

Application No: 14/0128N

Location: Land to the north of Main Road, Wybunbury

Proposal: Outline planning application with all matters reserved (apart from access) for up to 40 dwellings, incidental open space, landscaping and associated ancillary works.

Applicant: The Church Commissioners for England

Expiry Date: 10-Mar-2015

SUMMARY

The proposed development would be contrary to Policy NE.2 and RES.5 and the development would result in a loss of open countryside. In this case Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites. However, as Wybunbury Moss is identified as a Special Area of Conservation and a Ramsar Site the NPPF states that Wybunbury Moss should be given the same protection as a European site and an assessment under the Habitats Directives is required. As a result the presumption in favour of sustainable development (paragraph 14 of the NPPF) does not apply to this application.

In this case specific policies in this Framework indicate development should be restricted on this site and as such the application is recommended for refusal due to its impact upon Wybunbury Moss.

RECOMMENDATION

REFUSE

REASON FOR REFERRAL

This application is referred to Strategic Planning Board as it includes an Environmental Statement.

The application is also subject to a call in request from Cllr Clowes which requests that the application is referred to Committee for the following reasons:

'This application has been brought to my attention by Wybunbury Parish Council and Hough and Chorlton Parish Council, together with the adjacent neighbours and the Wybunbury Moss Voluntary Warden. All parties object to this application on the following material grounds:-

1. This application is proposed on a site that does not feature in the SHLAA (in any format)

2. *The site is Grade 2 agricultural land (this is in direct contradiction of the NPPF)*
3. *This application is for 40 homes which in the context of a small village constitutes over-development*
4. *Wybunbury Village has already seen applications granted for significant developments which represent an increase in the residential dwellings of 80% (12/3114N 350-400 homes (130 affordable) on the 'Triangle' site, 13/4635N 30 affordable homes at the Bridge Street site)*
5. *In 2012 Wybunbury Parish Council and Hough and Chorlton Parish Council each completed Housing Needs Assessments (in line with CEC procedure and protocol). Wybunbury PC identified a need for 16 homes and Hough and Chorlton identified that there was no identified need in the next 5-7 years. These figures have already been exceeded multiple times. Further development will substantially alter the unique rural and historic characteristics of Wybunbury Village and exacerbate already present issues of sustainability. These villages lie outside the accepted sustainability ranges for GP's, leisure facilities, train station, regular public transport. So too primary schools in both Wybunbury and Shavington are heavily over-subscribed (even before the developments are completed).*
6. *This site lies adjacent to the RAMSAR SSSI site of Wybunbury Moss (less than 200m. This rare Moss and wetland is highly vulnerable to surface drainage such as that created from this kind of development. Previous development in the 1970s (Moorlands drive a & b) – also on the north side of Main Road, Wybunbury had to have its drainage systems diverted away from fields lying between the development and the moss, when surface water flows impacted upon the moss and its acidity levels. This development is therefore considered to be detrimental to the sustainability of a valued SSSI site and is contrary to the NPPF.*

PROPOSAL

This is an outline planning application for the erection of up to 40 dwellings. Access is to be determined at this stage with all other matters reserved.

The proposed development includes a single access point onto Main Road which would be located to southern boundary of the site.

This application is accompanied by an Environmental Statement.

SITE DESCRIPTION

The site of the proposed development extends to 1.6 ha and is located to the north-eastern side of Main Road, Wybunbury. The site is within Open Countryside. The site is located at a bend in the road and includes residential development to the south-east and opposite (fronting Main Road and Chads Green), a property known as Pinfold Farm is located to the north of the site.

The majority of the site is currently in agricultural use and forms one field. The site is enclosed by hedgerows and a number of mature trees to the northern and eastern boundaries (Three of Oak trees to the northern boundary of the site are covered by a Tree Preservation Order). A Public Right of Way (Wybunbury FP10) crosses the application site.

To the east of the site is Wybunbury Moss which holds a number of statutory nature conservation designations (National Nature Reserve, Site of Special Scientific Interest (SSSI), Special Area of Conservation, Ramsar Site).

RELEVANT HISTORY

14/0524S – EIA Scoping for 40 dwellings – Scoping Letter issued 11th March 2014

13/5302S – EIA Screening for 40 dwellings – EIA Required 22nd January 2014

NATIONAL & LOCAL POLICY

National Policy

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

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

109-125 Conserving and Enhancing the Natural Environment

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.5 (Nature Conservation and Habitats)

NE.6 (Sites of International Importance for Nature Conservation)

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

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
Environmental Impact Assessment Regulations 2011

CONSULTATIONS

Environment Agency: The proposed development site is within close proximity to Wybunbury Moss Site of Special Scientific Importance (SSSI), Special Area of Conservation (SAC) and Ramsar site. Therefore the Environment Agency would suggest that the advice of Natural England is sought regarding the potential impact the development may have on Wybunbury Moss.

Natural England: Object due to the potential impacts of this development on the qualifying features the West Midland Mosses Special Area of Conservation (a European site), the Midlands Meres and Mosses Phase 1 Ramsar site and the features of interest of Wybunbury Moss Site of Special Scientific Interest (SSSI). These features are particularly sensitive to hydrological changes.

Natural England advise that the impacts still have not been adequately described or assessed by the applicant in the ES Addendum and associated technical reports. Natural England also advise that the proposed mitigation scheme does not adequately address the potential impacts, or provide sound evidence that the proposed measures have taken into account the specific hydrological functioning and characteristics of the areas of Wybunbury Moss and its catchment likely to be affected by the development.

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

National Planning Casework Unit: No comments to make on this application.

Cheshire Brine Subsidence Compensation Board: The site is not within the Board's formal consultation area but in view of the location of the proposed development, the Board would make the following comments.

On page 8 of the desk study report there is a recommendation to contact the Board in relation to subsidence due to salt extraction; this has not been undertaken, and neither has a CON29M brine search been obtained. Whilst the geological setting has been recognised in the report, the division between strata susceptible to dissolution and strata that is not, is a geological fault; it would be prudent to ensure that any subsequent site investigation at the site seeks to prove the geological setting but as boreholes to 5m only have been recommended in the report, it could be argued that potential ground stability issues have not been fully addressed.

NHS England: Request a contribution for mitigation of £38,763.

CEC Head of Strategic Infrastructure: No objection subject to the imposition of a planning condition.

CEC Environmental Health: Conditions suggested in relation to environment management plan, piling method statement, noise mitigation, dust control, travel plan, electric vehicle infrastructure and contaminated land. Informatives are also suggested in relation to contaminated land and hours of operation.

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

CEC Strategic Housing Manager: No objection the applicant in their accompanying Planning Statement outlines that they will be providing 30% affordable housing.

Ansa (Public Open Space): A contribution of £30,000, for improving the existing nearby children's play area off Main Road, Wybunbury should be secured as part of this development.

Campaign to Protect Rural England: This planning application is contrary to the NPPF, contrary to the emerging Cheshire East Local Plan and contrary to the Crewe and Nantwich Replacement Local Plan. It is based on an environmental statement which is somewhat lacking and it leaves many questions unanswered. The application should be refused.

Cheshire Wildlife Trust: A specialist report (WWT October 2014) relating to the hydrology of the development site and the nearby Wybunbury Moss SSSI, SAC, RAMSAR concluded that it was '*not possible to conclude exactly how much of an influence the proposed development area has on the features of Wybunbury moss*' and '*it is clear that there is a subsurface connection between the field and the Moss*'. The report also stated that all surface water generated on site should be '*allowed to infiltrate to ground to maintain groundwater recharge*' and '*treatment of surface water is essential to maintain the quality of the groundwater*'. The report also acknowledged that treatment of the water could be achieved by the 'integration of SuDS systems'.

CWT believe that, given the importance of maintaining the infiltration of unpolluted ground water from the development site to the Moss, the detailed design of the SuDS system should be submitted and approved by Natural England prior to determination.

CEC Education: A contribution of $7 \times 11919 \times 0.91 = \text{£}75,924.03$ is required towards primary education. A contribution of $5 \times 17959 \times 0.91 = \text{£}81,713.45$ is required towards secondary education. Total: $\text{£}157,637.48$

Mid-Cheshire Footpaths Society: No representations with respect to the proposed development. Should the application be approved however, the Mid-Cheshire Footpaths Society would ask that the applicant be made aware of the obligations to keep FP Wybunbury 10 open and walkable at all times and not as an estate road.

CEC PROW: No objection the applicant has agreed to submit an application to divert FP10 Wybunbury and CEC PROW are happy with the proposed route.

SUSTRANS: If this land use is considered appropriate, and is approved by the council's planning committee SUSTRANS comments are as follows:

- The Crewe and Nantwich circular walk passes through this site, as a rural route. The layout of the estate should ensure that this popular path is sited in attractive open space, not along dreary estate roads and is signed throughout.
- SUSTRANS would like to see a separate entrance to the site for pedestrians and cyclists away from the proposed single road entry.
- SUSTRANS would like to see the proposed refuge on Main Road designed to accommodate cycles as well as pedestrians.
- The design of estate roads should restrict vehicle speeds to less than 20mph.
- The design of any smaller properties without garages should include storage areas for residents' buggies/bikes.
- SUSTRANS would like to see travel planning set up for the site with targets and monitoring and with a sense of purpose.

VIEWS OF THE PARISH COUNCIL

Wybunbury Parish Council: Wybunbury Parish Council, in its role as representing the people of Wybunbury, support the numerous objections lodged against planning application 14/0128N. The objections, including those of Mrs Janet Clowes, our Ward Councillor, comprehensively list the reasons why approval of this planning should not be granted. The Parish Council also notes that Mr Edward Timpson, our Member of Parliament, has also supported the resident's objections to this planning application.

Wybunbury has seen substantial development over the past twenty-five years, from approximately 500 dwelling to 650. With this planning application for a further forty houses and recent approvals for homes on the Triangle and Bridge Street will mean that Wybunbury will have doubled in size and will be unrecognisable from the character village that drew people to it. For this reason alone this planning applications must not be approved.

REPRESENTATIONS

Letters of objection have been received from 86 local households raising the following points:

Principal of development

- The site is within the open countryside
- This site is at a prominent location at the entrance to Wybunbury village
- The site is not included within the SHLAA
- The development would be contrary to the Cheshire East Local Plan
- There are a number of housing developments under way in this area
- The Council is now able to demonstrate a 5 year housing land supply
- Overdevelopment of the village
- Loss of Grade 2 agricultural land
- Cumulative impact of already approved developments in the area
- There are no benefits to the local community
- Wybunbury will lose its village status and will become a dormitory settlement to serve Crewe
- There are no jobs within the village
- There is no need for further housing according to the Parish Council Local Housing Need Surveys
- The proposed development would be out of character with the historic village
- The Environmental Statement does not identify what alternative sites have been considered prior to the submission of this application
- The site is within the Green Gap
- The site is proposed to be Green Belt within the Cheshire East Local Plan
- There are numerous alternative sites for this proposed development
- Loss of peaceful open countryside
- Development within the other settlements and rural areas should be small scale
- The development is contrary to the Crewe and Nantwich Local Plan
- The development is contrary to the Cheshire East Local Plan
- Brownfield sites should be developed first
- Erosion of the distinct character of Wybunbury
- There is no need for additional affordable housing in the village
- Loss of agricultural land

Highways

- The access is located on a blind bend
- There is insufficient car parking
- There is no footway on the northern side of Main Road
- Planning permission has been refused twice for a new access at 133 Main Road
- The development cannot achieve the required visibility splays
- Increased traffic congestion in the village
- Increased traffic will disrupt emergency services from accessing the village
- Increased traffic
- Highway safety
- A single vehicular access is not sufficient for emergency vehicles to access the site
- Traffic speeds along Main Road
- The narrow nature of the existing footpath is not threatening when walking into the village
- Disruption caused by construction traffic
- There are two pinch points within Wybunbury village where traffic becomes dangerous for motorists and pedestrians

- There have been numerous accidents in close proximity to the proposed entrance to the site
- Main Road is used as a rat run
- The proximity of the proposed access to the bend in Main Road and the junctions of Annions Lane and Wybunbury Lane

Green Issues

- Impact upon wildlife
- The site is well used by nesting birds
- The site is in close proximity of Wybunbury Moss
- The surface drainage from any development will alter the acidity and nutrient content of the fragile ecosystem of national importance.
- The application would be a serious threat to the stability of the Local Moss and would cause pollution and drainage issues.
- It would irresponsible to approve this development in close proximity to Wybunbury Moss
- Potential impacts upon Wybunbury Moss
- Negative visual and pollution impacts upon Wybunbury Moss
- Wybunbury Moss is of national and international importance for the habitats and species it supports
- Wybunbury Moss is at a high threat of risk
- The site is within the surface water catchment of Wybunbury Moss
- Impact upon protected species
- The proposed visibility splays would result in the loss of the boundary hedgerows
- Groundwater pollution would have a severe impact upon Wybunbury Moss as has happened in the past
- Increased problems of dogs and cats accessing Wybunbury Moss
- Increased risk of domestic pollutants entering Wybunbury Moss
- Light pollution will impact upon the species which use the site
- Natural England have stated that the application site is being considered as an extension to the SSSI
- Impact upon the landscape at this location
- Local facilities are not accessible from this site due to the large separation distances involved

Infrastructure

- Local infrastructure cannot cope with any further development
- Lack of public transport serving Wybunbury
- Lack of social activities within the village with the exception of the public houses
- Lack of high speed broadband in Wybunbury
- The local schools are full
- Poor water pressure in the area
- Drainage/Flooding problems
- Lack of medical facilities in the village
- Doctors surgeries are full
- The local Primary School is already full
- There is frequent flooding on the highway in close proximity to this site
- Lack of parking at the primary school in the village

Amenity Issues

- Increased light pollution
- Increased noise pollution
- Proximity of the proposed dwellings to the boundaries of the site would create loss of privacy issues
- Increased air pollution

Design issues

- The impact upon the Wybunbury Conservation Area

Other issues

- The site includes a well used PROW
- Lack of community engagement
- Impact upon property value
- Lack of notification about this application

A letter of objection has been received from Cllr Clowes which suggests the following as reasons for refusal for this application:

- Contrary to NPPF paragraphs 118, 119, 120
- Contrary to C&NBC local Plan Policies
- RES.4 – Development exceeds the scale commensurate with character of the village
- RES.5 & NE.2 – Development is not essential to agriculture or appropriate rural activities, it does not fulfil an exception category of housing development.
- PG2 – Any need for affordable housing as identified in the 2012 Wybunbury Parish Local Housing Needs Assessment and supported in the Plan's Settlement Hierarchy (assessed by the Planning inspector as 'justified, effective and soundly based'), has already been provided/is being provided in excess of identified requirements.
- The SHLAA (2012) identifies that this site is unsuitable for development
- The site is outside of the settlement boundary for Wybunbury
- The site is greenfield within the open countryside
- The site is Grade 3, 3+ agricultural land
- PROW: loss of amenity
- Site access is situated on an acute bend of the B5071
- The proximity of the site to the Wybunbury Moss (SSSI/NNR/Ramsar site) is an unacceptable and unnecessary risk. Mitigation may be possible but the site is not compatible with NPPF definitions of social and ecological sustainability, nor is it 'exceptional' in the wider context of Wybunbury's already considerable expansion.

Following the submission of additional information a further objection has been received from Cllr Clowes raising the following points:

- The applicant's have not responded to Natural England to provide a more robust analysis of alternative sites
- Would have expected that the additional information provides equal attention to have been applied to the inter-relationships between the surface water drainage and ground water systems including the complex hydro-flows between areas within the catchment areas
- Wybunbury Moss is already compromised by historic water contamination events – I share the view of Natural England that this rare site is too vulnerable to be exposed to the temporary period of risk that is posed during the construction phase and the long term risks associated with the development on completion

- It is not considered that the detailed Concept Design Report is either reasonable or sustainable in the long term. The type of essential maintenance is not a choice and not something that can be guaranteed by condition and service agreements arranged at the reserved matters stage cannot be mandated in perpetuity and the public spaces areas would then become the responsibility of the Local Authority
- The additional reports provide a well-researched and legitimate exercise in the 'art of the possible'. This is laudable but in practical terms these proposed mitigation measures in the context of this development are unsustainable and unreasonable in the long term and the application should be refused.

A letter of objection has been received from Edward Timpson MP raising the following points:

- There has been a 67% increase in housing stock passed for planning in the last two years. Any further development will continue to add pressure on infrastructure, education and primary care provision.
- Agrees with the assessment by Cllr Clowes and the application should be refused for the following reasons:
 - Contrary to NPPF paragraphs 118, 119, 120
 - Contrary to C&NBC local Plan Policies
 - RES.4 – Development exceeds the scale commensurate with character of the village
 - RES.5 & NE.2 – Development is not essential to agriculture or appropriate rural activities, it does not fulfil an exception category of housing development.
- PG2 – Any need for affordable housing as identified in the 2012 Wybunbury Parish Local Housing Needs Assessment and supported in the Plan's Settlement Hierarchy (assessed by the Planning inspector as 'justified, effective and soundly based'), has already been provided/is being provided in excess of identified requirements.
- The SHLAA (2012) identifies that this site is unsuitable for development
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APPRAISAL

The key issues are:

- Loss of open countryside
- Impact upon Wybunbury Moss
- 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.

Spatial Distribution

Wybunbury Parish has a population of 1,474 according to the 2001 census (620 dwellings). Wybunbury is classed as an ‘*other settlement and rural area*’ within this area the spatial distribution proposes a development of up to 2,950 dwellings over the plan period. As of 31st March 2015 there were completions of 255 dwellings, commitments of 946 dwellings and site allocations of 882 dwellings which gives a shortfall of 570 dwellings.

In this a number of the objections refer to a number of committed developments in the area. However it should be noted that the approved development at the Shavington/Wybunbury Triangle has been counted towards the figures for Crewe which leaves the only approved development in Wybunbury at Bridge Street of 30 dwellings.

Paragraphs 70 – 80 of the Inspector’s Interim Views concern the settlement hierarchy and spatial distribution of development; the Inspector was satisfied with the proposed settlement hierarchy but concluded that “the proposed distribution may not fully address the development needs and opportunities at all towns and settlements, particularly those in the north of the district” and that “some further work may be required to justify the proposed spatial distribution of development, particularly to address the development needs and opportunities of the Green Belt settlements in the north of the district.”

There is nothing in these paragraphs of (or elsewhere in) the Inspector’s Interim Views to justify their deployment in support of refusing applications in the Southern part of the Borough. As such a reason for refusal on these grounds could not be sustained.

The scale of development (40 dwellings) would not be harmful to the settlement of Wybunbury (alone or cumulatively) and would not represent an unsustainable increase in the size of the settlement.

The issue of spatial distribution has been raised at two recent appeal decisions and the issues was not accepted by either Inspector as can be seen below.

As part of the appeal decision to allow a development of 34 dwellings at land to the east of The Dingle and to the south of Clay Lane, Haslington (14/0009N) the Inspector stated that

‘Councillor Hammond expressed concerns about the imbalance in new housing provision between the north and south of the district but this is a matter for the Local Plan Inspector. I must assess this appeal on the basis of development plan policies and other relevant material considerations’

As part of the appeal decision to allow a development of 60 dwellings at Kents Green Farm, Winterley (13/4240N) the Inspector stated that

‘the proposal would involve expansion of Winterley’s physical envelope, but would be unlikely to fundamentally alter the character of the settlement or of views out from the centre of the village, even allowing for other development already approved. The village would clearly remain as a small-medium sized settlement in a rural setting. The appropriateness of the village for future development, including the concern raised about imbalance between the north and south of the borough, is a matter to be resolved by the CELP’

The amount of development proposed around the village of Wybunbury has also been raised as part of the letters of objection for this application. This issue was considered as part of a recent appeal decision at The Woodlands, Whitchurch Road, Aston (14/3053N) and in this case the Inspector found that:

‘I appreciate that local residents consider that too much housing development is being permitted in the village. However, this in itself would not justify the refusal of permission for sustainable development to meet housing needs’

SOCIAL SUSTAINABILITY

Affordable Housing

The site falls within the Wybunbury and Shavington sub-area for the purposes of the SHMA update 2013. This identified a net requirement for 54 affordable dwellings per annum for the period 2013/14 - 2017/18. This equates to a need for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4+ bed general needs and 1 x 1 bed and 7 x 2 bed older persons accommodation. In addition to this information taken from Cheshire Homechoice shows there are currently 8 applicants who have selected the Wybunbury lettings area as their first choice. These applicants require 2 x 1 bed, 4 x 2 bed, 1 x 3 bed and 1 x 4 bed units.

The Interim Planning Statement: Affordable Housing (IPS) and Policy SC5 in the emerging Local Plan states that in this location the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing.

The applicant in their accompanying Planning Statement outlines that they will be providing 30% affordable housing.

The exact details of the affordable housing will be provided at reserved matters stage. This will be secured as part of a S106 Agreement which will specify the required tenure split of 65% rented and 35% intermediate tenure.

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 1,400sq.m and the indicative plan shows that the developer will provide 1,575sq.m of public open space within the site. As such the level of open space meets the Councils requirements under Policy RT.3.

In terms of children's play space the open space officer has requested a contribution to improve an off-site facility within the village. There are questions over how the contribution has been calculated and whether this is CIL compliant. It should also be noted that the existing play area is approximately 600 metres from the application site and as such a contribution would not meet the requirements of Policy RT.3 (which specifies that where a development is greater than 400 metres from an existing play area then provision should be made on the application site). As such it is considered that it would be more appropriate to provide a facility on the application site given the scale of the development this should consist of a LEAP with 5 pieces of equipment. This would be an acceptable level given the number of dwellings on the site and would comply with Policy RT.3. This would provide an important benefit to the residents of Wybunbury.

Education

An application of 40 dwellings is expected to generate 7 primary aged children and 5 secondary aged children.

In terms of primary school education, the proposed development would be served by Shavington Primary, Stapeley Broad Lane, Willaston Primary, The Berkeley and Wybunbury Delves and the proposed development would generate 7 new primary aged children which cannot be accommodated. As there are capacity issues at these local schools (see the table below) the education department has requested a contribution of £75,924.03. This will be secured via a S106 Agreement should the application be approved.

	PAN	PAN	NOR	NET CAP	Propose			PUPIL FORECASTS - based on Oct 2014 school census forecasts						
	Sep-15	Sep-16	May-15	May-15	NET CAP	UNFILLED PLACES	UNFILLED PLACES %	2015	2016	2017	2018	2019		
Primary Schools														
Shavington	30	30	221	210	210	-11	-5.24	224	277	330	363	385		
Stapeley	30	30	210	204	204	-6	-2.94	215	220	225	229	228		
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		
Wybunbury Delves	30	30	193	209	209	16	7.66	193	200	200	200	197		
OVERALL TOTAL	180	180	1,207	1163	1253	-44	-3.78	1225	1304	1381	1427	1446		
OVERALL SURPLUS PLACES PROJECTIONS								-62	-141	-218	-264	-283		
OVERALL SURPLUS % PROJECTIONS								-5.33	-12.12	-18.74	-22.70	-24.33		
OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP								28	-51	-128	-174	-193		
OVERALL SURPLUS % PROJECTIONS based on Revised NET CAP								2.23	-4.07	-10.22	-13.89	-15.40		
	PAN	PAN	NOR	NET CAP				PUPIL FORECASTS - based on October 2014 forecasts						
	Sep-15	Sep-16	May-15	May-15		UNFILLED PLACES	UNFILLED PLACES %	2015	2016	2017	2018	2019	2020	2021
Secondary Schools														
Brine Leas	215	215	1,080	1050		-30	-2.86	1117	1142	1180	1192	1203	1204	1203
Shavington	170	170	554	850		296	34.82	542	537	645	670	713	739	755
St Thomas More	128	128	649	642		-7	-1.09	642	646	656	673	686	685	693
OVERALL TOTAL	513	513	2283	2542		-7	-0.28	2301	2385	2481	2535	2602	2628	2651
OVERALL SURPLUS PLACES PROJECTIONS								241	157	61	7	-60	-86	-109
OVERALL SURPLUS % PROJECTIONS								9.48	6.18	2.40	0.28	-2.36	-3.38	-4.29

In terms of secondary schools, there are three which would serve the proposed development (Shavington, Brine Leas, St Thomas Moore) and the proposed development would generate 5 new secondary places which cannot be accommodated (see the table above). As there are capacity issues at these local schools the education department has requested a contribution of £81,713.45. This will be secured via a S106 Agreement should the application be approved.

Health

A number of the letters of objection raise concerns about the impact upon health provision in this area. In this case a consultation response was received from the NHS requesting a contribution of £38,763.

However it should be noted that since this request for a contribution was made the issue of NHS contributions has been subject to two recent appeals.

At the recent appeal decision at Audlem Road, Audlem (13/2224N) the Inspector stated as part of her decision that:

'At present, there is no specified project or area of service improvement which has been identified which could be considered to be directly related to the development. In addition, there seems to be a lack of clarity about how the decision making process on potential schemes might be dealt with. There is also an issue in relation to the paying across of any capital sum which might increase capital values of premises, the subject of improvement, were that to be a benefiting project; and how the appellant company might be credited for this. Therefore, with the SP (NHS Strategic Plan) progressing slowly I heard nothing that gave me confidence that the contribution requested was likely to be spent in accordance with the terms of the Framework and the CIL Regulations. For this reason I do not consider it reasonable to take this aspect of the UU into account.'

As part of the appeal decision at Holmes Chapel Road, Congleton (14/0134C) the Inspector stated that:

'the Council was unable to point to any particular project or area of improvement that the obligation would fund or help fund. Healthcare infrastructure decisions are not taken on an incremental basis and strategic forward planning is essential. To that end a Strategic Health Investment Plan is being prepared which will determine the size, location and configuration of new health infrastructure taking into account national agendas, guidance and regulations. However, no details of when this plan is likely to be finalised or what proposals it will include were available at the Inquiry. In the absence of any details of where and on what the money will be spent it is impossible to conclude that the healthcare obligation is directly related to the proposed development.'

The Holmes Chapel Road decision was also subject to an award of costs against the Council. As part of the costs award the Inspector found that:

'As to the costs claim from 7 January 2015 I have already concluded in the appeal the subject of this costs claim that the healthcare contribution sought by the Council does not accord with the law or with relevant policy. While there are differences between this appeal and the recent Audlem Road appeal it is clear that in that earlier appeal the Inspector's central concern was with the inability of the Council to specify a particular project or area of service improvement and precisely the same is true of the current appeal. In such circumstances it was unreasonable of the Council to persist in seeking a healthcare contribution after 7 January 2015.'

As such it is not considered that the requested NHS contribution meets the CIL Regulations and as such this cannot be secured as part of this development.

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) – would be provided on site
- Children's Play Space (500m) – would be provided on site
- Bus Stop (500m) – 300m
- Public House (1000m) – 900m
- Public Right of Way (500m) – located on the application site
- Community Centre/Meeting Place (1000m) – 563m
- Post office (1000m) – 800m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 4800m
- Outdoor Sports Facility (500m) – 643m
- Child Care Facility (nursery or crèche) (1000m) - 1080m
- Convenience Store (500m) – 800m
- Primary School (1000m) – 1080m
- Pharmacy (1000m) – 2574m

- Secondary School (1000m) – 2300m
- Medical Centre (1000m) - 2574m

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 Wybunbury, 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 in Wybunbury from the application site. However, the majority of the services and amenities listed are accommodated within Wybunbury, Shavington and Nantwich 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 locationally sustainable site.

ENVIRONMENTAL SUSTAINABILITY

Residential Amenity

To the south-east of the site the dwelling at No 134 Main Road has secondary openings to the side elevation facing the site. The indicative plan shows that a dwelling would be sited alongside 134 Main Road whilst those which would back onto the side boundary of 134 Main Road are shown to have a rear garden length of 21 metres. There is no reason that an acceptable design could not be achieved that would not be a detrimental impact upon the residential amenities of this property.

In terms of the dwellings to the south (fronting Main Road and Chads Green) the indicative plan shows that there would be a separation distance of between 25 metres and 40 metres. This would be acceptable.

Due to the separation distances involved to the properties to all other sides and the intervening boundary treatments there would not be a significant impact to the surrounding dwellings.

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

Air Quality

The proposed development is not close to any air quality management areas (AQMA's) and an air quality assessment was not deemed necessary. However, it is likely that some small impact would be made in the AQMA in Crewe and Nantwich and that when combined with the cumulative impacts of other committed and proposed developments in the area the significance is increased. In order to mitigate this development conditions in relation to dust control and electric vehicle infrastructure will be attached to any permission.

Contaminated Land

The application area has a history of agricultural use and therefore the land may be contaminated and this site is within 250m of an area of ground that has the potential to create gas. The

applicant submitted a Phase I Preliminary Risk Assessment in support of the planning application. The report recommended a site investigation be undertaken in order to further assess identified potential contaminant linkages this will be secured through the use of a planning condition.

Public Rights of Way

A Public Right of Way (Wybunbury FP10) crosses the application site. In this case the applicant has agreed to submit an application to divert FP10 Wybunbury and CEC PROW are happy with the proposed route. This issue will be controlled through the use of a planning condition.

Highways

Access

The application is an outline application for residential development consisting of up to 40 units and the access will be taken from a new priority junction with Main Road. There is a single access proposed to serve the development that is 4.8m wide carriageway and two 2m wide footways on either side of the access road.

The application would provide visibility splays of 2.4m x 48m in both directions along Main Road and an uncontrolled pedestrian crossing on Main Road with dropped kerbs, tactile pavements and a pedestrian refuge island, located approximately 25m to the south-east of the site access. The crossing is designed to link the new footway created as part of the access proposals on the north-eastern side of Main Road with the existing footway on the opposite side of the road.

In terms of junction geometry and layout, the access proposals are considered to be an acceptable solution to serve a development of up to 40 units. To support the use of 2.4m x 48m visibility splays, the Transport Statement (TS) presents the results of a vehicle speed survey undertaken on Main Road in the vicinity of the proposed site access. The survey results indicate 85th%ile wet weather speeds of 32.5mph for vehicles travelling north-west bound and 29.5mph for vehicles travelling south-east bound. Based on these speeds, guidance provided in Manual for Streets 2 indicates that visibility splays with dimensions of 2.4m x 48m are appropriate for safe access. As a result the proposed access/visibility splays are acceptable.

Traffic impact

Morning and evening peak hour trips rates for the site have been estimated in the TS from a range of sites within the TRICS database. The HSI has reviewed the rates and finds them to be acceptable.

The morning and evening peak hour traffic generation associated with the development proposals is expected to be low; 13 arrivals and 16 departures are expected during the morning peak hour and 21 arrivals and 10 departures are expected during the evening peak hour.

Once distributed on the road network the development traffic would only result small increases in the traffic flow. In order to resist this application, the Highway Authority would have to prove that there is severe harm arising from this increase, this would not be possible given the low level of trip generation predicted.

Sustainable Forms of Transport

As explained above, this site is considered to be in a sustainable location and there are a number of services and facilities within walking distance of the site

Cycling is considered to provide a good alternative to the private car for journeys of up to 5km. The majority of Nantwich and the southern outskirts of Crewe town centre are within a 5km cycle distance of the site, providing sustainable access to a range of facilities commonly associated with town centres such as retail, leisure and opportunities for employment.

The nearest bus stops to the site are located on Main Road approximately 300m to the east of the site access. The bus stops provide access to the number 39 service which runs a 2 hourly service from Crewe via Hough, Shavington, Rope Lane, Brook House Estate and Mill Street.

Despite the rural location of Wybunbury, there are a number of opportunities for sustainable travel from the site and the site is considered to be within a sustainable location.

Road Safety

The most recent five year period of Personal Injury Accident (PIA) data for the sections of Main Road, Stock Lane, Wybunbury Lane and Annions Lane within the vicinity of the site has been assessed within the TS submitted with the planning application.

There have been two recorded accidents during this period of time, one classified as slight and one classified as serious:

1. The slight accident occurred on Main Road to the south of the junction with Wybunbury Road and involved a vehicle exiting a private driveway into the path of an oncoming vehicle. The causation factors attributed to the accident include the location of the access on a bend, a wet road and possibly the speed of the vehicle travelling along Main Road.
2. The serious accident involved a cyclist crossing the path of a vehicle on Wybunbury Lane, with the causation factor indicating the cyclist was at fault for not looking properly.

The HSI considers the accidents to be isolated incidents and concludes the development proposals would be unlikely to have a negative impact on the otherwise good road safety record of highway network in the vicinity of the site.

Highways Conclusion

In conclusion the proposed development would have an access of an acceptable design with adequate visibility. The traffic impact upon the local highway network would be limited and would be acceptable. The site is considered to be within a sustainable location. It is therefore considered that the development complies with the local plan policy BE.3 and the test contained within the NPPF which states that:

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

Trees

Trees

There are currently three TPO trees along the northern boundary of the site. The submitted Tree Report identifies that two of these TPO trees are classes as Grade A (High Quality and Value) and one is Grade B (Moderate Quality and Value). In total the Tree Report identifies two trees as Grade A, 6 individual trees and 1 group of trees as Grade B and 7 trees as Grade C (Low Quality and Value).

The retained trees are mainly outside of residential gardens except for a plot in the north east corner with a large Oak (the Grade B TPO tree) within the rear garden. This tree has a large Root Protection Area (RPA), although this can be modified given the lack of constraints to root growth. However, given the possibility of shrinkable clay soils the foundations for this property should be in accordance appropriate HSBC guidance. Tree 8B, a Sycamore, is also within a proposed rear garden and although Sycamore is such a problem tree in regards possible subsidence the same issues apply.

Given the retained trees are either on the north or west side of the proposed plots shading should not generally be an issue apart from the two plots discussed above. The proposals appear to show more than 30% of the proposed garden areas are beneath the existing canopies of the trees; this is contrary to the guidance given in the BRE Site Layout Planning for Daylight and Sunlight 2009. These plots should be reconsidered again at the reserved matters stage to minimise this issue.

Should the application proceed then as part of any subsequent reserved matters application a full and detailed Arboricultural Impact Assessment to support any definitive layout would be required. Root Protection Areas should be respected including those off site trees, as should the retention of all A and B category trees as detailed within the Impact Assessment.

Hedgerows

The submitted Hedgerow Regulations Report identifies that the hedgerow associated with the road frontage and the point of access into the proposed development is not an important hedgerow. As all other hedgerows would be retained as part of this development there is no objection to the loss of hedgerows on this site.

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 the proposal would have a density of 25 dwellings per hectare this is consistent with the surrounding residential areas of Wybunbury.

In this case an indicative layout has been provided in support of this application and this shows that an acceptable layout can be secured at the reserved matters stage and that the areas of open space and all highways would be well overlooked. It is considered that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF could be negotiated at the reserved matters stage.

Landscape

The Supporting Planning Statement indicates that *'the site will be landscaped and planted in due course'*. The application indicates that this is an outline application and that all matters are reserved, apart from access. An Illustrative Layout has been submitted, this indicates that there will be a public amenity space. The Planning statement indicates that dwellings along the northern boundary will face outwards to respect the root zones of existing trees. The statement also indicates that it is proposed to extend a 150mm high bund along the northern and north eastern boundary to prevent surface water from the application site draining off onto Wybunbury Moss, the topography of the site falls towards the north.

The application site covers an area of approximately 1.6 hectares and is located on the northern edge of Wybunbury, it is currently an agricultural field, surrounded on all sides by hedgerows and hedgerow trees. Main Road runs along the southern boundary and at a short distance to the western boundary of the site, which is separated from Main Road by a wide grass verge. To the south and along part of the southern boundary are dwellings. Pinfold Farm is located immediately to the north of the application site, with a number of other detached properties located to the western side of Main Road; beyond these and to the north east is the wider agricultural landscape. A footpath, Footpath 10 Wybunbury crosses the central part of the application site and links to Wybunbury Moss (SSSI), which is located approximately 60m to the east of the application site.

The application provides information on the landscape baseline, including the national Character Area, the Cheshire Landscape Character Assessment and the Lower Farms and Woods area (LFW7 Barthomley), in which the application site is located. However, the submission offers no appraisal or assessment of the potential impact that the development may have.

The illustrative layout indicates that there will be little mitigation along the southern and western boundaries and that access routes will be located to the rear of these boundaries, this provides little scope for any tree or hedgerow planting and it would suggest that the proposed development will present a very urban and hard element in what is currently a very rural setting along the northern boundary of the village. This is also in direct contrast to the existing generous plots along Main Road that are well vegetated and contribute greatly to the overall character of the village. However as the design, layout and scale is a reserved matter it is considered that an appropriate design and increased mitigation could be achieved at the Reserved Matters stage.

Ecology

To the east of the site is Wybunbury Moss which holds a number of statutory nature conservation designations (National Nature Reserve, Site of Special Scientific Interest (SSSI), Special Area of Conservation, Ramsar Site).

The relevant part of the NPPF is Paragraph 118 which states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;*
- *development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- *opportunities to incorporate biodiversity in and around developments should be encouraged;*
- *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location*

As can be seen from the above the relevant test in relation to a SSSI is where an adverse effect is likely.

As Wybunbury Moss is also identified as a Special Area of Conservation and a Ramsar Site the NPPF states that Wybunbury Moss should be given the same protection as a European site and an assessment under the Habitats Directives is required. As a result the presumption in favour of sustainable development (paragraph 14 of the NPPF) does not apply to this application.

Assessment of Likely Significant Effect

The proposals are not considered to be directly connected with or necessary to the management of either the West Midlands Mosses Special area of conservation (SAC) or the Midland Meres & Mosses Phase 1 Ramsar site. Consequently, an assessment of Likely Significant Effects (LSE) is required to be undertaken. The purpose of this initial assessment is to determine whether there is a likelihood of a significant effect occurring as a result of the proposals either alone or in combination with other plans and projects. If it is considered that a significant effect is likely then a more detailed assessment known as an Appropriate Assessment must follow.

Based upon the identified Ramsar/SAC qualifying features found at Wybunbury Moss a number of potential hazards were identified which could result in a significant effect on those features. An assessment was then undertaken by the Councils Ecologist of the probability of these hazards occurring as a result of the proposed development, the permanence and magnitude of the impacts resulting from the hazard and whether the proposed development

would result in a likely significant effect in respect of each hazard. The results of this assessment are detailed below.

Relevant Hazards	Permanence and Magnitude of impact in the event of occurrence	Probability of occurrence as a result of the proposed development	Likely Significant Effect?
Direct physical loss or damage to habitat	Permanent. High.	Proposed development site is outside the boundary of the designated sites. Loss/damage to the footprint of the development certain not to occur.	No
Changes to hydrochemistry and hydrology	Possibly reversible in long term. High.	<p>The SAC and Ramsar are sensitive to changes in the chemistry and quantity of water inputting the Moss particularly in respect of both base rich and base poor inputs.</p> <p>The proposed development is located within the catchment of the Moss. Importantly it is located on an area of glacial sands which provide base rich water to the moss. Development within this sensitive part of the catchment is likely to result in changes to both the chemistry and quantity of water entering the moss and consequently have an adverse on the features for which the moss was designated.</p> <p>Likely effects are associated with the construction and occupational phase of the development.</p> <p>Mitigation proposed as part of the development proposals includes the use of SUDS and the implementation of a pollution prevention method statement.</p> <p>It is not certain that the likely effects of the proposed development would be addressed by the mitigation proposed.</p>	Yes
Changes to air quality	Possibly reversible in long term. High.	Nitrogen deposition resulting from the proposed development estimated at less than 1% in relation to the lowest critical load is expected to occur at the SAC/Ramsar. This is not considered significant and is not likely to result in a likely significant effect on the features for which the SAC/Ramsar was designated.	No
Damage to habitats resulting from increased recreation pressure.	Possibly reversible in long term. Medium.	The number of houses resulting from the development would not significantly increase the population local to the moss and hence not lead to a significant number of visitors to the moss. Recreational access to the moss is also regulated through a permitting scheme which limits access to the more sensitive areas of the Moss.	No

Determination of 'Alone' Likely Significant Effect

It is concluded that the proposed development, alone is likely to have a significant effect upon the hydrology and hydrochemistry of the West Midlands Mosses SAC and Midland Meres and Mosses Phase 1 RAMSAR

Determination of 'In Combination' likely significant effects

It is considered likely that the proposed development would have a likely significant effects on both the West Midlands Mosses Special Area of Conservation (SAC) and the Midland Meres & Mosses Phase 1 Ramsar site. It is also necessary to consider the likelihood of the development proposals to have an effect in combination with other plans or projects.

There have been a number of planning applications in recent years that have been subject to an assessment of their likely significant effects on Wybunbury Moss and its SAC and RAMSAR designations. All of these applications have been found not to be likely to have an effect on the SAC and Ramsar. One application, Land East of Crewe Road planning reference 13/2069N, warrants further consideration. In this instance potential significant effects were identified by Natural England relating to an increase in recreational pressure associated with the development. Mitigation proposals were however agreed which meant that a significant effect was not considered likely to occur.

No other projects or development proposals are known to the Council which are likely to result in a likely significant effect on the Ramsar/SAC designations held by Wybunbury Moss and no further in-combination effects are anticipated.

Conclusion

Cheshire East Council has considered the project under Regulation 61(1)(a) of the Conservation of Habitats and Species Regulations 2010 and has concluded that it **is** likely to have a significant effect, on the Midland Meres and Mosses (phase 1) Ramsar and West Midlands Mosses Special Area of Conservation (SAC). Consequently as the proposed development is likely to have a significant effect on a European site and Ramsar site an Appropriate Assessment under the Habitat regulations is necessary and this will be provided as part of an update report. This view is consistent with the consultation response from Natural England who has objected to this application.

Flood Risk

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. 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 Councils Flood Risk Manager and United Utilities have been consulted as part of this application and have both 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 (the ecological implications of the drainage scheme are considered above).

Ground Conditions

The Brine Board have made advisory comments on this application. However the Brine Board acknowledge that the site is outside the consultation zone and are purely advisory – the Brine Board have stated that these comments are not an objection to the application. The issue of ground stability will be dealt with at the Building Regulations 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 Wybunbury including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

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 no agricultural land assessment has been provided and this issue will form a reason for refusal.

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.

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.

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 primary and

secondary 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.

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

CONCLUSION

The proposed development would be contrary to Policy NE.2 and RES.5 and the development would result in a loss of open countryside. In this case Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites. However, as Wybunbury Moss is identified as a Special Area of Conservation and a Ramsar Site the NPPF states that Wybunbury Moss should be given the same protection as a European site and an assessment under the Habitats Directives is required. As a result the presumption in favour of sustainable development (paragraph 14 of the NPPF) does not apply to this application.

In this case specific policies in this Framework indicate development should be restricted on this site and as such the application is recommended for refusal due to its impact upon Wybunbury Moss.

RECOMMENDATION:

REFUSE for the following reason:

- 1. This application site is adjacent to Wybunbury Moss which holds a number of statutory nature conservation designations (National Nature Reserve, Site of Special Scientific Interest (SSSI), Special Area of Conservation, Ramsar Site). It is considered that this development is likely to have a significant effect upon the hydrology and hydrochemistry of the West Midlands Mosses SAC and Midland Meres and Mosses Phase 1 Ramsar and Wybunbury Moss SSSI. As a result the development would be contrary to the NPPF and Policies NE.5 (Nature Conservation and Habitats) and NE.6 (Sites of International Importance for Nature Conservation) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.**
- 2. Insufficient information has been provided to demonstrate that the proposed development would not 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. 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.**

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 Planning (Regulation), 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 LEAP (5 pieces of equipment) to be maintained by a private management company**
- 3. Secondary School Education Contribution of £81,713.45**
- 4. Primary School Education Contribution of £75,924.03**

