Broughton Lane and Park Drive to Nantwich Road will exacerbate the problem.
- The outline planning proposal for a priority junction off Church Lane does nothing to alleviate the existing problems and increased traffic density particularly at peak times.
- The proposed development would be accessed at an already narrow and overcrowded convergence of roads with narrow bridges by School children and other pedestrians having a detrimental impact on highway safety.

- This land is classed as high grade agricultural land and it is Cheshire East Council's policy to use low grade agricultural land and brownfield sites. Also Cheshire East have a five year housing land supply in place which excludes the land off Church Lane, Wistaston.

Willaston Parish Council: Objects to this planning application on the grounds that the site lies within the Green Gap as defined in Policy NE.4 of the saved Borough of Crewe & Nantwich Replacement Local Plan 2011 and also within the Strategic Open Gap as defined in Policy CS5 of the emerging Cheshire East Local Plan.

REPRESENTATIONS

Letters of objection have been received from 409 local households raising the following points:

Principal of development

- The site is within the Green Gap
- Contrary to Local Plan Policies
- Landscape impact
- The site should be allocated as Green Belt within the Local Plan
- Loss of green land
- The development will fill in a green gap between Crewe and Wistaston
- The application is a land banking exercise
- Erosion of the Green Gap
- The site is identified as a new Green Belt
- The development would be contrary to the NPPF
- The SHLAA identifies that this site is unsuitable for development
- The harm outweighs the benefit of this development
- The Council is able to demonstrate a 5 year housing land supply
- The development will be harmful to the character of the area
- The development will result in urban sprawl
- Approving the development would set a precedent
- There are many unsold homes in Crewe
- There are many empty homes in Crewe
- Crewe Town Centre should be redeveloped first
- There are other sites which are more appropriate for new development
- The sole purpose of this application is to generate profit for the developers
- Crewe and Nantwich will soon be merged
- The proposed development is out of scale compared to Wistaston
- The development will take 5-6 years to complete and it is not reasonable to expect residents to live next to a building site for such a long time
- Impact upon the Green Belt
- The consultation period is timed with a busy holiday period
- The application is a land banking exercise
- Loss of agricultural land
- The application site has amenity value/is a well used open space
- This application has already been rejected once
- Loss of the identity of Wistaston
- The local community are not in favour of this development
- This application is no different to the previous refused application
- Intrusion into the open countryside

- Brownfield sites should be developed first
- The proposed development is not sustainable
- The site is an asset of community value
- Lack of employment in the area
- The land is in agricultural use
- The development is contrary to the NPPF
- No need for affordable housing
- The site is contrary to the emerging Cheshire East Local Plan
- No need for further housing in Wistaston
- Loss of village identity
- The development would create urban sprawl
- There should be a concentration on employment before housing
- Brownfield sites should be developed first
- The development is unsustainable
- There are currently 570 houses and 32 flats for sale in Crewe
- This application will open the flood gates for further development
- This site acts as a 'green-lung' for the area
- The application is for the financial gain of the developer

Highways

- Increased traffic
- Cumulative highways impact from other developments in the area
- Local roads are used as a rat run
- Increased on-street parking
- Dangers caused by construction traffic
- Church Lane is very busy
- Existing queuing traffic along Church Lane
- Pedestrian safety
- The increase in traffic will be a danger to school children going to school
- Traffic congestion along Middlewich Road and Crewe/Nantwich Road
- The proposed access would create a staggered junction
- Church Lane is narrow and twisty
- Existing congestion problems at Middlewich Road/Wisaston Green road
- Additional vehicles on the road
- Highway safety at the Rising Sun junction
- Increased traffic will impact upon an existing ambulance route
- Health and safety impact
- The access would not be safe
- Highway safety
- Traffic problems caused by another junction onto Church Lane
- Unsafe access at an accident blackspot
- Traffic congestion at the Joey the Swan/Broughton Lane junction
- Traffic/parking problems during the construction phase of the development
- Impact upon the safety of cyclists
- The footpath network need to be upgraded
- Increased accidents

Green Issues

- Landscape impact

- Impact upon wildlife
- Impact upon protected species
- Pollution run-off into Wistaston Brook
- Loss of the last green space in Wistaston
- Increased water run-off into Wisaston Brook
- Impact upon biodiversity
- Landscape impact
- Impact upon trees
- Increased air pollution
- Loss of Green Land
- Loss of hedgerows
- Loss of important woodland
- The site is elevated and the development would be highly prominent
- The trees on the site should be protected

Infrastructure

- The drains are inadequate and there are potential flooding issues
- The site suffers drainage problems
- The sewer system is at capacity
- Increased flooding at Joey the Swan
- Impact upon social care infrastructure
- There are no plans for school extensions in this area
- Local sewage infrastructure cannot cope with further development
- Leighton Hospital is at capacity
- Doctors surgeries are full
- The local Primary School is already full
- The local pre-schools are full
- There is no capacity at local secondary schools
- Impact upon local shops
- The local dentists are full
- Impact upon the play area at Joey the Swan
- Impact upon electricity infrastructure
- Risk of flooding
- Insufficient medical services

Amenity Issues

- Impact upon health and well being
- The fields are used for public enjoyment
- The site is well used by dog walkers
- Impact upon the PROW
- Visual impact
- Noise and disruption from construction of the dwellings
- Increased dust
- Increased noise
- Increased light pollution

Other issues

- Loss of views
- Lack of public consultation

- There is Japanese Knotweed on this site
- Residents should be compensated if this development is allowed
- The density and style of development is not appropriate
- Loss of property value

A petition signed by 7 local residents has been received objecting to the scheme.

A letter of objection has been received from Sustrans raising the following points:

- **Peacock roundabout, A534/A51** - In expanding the widths of entries/exits at the roundabout, the applicant's design shows the removal of the current footway/cycle track. There is no indication of what will happen to this circulatory footway/cycle track. This was installed specifically to help the less confident at this busy junction. The refuge on Park Road is essential to help cross that road in two stages. The applicant's design shows this being removed. There is no indication of how pedestrians and cyclists will cross the widened entries/exits in a safe, convenient way. This junction is set to see more traffic resulting from approvals for Wardle and Kingsley Fields; it is essential that safe, convenient crossings are provided, on-line, for pedestrians and cyclists.
- **Wistaston Green Road/Middlewich Road** - The crossing at Wistaston Green Road should be a toucan to accommodate the Crewe-Nantwich greenway. In order to install the traffic lights, the applicant's design shows a left turning lane from Middlewich Road taking up the current footway/cycle track, recently widened with DfT funding to CEC via Sustrans. There is no indication of what is to happen with this footway/cycle track and how it relates to the Crewe - Nantwich greenway. The toucan crossing of Middlewich Road on the Crewe - Nantwich greenway, on the Nantwich side of the Rising Sun, is essential for the continuity of the route. We would not like to see this removed or downgraded in any manner to accommodate more traffic at this junction.
- **Church Road** - The applicant's proposals show road widening to accommodate a right turning lane. The refuge proposed should be deeper and for shared pedestrian/cycle use to help local people cross the road, which will become busier.

An objection has been received from Edward Timpson MP raising the following points:

- The Wistaston Green Gap should be retained in its entirety
- The open green space and Joey the Swan are well used by the local community and should not be built on
- Cheshire East has over 7 years housing supply
- The infrastructure in Wistaston is already under pressure
- Support for the objections raised by local residents

An objection has been received from the Hands Off Wistaston Action Group raising the following points:

- Hands Off Wistaston share the concerns of many other local residents that should this application go through then it will have a significant detrimental impact on the immediate area and the wider Wistaston landscape.
- Over 1,290 objections have been submitted to the previous proposal on this site by Gladman. It is a clear mandate from the local population that they not want this development. This is localism in action – local people making it clear what they value as a community asset – and Hands of Wistaston urge Cheshire East Council to take these views on board and refuse this application.

- There are many areas within Cheshire East – and indeed Crewe and Nantwich – where development will be welcomed; brownfield land, land identified as a preferred site by Cheshire East Council. This site meets neither of those criteria. There is no need to develop this green gap, agricultural land valued by the community.
- The site and adjacent land provides a habitat for a number of species, including protected species such as Great Crested Newts. Water voles and Pipistrelle bats have also been observed, among other species.
- The local road network, particularly around the Middlewich Road junction, is already at or near capacity. Further increases in traffic will make the roads more congested and dangerous. The proposed access routes will make road traffic accidents more of a risk and will significantly add to local congestion.
- This is good quality agricultural land, mostly MAFF grade 2/3a. This should be retained for agricultural use. The loss of this land will be detrimental to local agricultural output.
- This field is heavily used by residents for leisure purposes and provides a significant contribution to local health and wellbeing. It provides an area to exercise and reduce stress, preventing further strain on an already overstretched hospital and local GP surgery – which cannot handle even more patients should local developments proceed.
- This application is focused on one issue – how to maximise profit opportunities. It is clear that Gladman's profits from this site would be greater than developing a brownfield site. However, the impact on the local community will far outweigh and monetary value that Gladman place on the land. For the sake of current and future Wistonians, this application must be refused.

A letter of objection has been received from the Wistaston Conservation Group raising the following concerns:

- This application is identical to application 13/2649N which drew many hundreds of objections; these included the MP for Crewe and Wistaston, Chair of Cheshire East Council and other County Councillors, Wistaston Parish Council and other community and environmental groups. This is the last green space left in Wistaston and its loss would have an unacceptable impact on the health and well being of this community.
- Leighton Hospital, local GP surgeries and local schools are already running at full capacity.
- The proposed new road junction onto Church Lane would have an unacceptable impact on what is already a very busy road. Within 100 metres there would be a narrow bridge and four road junctions with the new development generating an estimated 500 additional vehicles.
- During periods of heavy rainfall, raw sewage is occasionally discharged directly into Wistaston Brook. A further 300 family dwellings would completely overwhelm the local foul water and drainage systems.
- The development directly contravenes the national Green Gap policy and would be one more step toward Crewe and Nantwich merging into one amorphous urban sprawl.
- The vast majority of local people do not want this development but do want to keep the last piece of open green space in the parish for present and future generations to enjoy.
- The first application (13/2649N) was heavily rejected by this community, this identical application should also be refused for the same reasons. Indeed it is a wonder to many local people, that after so many objections, why was the same application was allowed to go forward.

The full content of the objections is available to view on the Councils Website.

APPRAISAL

The key issues are:

- Loss of open countryside
- Impact upon the Green Gap
- 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 Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states 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.

Housing Land Supply

Paragraph 47 of the National Planning Policy Framework (“the NPPF”) 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 help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance (“the NPPG”) indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

The last 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 published his interim views based on the first three weeks of Examination in November 2014. He concluded that the Council’s calculation of objectively assessed housing need is too low. He 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, officers 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 Examination of the Plan was suspended on 15th December 2014.

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 in the form of the "*Cheshire East Housing Development Study 2015 – Report of Findings June 2015*" produced by Opinion Research Services, has now taken place.

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.

The definitive methodology for buffers and backlog will be resolved via the Development Plan process. However the indications from the work to date suggests that this would amount to an identified deliverable supply target of around 11,300 dwellings.

This total would exceed the total deliverable supply that the Council is currently able to identify. As matters stand therefore, the Council remains unable to demonstrate a 5 year supply of housing land. On the basis of the above, the provision of housing land is considered to be a substantial benefit of the proposal.

Green Gap

In this case, the application site is within the Green Gap. Therefore, as well as being contrary to Policy NE2 (Open Countryside) it is also contrary to Policy NE.4 (Green Gaps) of the Local Plan which states that approval will not be given for the construction of new buildings or the change of use of existing buildings or land which would:

- result in erosion of the physical gaps between built up areas;
- adversely affect the visual character of the landscape.

A development of the scale proposed will clearly erode the physical gap between Wistaston and Nantwich. It is also considered that it will adversely affect the visual character of the landscape. This is discussed in greater detail below.

Policy NE.4 goes on to state that exceptions to this policy will only be considered where it can be demonstrated that no suitable alternative location is available. It is considered that there are many other sites within Cheshire East which, although designated as Open Countryside, are not subject to Green Gap policy and can be used to address the Council's housing land supply shortfall and which would not contravene policy NE4.

Turning to the question of whether, in the light of the lack of a 5 year supply, Policy NE4 should be considered to be a housing land supply policy and / or out of date, Green Gap policy has a specific planning purpose – to avoid settlements merging. This is not a housing supply policy purpose. Whilst Open Countryside areas also have specific roles (including the protection of the Countryside for its own sake, in accordance with NPPF paragraph 17.(v)) open countryside policy does not have the special, additional function of ensuring that two settlements remain separate (that is the function of Green Gaps). Hence Green Gaps are not a function of Open Countryside policy; rather Green Gaps have their own specific function.

The Courts have ruled that the interpretation of policy is a matter of law, and the above stance is supported by Ousley J in the Barwood case who draws a distinction between general open countryside policy and policies which protect gaps between settlements. It has also been the approach taken by the Secretary of State in the Gresty Oaks and Church Lane Wistaston Appeal cases and Mrs Justice Lang in the High Court decision which led to the quashing of the decision to allow the appeal at Moorfields in Willaston.

Whether a proposed development falls within the definition of “*sustainable*” development is a question of fact for the decision maker’s assessment in the circumstances of any individual case. However, as it is located within Green Gap, this case profits from a very clear reflection on the meaning of that expression applied to similar circumstances, and this is to be found in Bloor Homes East Midlands Ltd. V. SOSCLG [2014]:

“On any sensible view, if the development would harm the Green Wedge by damaging its character and appearance or its function in separating the villages of Groby and Ratby, or by spoiling its amenity for people walking on public footpaths nearby, it would not be sustainable development within the wide scope drawn for that concept in paragraphs 18 to 219 of the NPPF”.

In this case the previous application on this site was subject to an appeal which was dismissed by the Secretary of State. As part of the planning balance contained within his decision the SoS found that:

‘The Secretary of State considers that the harm due to the erosion of the Green Gap separating Wistaston and Nantwich is contrary to the development plan. This weighs heavily against the proposals. This along with the lesser degree of landscape harm and the loss of BMV agricultural land add further moderate weight against the proposal. In addition, the Secretary of State considers that until such time as the Green Gap/Green Belt issue is resolved through the CELP process, it would be premature to undermine that process by releasing this site for housing. In terms of benefits, the Secretary of State concludes that the provision of new homes, including affordable housing, would be an important social and economic benefit and in the context of a lack of 5 year supply of housing attracts significant weight in its favour’

In this case the Green Belt prematurity issue has now fallen away as part of the CELP and the issue is no longer in contention. However the development still contravenes the Green Gap policy which renders the development unsustainable and consequently, it does not benefit from the presumption in favour under Paragraph 14 of the NPPF.

SOCIAL SUSTAINABILITY

Affordable Housing

The site falls within the Crewe sub-area for the purposes of the Strategic Housing Market Assessment (SHMA) update 2013. This identified a net requirement for 217 affordable units per annum for the period 2013/14-2017/18. Broken down this is a requirement for 50 x 1 bed, 149 x 3 bed, 37 x 4+ bed general needs units and 12 x 1 bed and 20 x 2 bed older persons accommodation. The SHMA showed an over-supply of 2 bed units.

In addition to this information taken from Cheshire Homechoice shows there are currently 1482 live applicants who have selected one of the Crewe lettings areas. These applicants require 511 x 1 bed, 574 x 2 bed, 303 x 3 bed, 54 x 4+ bed units.

As there is affordable housing need in Crewe there is a requirement for affordable housing to be provided at this site and the tenure split of the affordable dwellings should be 65% social or affordable rent and 35% intermediate tenure. The affordable housing should be provided on site.

In this case the type of property required will be negotiated at the Reserved Matters stage if this Outline application is approved.

Public Open Space

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. In this case the level would be 10,500sq.m and the indicative plan shows that the developer will provide 1.54 hectares of amenity green space and 3.05 hectares of green infrastructure. This would exceed the requirement for Policy RT.3 by a considerable margin and is considered to be acceptable.

In terms of children's play space this would be provided on site and the applicant has indicated that they are willing to provide a LEAP with 12 pieces of equipment as requested by the POS Officer as part of the last application.

The suggested contribution towards Queens Park does not meet the CIL tests as there is adequate provision of open space on the application site and the contribution is not necessary to make the development acceptable in planning terms. It should also be noted that Queens Park is approximately 2,500 metres from the application site.

Local residents have raised concern that the development of the site would impact upon health and well being and the application site is used for public enjoyment. However the application site is in agricultural use with no recreational designation within the Local Plan whilst the PROW would be retained in-situ (the impact upon the PROW is discussed below). The development would result in the creation of 4.59 hectares of amenity green space, green infrastructure and a LEAP. As a result it is considered that the development would result in a benefit in terms of the recreational value of the site.

Location of the site

To aid this assessment, there is a toolkit which 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) – 307m
- Children’s Play Space (500m) – 440m
- Public House (1000m) – 511m
- Primary School (1000m) – 535m
- Public Right of Way (500m) – On site
- Convenience Store (500m) – 473m
- Post office (1000m) – 839m
- Pharmacy (1000m) – 521m
- Child Care Facility (nursery or crèche) (1000m) - 596m
- Community Centre/Meeting Place (1000m) – 307m
- Outdoor Sports Facility (500m) – 300m

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 amenities are:

- Bus Stop (500m) – 512m
- Secondary School (1000m) – 1294m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 3700m
- Medical Centre (1000m) - 2320m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Wistaston, there are some amenities 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. Nevertheless this is not untypical for suburban dwellings and will be the same distances for the residential development on Church Lane from the application site. However, all of the services and amenities listed are accommodated within Crewe and are accessible to the proposed development on foot or via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Education

The proposed development would generate 55 primary school pupils and 43 secondary school pupils.

In term of primary school places the table below shows that although there is currently capacity at the local primary schools this is not forecast to be the position by 2017 (when including the revised NET CAP at the Berkeley. As a result it is necessary to secure a contribution towards primary

school education to mitigate the impact of this development and a contribution of £596,545.95 will be secured as part of a S106 Agreement.

	PAN	PAN	NOR	NET CAP	Revised			PUPIL FORECASTS based on October 2014 School Census					
	Sep-15	Sep-16	May-15	May-15	NET CAP	UNFILLED PLACES	UNFILLED PLACES %	2015	2016	2017	2018	2019	
Primary Schools													
Underwood west	60	60	439	470	470	31	6.60	476	501	514	526	535	
Wistaston Church Lane	60	60	418	420	420	2	0.48	421	422	418	418	417	
St Michael's	60	60	374	420	420	46	10.95	407	418	422	421	420	
gainsborough	60	60	416	420	420	4	0.95	418	417	412	411	409	
Wistaston Academy	60	60	391	420	420	29	6.90	392	387	387	381	375	
beechwood	45	45	311	315	315	4	1.27	333	335	364	371	369	
brierley	30	30	204	210	210	6	2.86	210	213	219	221	221	
Edleston	30	30	209	210	210	1	0.48	213	211	208	208	207	
Pebble Brook	45	45	241	315	315	74	23.49	256	273	284	286	285	
Shavington	30	30	221	210	210	-11	-5.24	224	277	330	363	385	
St Mary's	90	90	572	630	630	58	9.21	572	572	560	548	536	
Vine Tree	30	30	209	210	210	1	0.48	209	210	206	205	203	
Willaston	30	30	210	210	210	0	0.00	216	224	235	242	246	
The Berkeley	60	60	373	330	420	-43	-13.03	377	383	391	393	390	
Highfields	30	30	212	210	210	-2	-0.95	214	219	216	216	216	
OVERALL TOTAL	720	720	4,800	5000	5090	200	4.00	4938	5062	5166	5210	5214	
OVERALL SURPLUS PLACES PROJECTIONS								62	-62	-166	-210	-214	
OVERALL SURPLUS % PROJECTIONS								1.24	-1.24	-3.32	-4.20	-4.28	
OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP								152	28	-76	-120	-124	
OVERALL SURPLUS % PROJECTIONS based on Revised NET CAP								2.99	0.55	-1.49	-2.36	-2.44	

In term of secondary school places the table below shows that there is capacity within a number of schools within the vicinity of the site (11 spaces by 2021). However this table does not include the children generated from other approved developments in the area and when this is added it would leave a negative position and a contribution would be required. As a result it is necessary to secure a contribution towards secondary school education to mitigate the impact of this development and a contribution of £702,735.67 will be secured as part of a S106 Agreement.

	PAN	PAN	NOR (exc 6th Form)	NET CAP				PUPIL FORECASTS based on October 2014 School Census						
	Sep-15	Sep-16	May-15	May-15		UNFILLED PLACES	UNFILLED PLACES %	2015	2016	2017	2018	2019	2020	2021
Secondary Schools														
Sir William stanier	210	210	843	1050		207	19.71	836	872	919	996	1058	1100	1143
Kings grove	156	156	544	780		236	30.26	547	551	539	546	600	602	621
malbank	210	210	872	1050		178	16.95	877	905	973	1018	1065	1107	1137
Shavington	170	170	554	850		296	34.82	542	597	645	670	713	739	755
Ruskin	140	140	490	666		176	26.43	470	459	476	492	497	507	525
St Thomas More	128	128	649	642		-7	-1.09	642	646	656	673	686	685	693
Brine Leas	215	215	1,080	1050		-30	-2.86	1117	1143	1180	1192	1203	1204	1203
OVERALL TOTAL	1229	1229	5,032	6088		1056	17.35	5031	5173	5388	5587	5822	5944	6077
OVERALL SURPLUS PLACES PROJECTIONS								1057	915	700	501	266	144	11
OVERALL SURPLUS % PROJECTIONS								17.36	15.03	11.50	8.23	4.37	2.37	0.18

A development of this size is also expected to generate 4 children with special educational needs (SEN). In order to mitigate the impact of this development a contribution of £182,000 will be required as part of this development.

Health

A number of the letters of objection raise concerns about the impact upon health provision in this area. In response to this issue there are 8 medical practices within 3 miles of the site and according to the NHS choices website all are currently accepting patients indicating that they have capacity.

ENVIRONMENTAL SUSTAINABILITY

Landscape

The supporting landscape assessment correctly identifies the baseline landscape of the application site and surrounding area, and refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge, and Cheshire Landscape Character Type in which the application site is located, East lowland Plain, and specifically the character area, ELP5: Wimboldsley. The Councils Landscape Architect is satisfied with the baseline landscape character information submitted. The appraisal does appear to be based on the Guidelines for landscape and Visual impact Assessment, Third Edition.

In this case the issue of the landscape impact was considered by the SoS as part of the appeal decision on this site. In this case it was found that:

‘While agreeing with the Inspector that the landscape is clearly valued locally (IR114), the Secretary of State also agrees with him that the evidence in this appeal falls short of proving that the appeal site has such visual landscape quality in its own right as to make its loss unacceptable on the grounds of that aspect of policy NE4 (IR110-113) and that any visual impact on the landscape would be limited to the site and its immediate environs (IR115)’

As part of his planning balance the SoS found that:

‘the lesser degree of landscape harm and the loss of BMV agricultural land add further moderate weight against the proposal’

Highways Implications

The development would have a single vehicular access point onto Church Lane with a simple priority junction and ghost island right turn lane.

The design of the access accords with Manual for Streets and the applicant has provided a plan to show that visibility splays of 2.4m x 43m can be achieved (on a 30mph road visibility splays of 2.4m x 43m are required according to Manual for Streets). The proposed site access is predicted to operate well within its theoretical capacity in all assessment scenarios and can accommodate the traffic forecast to be generated by the proposed development.

In terms of increased vehicle movements, the Transport Assessment submitted with the application identifies that traffic from the site would impact upon a number of junctions in the area and mitigation would be required. The impact upon these junctions is considered below and this also considers a number of committed developments within the area (Shavington Triangle, Coppenhall East, Parkers Road, Gresty Green Road, Rope Lane and Basford West). The proposed development is forecast to generate a two-way total of approximately 191 trips in the AM peak hour and 210 trips in the PM peak hour.

The test that highways impact needs to be considered against is contained within the NPPF which states that:

‘Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’

A534/A51 'Peacock Roundabout'

This junction is currently at or close to capacity and the submitted TA identifies that this junction is predicted to operate in excess of its actual capacity in all scenarios.

In this case there is a scheme of improvements within the CEC Infrastructure Plan which is costed at £705,000 (there is already one contribution for this improvement to the sum of £100,000). In terms of this application it has been negotiated that the developer will fund the balance of this sum (£605,000) on a phased basis and this will be secured via a S106 Agreement. This scheme of works would mitigate this development.

A530/Wistaston Green Road

This junction has a history of injury accidents until the introduction of a local safety scheme in recent years and the junction is now considered to operate safely.

The program used to analyse this junction does not incorporate into the design the effect of rolling queues which occur at this location and the interaction with other junctions. The proposed development would impact on this junction and the developer is offering a traffic signal junction to mitigate the impact.

The Strategic Highways Manager has stated that he is keen to *'secure a capital sum equivalent to the provisional costs of the installation of this signal junction so that the Highway Authority can observe the operation of this junction as the proposed development builds out (assuming a permission), and then utilise the funding to appropriately treat the strategic A530 link passing this junction, once the prevailing traffic conditions have been assessed'*.

The applicant has offered to upgrade this junction as part of their off-site highways works. However the SHM has stated that he would prefer a contribution which could be spent as part of a wider CEC improvement scheme along the A530. As a result a sum of £300,000 has been agreed towards mitigating the impact at this junction and this will be secured as part of a S106 Agreement.

Other Junctions

It is accepted that there will also be impacts at the following junctions:

- Church Lane/A534 Crewe Road
- Brookland Avenue/A534 Crewe Road
- Park Drive/Church Lane
- Broughton Lane/Church Lane

There is no traffic management in terms of on-street parking orders within the vicinity of these junctions and the Strategic Highways Manager has requested a contribution for the management of these junctions which will be impacted by the proposed development. As a result it is requested that a contribution of £20,000 be secured for the analysis and treatment of the junctions as the development is constructed and commences its traffic generation.

Public Transport

The developer is promoting sustainable transport options and the pedestrian links on this site would direct pedestrians towards the bus stops on Church Lane. The developer has agreed to upgrade these bus stops and a sum of £25,000 would be secured as part of a S106 Agreement.

Highways Conclusion

The proposed access is of an acceptable design and would comply with Manual for Streets. The wider traffic impact would be concentrated on the Peacock Roundabout and Wistaston Green Road/A530 and contributions would be secured for schemes of mitigation. There would be more minor impact upon the four junctions listed above which would be subject to a contribution towards treatment and analysis. In terms of public transport a contribution would be secured towards upgrading the bus stops on Church Lane. Subject to the contributions which would secure mitigation the impact upon the development could not be described as severe (the test contained within the NPPF).

Amenity

In terms of the surrounding residential properties, these are mainly to the south of the site.

From the rear elevation of the proposed dwellings to the south of the site to the rear elevation of the properties which front onto Church Lane there would be a separation distance of approximately 21 metres. This distance meets the required separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The final details in terms of layout and separation would be dealt with at the reserved matters stage.

Due to the separation distances involved, no other residential properties would be affected.

The Environmental Health Officer has requested conditions in relation to hours of operation, environmental management plan, external lighting, and contaminated land. These conditions will be attached to any planning permission.

Air Quality

There are two Air Quality Management Areas (AQMA) in Crewe at Wistaston Road and Nantwich Road.

The Transport Assessment accompanying the planning application indicates that the proposal would generate additional road traffic impacts upon both AQMAs. The air quality assessment estimates that there would be an adverse impact in the Wistaston Road AQMA and that 32% of proposal generated road traffic would travel towards the Nantwich Road AQMA and it therefore follows that it would cause an adverse air quality impact.

Monitoring in these areas has shown nitrogen dioxide levels above the national health based objective. 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. For this reason air quality impacts should be considered as a material planning consideration.

One of the twelve core planning principles contained within the NPPF states that planning should:

'contribute to conserving and enhancing the natural environment and reducing pollution'

To prevent unacceptable risks from air pollution, planning decisions should ensure that new development is appropriate for its location. The NPPF states that the effects of pollution on health and the sensitivity of the area and the development should be taken into account and paragraph 124 states that:

'Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan'

The proposed impacts are likely to be relatively small according to the Environmental Health Department but they are concerned about cumulative impacts from other committed proposals in the area.

The Environmental Health Officer considers that the air quality impacts from this development could be mitigated against by providing the proposed travel plan, bus stop improvements within the vicinity of the site and suitable electric vehicle charging infrastructure. Subject to the mitigation measures being secured the Environmental Health Officer has no objection to the development.

Trees and Hedgerows

Trees

The submitted tree report indicates that there are 5 trees which are graded Category A (High Quality/Value), 21 trees which are graded Category B (Moderate Quality/Value), 21 trees which are graded Category C (Low Quality/Value) and 5 trees which are graded U (Unsuitable for retention).

The only tree directly affected by the access is T52, a low value Category C tree located immediately adjacent to the boundary with 127 Church Lane. The Root Protection Area of this tree extends parallel to the proposed highway which can be implemented to the required adoptable standard without having either a direct or indirect impact on the tree.

Apart from the 5 trees graded U all trees would be retained as part of the proposed development. The impact upon trees is therefore considered to be acceptable.

Hedgerows

A section of hedgerow facing directly onto Church Lane will require removal to accommodate visibility splays. The hedge appears to be a relatively recent addition to the landscape, with a number of self set trees allowed to establish within its framework since formal maintenance was last expedited. In this case the hedgerow lost would be of a relatively short length and the loss of hedgerow is outweighed by the need for housing.

Design

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.”

In this case a development of 300 dwellings would result in a density of 32 dwellings per hectare on the developable area of the site (excluding the 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space).

At this stage there is no reason why an acceptable design/layout could be achieved which would comply with Policy BE.2 (Design Standards) and the NPPF.

Ecology

Habitats

Hedgerows

Hedgerows are a Biodiversity Action plan priority habitat and hence a material consideration. Two hedgerows (H1 and H2) on site have been identified as qualifying as UK BAP quality habitat. H2 has also been identified as being Important under the Hedgerow Regulations.

Based upon the submitted Parameters Plan Hedgerows 1 will be lost as a result of the proposed development. The submitted ecological assessment states that this loss would be compensated for by means by new native species hedgerows on the northern boundary of the application site.

The Councils Ecologist advises that if outline consent is granted the provision of the additional hedgerow should be secured by means of a landscaping planning condition.

Marshy grasslands and ponds

The marshy grassland and ponds present on site have nature conservation value and are worthy of retention. These habitats are located within the natural green space areas shown on the submitted parameters plan and it seems likely that they would be unaffected by the proposed development. The retention of these features could be secured by condition if outline planning consent is granted.

However it should be noted that the submitted parameters plan shows Pond 1 as being lost. As this pond is located in the open space area of the development there appears to be no reason why it could not be retained. Therefore if planning consent is granted it is recommend that a condition be attached requiring the retention of all of the ponds on the site.

Grassland Habitats

The ecological assessment submitted in respect of the 2013 application did not identify any evidence that the grassland habitats on site were of significant nature conservation value. The applicant undertook a biodiversity offsetting assessment which identified a potential enhancement of the sites nature conservation value through the enhancement of the retained areas of grassland habitat as part of the development proposals.

The current application is supported by an updated survey undertaken at a slightly better time of year, this recorded a number of additional species that are indicative of better quality habitats and also one species which is indicative of low quality habitats.

The Councils Ecologist advises that whilst it is not possible to fully assess the nature conservation value of the grassland habitats on site, and they may well be slightly better quality than thought in 2013, it is likely that the enhancement of the retained habitats on site would go a long way to compensating for the losses of habitat associated with the development.

It is important that any detailed design put forward the reserved matters stage does actually deliver the enhancements that were included in the applicant's assessment. Therefore a condition would need to be attached to secure this as part of an overall ecological mitigation strategy.

Protected Species

Great Crested Newts

A small population of Great Crested Newts has been recorded at one pond on the eastern boundary of the site and at one pond to the north-west of the site (no more than one GCN was recorded during any of the six trapping sessions). In the absence of mitigation the proposed development would result in the loss of a large area of relatively low value habitat and would also pose the risk of killing or injuring any newts present on site when the works were undertaken.

In order to compensate for the loss of terrestrial habitat the applicant is proposing to retain and enhance the habitat around the eastern, northern and western boundaries of the site. It is also proposed to mitigate the risk of killing or injuring newts through the removal and exclusion of newts from the development footprint using standard best practice methodologies under license from Natural England.

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

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

(b) no satisfactory alternative and

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

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

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon protected species.

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

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

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

In this case the tests would be met as follows:

- If the development was approved it would be because the LPA cannot demonstrate a 5 year housing land supply and there would be reasons of overriding public interest, including those of a social or economic nature with no satisfactory alternative
- There is only a small population of GCN on this site and there would be no detriment to the maintenance of the species population at favourable conservation status in their natural range. The proposed mitigation/compensation would be adequate to maintain the favourable conservation status of GCN. The compensation should include the provision of 1 additional pond on this site.

Breeding birds

The proposed development site is likely to support breeding birds, possibly including the more widespread biodiversity action plan priority species which are a material consideration for planning. The Councils Ecologist advises that the site is unlikely to be of significant ornithological interest, however if planning consent is granted conditions could be attached to safeguard breeding birds.

Bats

The potential impacts of the proposed development on bats is likely to be low and there is no evidence to suggest bats are likely to be roosting on site.

The submitted ecological assessment has identified the potential adverse impact on bats from additional lighting associated with the development. The Councils Ecologist recommends that if

planning consent is granted a condition be attached requiring a lighting scheme for the site to be submitted with any future reserved matters application.

Water Vole

Water voles have been recorded at Wistaston Brook which is adjacent to the sites eastern boundary. The brook will be safeguarded from the proposed development by means of a retained area of natural habitat and open space. The submitted ecological assessment also includes proposals to mitigate the potential indirect impacts of the proposed development upon Water Voles.

If outline consent is granted a condition will be attached requiring any reserved matters application to be supported by an up to date protected species surveys and mitigation proposals.

Reptiles

The application site has limited potential to support reptile species. The habitat with the most potential for reptile species would be retained as part of the proposed development. The Councils Ecologist advises that any residual impacts on reptiles resulting from the proposed development would be mitigated through the implementation of the submitted Great Crested Newt mitigation.

White Letter Hairstreak

This priority butterfly species has been recorded in the locality of the proposed development. The application site is unlikely to be of significant importance for this species. However the development provides an opportunity to deliver an enhancement for this species through the appropriate planting of the Wych Elm, the larval food plant for the species. This matter could be secured by means of an appropriate condition if outline planning consent is granted.

Other Protected Species

No evidence of other protected species was recorded during the submitted survey. The Councils Ecologist advises that based on current survey information this species is unlikely to be present or affected by the proposed development.

PROW

The route of the Public Rights of Way which cross the site would be retained in position as part of this application as shown on the proposed plans. However the Councils PROW Officer has stated that the legal line of footpath no. 2 is shown incorrectly on the plans and the definitive line is obstructed by the housing development.

In this case the application is in outline form and the layout of the housing (and its impact upon the PROW) will be provided at the Reserved Matters stage. This issue can be controlled through the use of a planning condition.

In this case the Countryside Access Officer has requested a number of PROW improvements within the vicinity of the site. Some of these improvements would be controlled via a planning condition whilst others would be off site and would not meet the CIL/Condition tests.

It is not considered that the accessibility improvements to the paths and furniture within Joey the Swan play area would meet the CIL tests as the applicant would provide an over provision of open space within the application site together with a 12 piece LEAP. These suggested improvements would not be necessary to make the development acceptable in planning terms.

The upgrade of PROW No 1 to a Bridleway is within the application site and could be controlled through the use of a planning condition, as would the provision of a link from footpath Wistaston FP2 to Wistaston FP15 with a bridge to cross Wistaston Brook.

Archaeology

A supporting Archaeological Assessment has been submitted with this application and this has been assessed by the Councils own Archaeologist who has suggested that further mitigation should be secured by condition if planning permission is granted.

Agricultural Land Quality

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

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.

In this case a survey of the agricultural land quality has been undertaken and this identifies that 35% of the land is grade 2, 43% is grade 3a and 22% is grade 3b/grade 4.

As part of his planning balance the SoS found that:

'the lesser degree of landscape harm and the loss of BMV agricultural land add further moderate weight against the proposal'

Flood Risk and Drainage

The vast majority of the application site is located within Flood Zone 1 according to the Environment Agency Flood Maps although a small strip along Wistaston Brook is located within Flood Zones 2 & 3. Flood Zone 1 defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site is more than 1 hectare, a Flood Risk Assessment (FRA) has been submitted in support of the application. The submitted plan shows that the area identified as Flood Zones 2 & 3 would not be developed as part of this development.

The FRA identifies that the proposed flows from the development would be connected into Wistaston Brook with flows limited to a Greenfield rate in accordance with the NPPF.

The proposed drainage system will be designed to accommodate a 1 in 30 year event and will be put forward for adoption by United Utilities. The FRA states that overall the development will seek to contain flows up to the 1 in 100 year plus climate change event.

The Councils Flood Risk Officer, the Environment Agency and United Utilities have been consulted as part of this application and have both raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Other issues

From the number of objections received the application site is clearly valued by local residents who use the PROW which cross the site. However the site is not protected as a formal recreational area within the Local Plan and would not be possible to defend an appeal on these grounds.

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, POS and children's play space is a requirement of the Local Plan Policy RT.3. It is necessary to secure these works and a scheme of management for the open space and children's play space. This contribution is directly related to the development and is fair and reasonable.

As discussed above the requested highway contributions are required to mitigate the impact of the development at junctions where there are capacity issues. The contributions are directly related to this development (which would impact upon the junctions) and are fair and reasonably related in scale and kind.

The proposed development would result in increased public transport use from this site and the upgrade of the existing bus stops is reasonably related to this development and necessary to promote sustainable travel from the site.

The proposed development cannot proceed without the highways/bus stop improvements and the contribution is reasonably related in scale and kind to the development.

The development would result in increased demand for primary and secondary school places in the area and there is very limited spare capacity. In order to increase capacity of the schools 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.

CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. Following the recent appeal decisions the Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

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 LEAP this is considered to be acceptable. The provision of a LEAP would provide a facility for future residents and other residents in Wistaston.
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in the area.

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 development would not have a severe impact upon the highway network subject to mitigation

The adverse impacts of the development would be:

- The erosion of the Green Gap between Wistaston and Nantwich – The SoS found that this weighed heavily against the last application
- The landscape impact and the loss of agricultural land add further moderate weight against the proposal

The adverse impacts in approving this development and would significantly and demonstrably outweigh the benefits of the development. As such the application is recommended for refusal.

RECOMMENDATIONS

REFUSE for the following reasons:

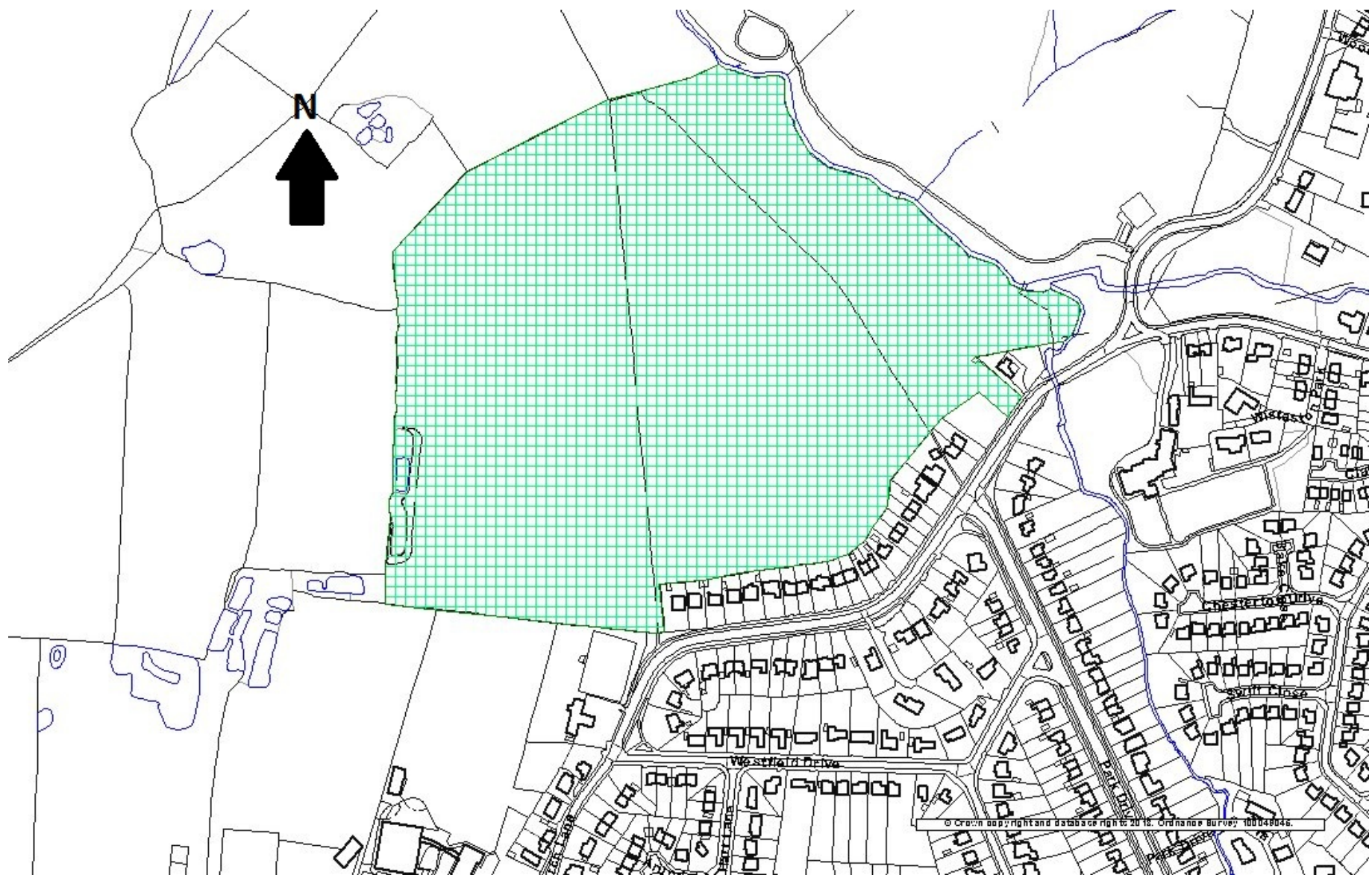
- 1. The proposed development would result in a loss of open countryside, cause a significant erosion of the Green Gap between the built up areas of Wistaston and Nantwich, have a moderate landscape impact upon the site and the immediate environs**

and result in the permanent loss of BMV agricultural land. As such the adverse impacts would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies NE.2 (Open Countryside), NE4 (Green Gaps) and NE.12 (Agricultural Land Quality) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and guidance contained within the NPPF.

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 (Regulation) 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 is approved to enter into a S106 Agreement to secure the following:

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. The provision of 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space to be maintained by a private management company
3. Highways contribution £605,000 towards the Peacock roundabout
4. Highways contribution of £300,000 towards the junction of the A530/Wistaston Green Road and its approaches
5. Contribution of £25,000 towards bus stop upgrades
6. A primary school education contribution of £596,545.95
7. A secondary school education contribution of £702,735.67
8. A contribution towards SEN £182,000



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