

Application No: 16/1134C

Location: LAND OFF, MARSH GREEN ROAD, SANDBACH CHESHIRE

Proposal: Outline application for proposed development of 30 dwellings including open space (allotments), internal access road and car parking.

Applicant: Safeguard Limited

Expiry Date: 07-Jun-2016

SUMMARY

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

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.

Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

Policies PS8 and H6 of the Congleton Borough Local Plan First Review and Policy PC3 of the Sandbach Neighbourhood Plan are considered consistent with the aims of the Framework. Policy PC3 of the Sandbach NP has been prepared within the context of the NPPF and independently tested against its criteria by the Inspector who considered whether the Neighbourhood Plan was consistent with the Framework.

The relevant policies of the development plan are therefore considered consistent with the Framework and should be afforded due weight, with the conclusions drawn in PC3 based on up to date and recent evidence. In this case, the SNP presents a policy approach which supports sustainable development on the basis of recent and

up to date housing evidence that advocates a strategic approach. The undermining of this approach would represent a significant and adverse impact in Para 14 terms that would outweigh the benefits of the proposal.

Neighbourhood planning provides a powerful set of tools for local people to ensure they get the right kind of development for their community. Whilst the weight afforded to those policies that restrict the supply of housing land may be limited due to the lack of a five year housing land supply, the harm done by approving a proposal which does not comply with the Development Plan and housing policies contained in the Sandbach Neighbourhood Plan is significant and directly conflicts with the overall aims of the framework to deliver sustainable development, through a plan led system which seeks to ensure that proposals contrary to an adopted neighbourhood plan should not normally be granted permission.

It is accepted that the development would provide positive planning benefits such as the provision of a market and affordable dwellings in a relatively sustainable location, The minor economic benefits created predominantly during the construction phase of the scheme and the social benefits such as open space/allotment provision and design features that are sought with the Neighbourhood Plan contributes to the social arm of sustainability.

Balanced against these benefits, however, must be the adverse impacts, which in this case would be the loss of Open Countryside, the loss of Best and Most Versatile agricultural land, and the harm caused to the plan led system by virtue of the proposal's non compliance with policies with in the made Sandbach NP.

In this instance, it is considered that the dis-benefits of the scheme, outweigh the benefits and that the proposal does not comprise sustainable development .

RECOMMENDATION

REFUSE

REASON FOR REFERRAL

The application is referred to Southern Planning Committee as it proposes residential development of over 20 units.

PROPOSAL

This application seeks outline planning permission to erect 30 dwellings. Matters of Access are also sought.

Approval of layout, scale, appearance and landscaping, and scale are not sought at this stage and as reserved for subsequent approval.

As such, this application shall consider the principle of the development only.

SITE DESCRIPTION

The site relates to a parcel of green field located between the eastern side of Marsh Green Road and the western side of Vicarage Lane, Sandbach within the Open Countryside.

The application site is largely 'U-shaped' in design and measures approximately 1.66 hectares in size and is largely flat in nature.

To the north, the site is boarded by the Crewe to Manchester railway line.

The site lies approximately 2km to the northeast of the Sandbach town centre.

RELEVANT HISTORY

09/0495H - Hedgerow Removal – Consent to remove granted 1st May 2009

19414/1 - New 18 Hole Golf Course, Clubhouse And Leisure Facilities, Residential Development (Outline) – Refused 21st June 1988

LOCAL & NATIONAL POLICY

Sandbach Neighbourhood Plan (SNP)

The Sandbach Neighbourhood Plan has been made on 12th April 2016 under 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 and now forms part of the Development Plan for Cheshire East. The relevant Policies in the Neighbourhood Plan are:

PC1 (Areas of Separation), PC2 (Landscape Charter), PC3 (Policy Boundary for Sandbach), PC4 (Biodiversity and Geodiversity), PC5 (Footpaths and Cycleways), H1 (Housing growth), H2 (Design and Layout), H3 (Housing mix and type), H4 (Housing and an Ageing Population) and H5 (Preferred Locations)

Congleton Borough Local Plan

The Development Plan for this area is the 2005 Congleton Borough Local Plan, which allocates the site, under Policy PS8, as Open Countryside

The relevant Saved Policies are;

PS8 – Open Countryside, H6 - Residential development in the Open Countryside and the Green Belt, GR2 – Design, GR5 – Landscape, GR6 - Amenity and Health, GR9 - Accessibility, Servicing And Parking Provision - New Development, GR20 – Public Utilities, GR22 – Open Space Provision, NR1 – Trees and Woodlands, NR2 - Wildlife And Nature Conservation Statutory Sites, NR3 – Habitats

Cheshire East Local Plan Strategy – Submission Version (CELP)

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

Policy SD 1 Sustainable Development in Cheshire East, Policy SD 2 Sustainable Development Principles, Policy SE 1 Design, Policy SE 2 Efficient Use of Land, Policy SE 3 Biodiversity and Geodiversity, Policy SE 4 The Landscape, Policy SE 5 Trees, Hedgerows and Woodland, Policy SE 9 Energy Efficient Development, Policy SE 12 Pollution, Land Contamination and Land Instability, Policy IN 1 Infrastructure, Policy IN 2 Developer Contributions, Policy PG 1 Overall Development Strategy, Policy PG 2 Settlement Hierarchy, Policy PG 5 Open Countryside and Policy SC 4 Residential Mix

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, 17 – Core planning principles, 47-50 - Wide choice of quality homes, 55 - Isolated dwellings in the countryside, 56-68 - Requiring good design, 69-78 - Promoting healthy communities

Supplementary Planning Documents:

Interim Planning Statement: Affordable Housing (Feb 2011)
North West Sustainability Checklist

CONSULTATIONS

Strategic Infrastructure Manager (SIM) – No objections

Environmental Protection – No objections, subject to a number of conditions including; the prior submission of a piling method statement; the prior submission/approval of a Construction Phase Environmental Management Plan; the prior submission/approval of lighting details; the implementation of the noise mitigation measures proposed; the provision of electric vehicle infrastructure; the prior submission/approval of a dust mitigation scheme; prior submission/approval of a Phase I and if required, Phase II contaminated Land report; The prior submission/approval of verification information that the imported soils are free of contamination and works should stop if contamination identified.

Housing (Cheshire East Council) – No objections, as the policy required 30% on-site affordable housing provision requirement is agreed by the applicant.

United Utilities – No objections, subject to the following conditions; that foul and surface water be drained on separate systems; the prior submission/approval of a surface water drainage scheme; the prior submission/approval of a sustainable drainage management and maintenance plan

Health and Safety Executive - No objections

ANSA Greenspace – No objections to the provision of allotments, subject to appropriate maintenance being secured and a financial contribution of £3,835.44 towards rails within a skate facility and £21,492.00 sum for this to be maintained over a 25 year period.

Education - No objections, subject to a financial contribution towards secondary education provision of £81,713.45

Flood Risk Manager – No objections, subject to a condition that an updated micro-drainage document including further detail with regards to pipe numbers and a matching drawing to indicate specific flood risk areas is submitted for prior approval

Countryside and Rights of Way - No objections, subject to the inclusion of informatives

Network Rail - No objections, subject to a number of informatives

Cycling UK – Suggest developer contributions towards the upgrading of footpaths for cycling provision

Sandbach Town Council – Object to the proposal for the following reasons;

- That the emerging Local Plan housing requirement of 2750 is exceeded; with the housing quota fulfilled the development is not necessary

REPRESENTATIONS

Neighbour notification letters were sent to all adjacent occupants, a site notice was erected and an advert placed in the local newspaper. To date, approximately 181 letters of representation have been received. The main objections raised include;

- Contrary to 'Made' Neighbourhood Plan
- Principle of housing development
- Loss of Countryside
- Design – loss of character, house appearance
- Highway safety – Congestion, parking, suitability of access road, pedestrian safety, impact upon emergency vehicle response/access, general unsuitability of roads into the site
- Ecology – Impact upon bats, nesting birds, owls, newts, badgers, hedgehogs, buzzards, sparrowhawks, swallows, swifts, snakes
- Loss of good agricultural land
- Loss of hedgerows, impact upon trees
- Amenity – noise and air pollution, loss of privacy, overshadowing
- Impact upon Public Right of Way
- Impact upon public facilities / infrastructure – Schools, highway network, medical facilities, dentists
- Sustainability of location
- Flooding and drainage
- Impact upon historic 'Barn Croft'
- Anti-social behaviour

APPRAISAL

The key issues are:

- The principle of the development
- The sustainability of the proposal, including its; Environmental, Economic and Social role
- Planning balance

Principle of Development

The NPPG advises that where the Local Planning Authority (LPA) cannot demonstrate a five-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in neighbourhood plans, even though these policies should not be considered up-to-date.

Policy PC3 of the Sandbach Neighbourhood Plan (SNP) states that new development will be supported in principle within the policy boundary (Sandbach), but outside of the boundary, where the application proposal lies, only a limited number of developments will be permitted. New dwellings as sought are not listed as one of these permitted developments, and therefore the scheme would be contrary to SNP Policy PC3.

The application does not fall within an Area of Separation as defined by the SNP under Policy PC1, but is sited outside of the settlement boundary. In such locations, Policy H1 permits housing development to meet the housing requirement established in the Cheshire East Council Local Plan through existing commitments, sites identified in the Cheshire East Local Plan (Strategy and Allocations Documents) and windfalls.

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

As the proposed development is for the erection of 30 new dwellings in the Open Countryside, it is subsequently subject to Policy H6 of the Congleton Local Plan and Policy PG5 of the emerging Cheshire East Local Plan Strategy – Submission Version. Policies H6 and PG5 advise that residential development within the Open Countryside will not be permitted unless it falls within a number of categories.

The proposed development does also not fall within any of the categories listed within Policies PS8 and H6 relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and emerging plan and as such, there is a presumption against the proposal.

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

Housing Land Supply

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes

have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council's 'Housing Supply and Delivery Topic Paper' of February 2016.

This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council's five year housing land supply. From this document the Council's latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgfield approaches.

The paper concludes that going forward the preferred methodology would be the 'Sedgpool' approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need. However, at the current time, the Council cannot demonstrate a 5 year supply of housing.

In the context of the SNP, paragraph 198 of the NPPF states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. However, this potentially conflicts with the clear advice in the NPPG which states that where a five year supply cannot be demonstrated then the policy is 'out of date' and the presumption in favour of sustainable development requires the granting of planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

In this situation, when assessing the adverse impacts of the proposal against the policies in the Framework as a whole, decision makers should include within their assessment those policies in the Framework that deal with neighbourhood planning.

This includes [paragraph 198](#) which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

It is therefore a matter for the decision maker to balance these issues to reach a conclusion on whether permission should be granted or conclude that the development should be refused as being contrary to the PC3 of Sandbach Neighbourhood Plan.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

The NPPF determines that sustainable development includes three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

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

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

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

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

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

Environmental role

Locational Sustainability

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 National Planning Policy Framework definition of sustainable development is:

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

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities 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) – 300m
- Children’s Play space (500m) – 300m
- Public house (1000m) - 520m
- Pharmacy (1000m) – 530m
- Supermarket (1000m) – 900m
- Railway station (2000m) – 550m
- Any transport node – 550m
- Primary School (1000m) – 790m
- Outdoor Sports Facility – (1000m) – 590m
- Bus stop (500m) – 430m
- Public right of way (500m) – 0m
- Post Box (500m) – 50m

- Local meeting place (1000m) – 590m

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

- Child care facility (1000m) – 1220m
- Bank or Cash Machine (1000m) – 1384m

The following amenities/facilities fail the standard:

- Post Office (500m) – 2896m
- Convenience Store (500m) – 900m
- Medical Centre (1000m) – 2414m
- Leisure Facilities (Leisure Centre or Library) (1000m) – 1770m
- Secondary School (1000m) – 1990m

In summary, the site complies with the majority of the standards advised by the NWDA toolkit. Where it fails, these are no significant failings. Furthermore, the site lies within a walkable distance to the local bus stop and train station. As such, the application site is considered to be locationally sustainable.

Landscape Impact

The application site is located to the northern part of Elworth, to the north west of Marsh Green Road, the boundary of which is formed by a mature hedgerow with a field gate for access. The site consists of two fields, bounded to the north by the mainline rail line.

As part of the application, a Landscape and Visual Impact Appraisal (LVIA) has been submitted, this indicates that it has been undertaken using the Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA 3).

As part of the LVIA, the baseline landscape character is identified at both the national and regional level. The application site lies within the National NCA 61 Shropshire, Cheshire and Staffordshire Plain. At the regional level the application site is located the area identified in the Cheshire Landscape Character Assessment (2009) as Landscape Character Type 7: East Lowland plain, Wimboldsley Character Area (ELP5). The appraisal has also includes comments on the townscape of the site and surrounding area.

The landscape appraisal indicates that the site wider landscape would have a medium susceptibility, value and sensitivity and at the site level that it would have between low to high susceptibility for landform, site use and vegetation, medium vale and a medium sensitivity. The landscape appraisal identifies a minor adverse/negligible effect on the wider landscape and a moderate to minor adverse impact on the site. The visual assessment identifies a ZTV, which identifies that there will be a restricted area of theoretical visibility, immediately around the site and to the north east. Eleven viewpoints are used for the visual appraisal. This identifies that the visual effect is mostly limited to the immediately surrounding area and site, and that for a number of receptors in closest proximity that there would in some cases be a moderate/major effect.

The Council's Principal Landscape Officer concludes that he is satisfied that the correct methodology has been used and he broadly agrees with the landscape and visual appraisal. The Landscape Officer considers that any potential landscape and visual impacts can be mitigated with appropriate design details and landscape proposals which would be secured through the reserved matters.

Trees and Hedgerows

The application is supported by an Arboricultural Report (ACS Ref 3205/DR.15 dated May 2015) which identifies 24 individual trees, 5 groups and 5 hedgerows within and immediately adjacent to the application site.

TPO trees

Individual trees to the north and north east of the application site are protected by the Congleton Borough Council (Marsh Green Farm/Barlow Wood, Moston/Bradwall) Tree Preservation Order 1988.

The indicative layout plan proposes that these are retained within the detailed Public Open Space (POS) provision/allotment site.

The Council's Tree Officer has advised that whilst the retention of protected trees within the POS is welcomed; the viability of the POS as a permanent allotment site could be significantly reduced as a consequence of the impact of mature trees, which in turn would result in future pressures to prune/fell these protected trees.

The Council's Tree Officer has further advised that the size and/or position of the allotment could be dealt with at Reserved Matters stage, but further analysis of the impact of retained TPO trees on the proposed allotment would be required to be carried out as part of a submitted Arboricultural Impact Assessment (AIA) and relevant exclusion zones from the trees provided to ensure that the efficiency of the allotment is not significantly affected by protected trees.

As such, it has been advised that should outline consent be granted, an Arboricultural Impact Assessment (AIA) and Tree Protection Plan should be conditioned as a requirement to be submitted in support of any subsequent reserved matters application which shall include further evaluation of the above matters and where necessary addressed by an Arboricultural Method Statement and Tree Protection Plan in accordance with Section 5.5 and 6.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

Other trees

The submitted Arboricultural Report identifies a group of moderate (B1/2) quality Ash trees located to the south of the site adjacent to Marsh Green Road. It is understood that one tree to the northern end of this group was recently felled in late 2015 where the access is proposed to be located.

The Report identifies that as moderate 'B' category trees, these should be considered for retention, and that development should be located outside root protection areas (RPA) to maintain tree viability (para 4.02).

A request has been received by the Council to consider the protection of the 3 Ash trees located on the Marsh Green Road frontage. The Arboricultural Officer has provided a report on the condition of these 3 trees and their suitability for protection. It has been concluded that whilst these trees are prominent road frontage features, due to the physiological and structural deterioration in the 3 trees, the tree officer considers that they are unsuitable for long term retention.

However, it is expected that these should be retained and detailed within the Tree Protection Plan which shall be conditioned as detailed above.

Hedgerows

The Arboricultural Report has identified 5 hedgerows within the application site and states that in arboricultural terms, the hedgerows do not accord with the criteria given in the Hedgerow Regulations 1997. The Hedgerow Regulations criteria (Part II) is concerned with Archaeology and History and Wildlife and Landscape, not arboricultural.

The Council's Tree Officer has advised that whilst hedge (H1) which forms the domestic curtilage of 'Barn Croft' cannot be deemed important, the remaining hedges may fall within the criteria.

As a section of hedgerow along Marsh Green Road is proposed to be removed to facilitate access into the site, it remains to be determined as to whether this hedge is deemed Important under the Regulations.

However, following an informal discussion with the Council's Principal Tree Officer, due to the fact that only a portion of this hedgerow is to be removed (to accommodate the access into the site), subject to replacement planting being conditioned to be submitted with the reserved matters application, he raises no significant objections.

Agricultural Land Quality

Paragraph 26 of the Natural Environment NPPG advises that Local Planning Authorities should seek to use areas of poorer quality land in preference of higher quality land for development.

The Agricultural Land Classification system classifies land into five grades, with Grade 3 subdivided into Sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non food crops for future generations.

The applicant has undertaken Agricultural Land Classification report. This has concluded that the site comprises of Grade 2 land.

Although Policy NR8 (Agricultural Land) of the Local Plan has not been saved, paragraph 26 of the Natural Environment National Planning Policy Guidance advises that;

'The National Planning Policy Framework expects local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land. This

is particularly important in plan making when decisions are made on which land should be allocated for development. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'

As such, the loss of this best and most versatile land is a material consideration weighing against the proposal.

Safety Hazard Area (SHA)

The application site falls within a Safety Hazard Area.

The Health and Safety Executive (HSE) has subsequently been consulted and concludes that they have no objections to the development and therefore do not consider that the development poses any risk to the future occupiers of the proposed development.

Ecology

The application is supported by an Ecological appraisal.

Great Crested Newts

The submitted ecological appraisal refers to a number of (potential) ponds located within 500 metres of the proposed development. A number of ponds have been identified by the applicants consultant, one of these no longer exists a second has previously been discounted as being suitable for newts. No access permission could be obtained to survey a third pond but this is thought to be an ornamental pond likely to contain fish. Based on aerial photography it appears that this pond has been constructed in the last 15 years.

The Council's Nature Conservation Officer has advised that the lack of a survey the third pond is a significant constraint on the submitted survey, but based on the limited available information he advises that on balance, great crested newts are unlikely to be affected by the proposed development.

Hedgerows

Native species hedgerows are a priority habitat and a material consideration. The proposed development is likely to result in the loss of a section of hedgerow to facilitate the site access. The remainder of the hedgerows around the site are located at the site boundaries and the Council's Nature Conservation Officer has advised that these should be retained as part of the landscaping of the site.

The Nature Conservation Officer has advised that if outline planning consent is granted it must be ensured, by means of a landscaping condition, that suitable replacement hedgerow planting is incorporated into any detailed design produced at the reserved matters stage.

'Other Protected Species'

The report advises that 'Other Protected Species' are active on site but no setts are present. The Council's Nature Conservation Officer has advised that the proposed development is likely to lead to a localised loss of foraging habitat. As the status of 'Other Protected Species' on a site can change within a short time scale, the Conservation Officer advises that if outline consent is granted, a condition should be attached requiring any future reserved matters application to be supported by an updated 'Other Protected Species' survey.

Bats

A single tree was identified on site with potential to support roosting bats. Based on the submitted illustrative layout plan it appears feasible for this tree to be retained adjacent to the allotments proposed as part of the development. The Council's Nature Conservation Officer recommends that if outline permission is granted, a condition should be attached requiring the retention of this tree (T5 on the submitted tree report).

Hedgehogs

Hedgehogs are a Biodiversity Action Plan Priority Species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so the species may occur on the site of the proposed development. If planning consent is granted, the Council's Nature Conservation Officer recommends that a condition ensuring that any future reserved matters application be supported by proposals for the incorporation of gaps for hedgehogs into any garden or boundary fencing proposed.

Nesting Birds

The Council's Nature Conservation Officer has advised that the application site is likely to provide nesting birds including priority species such as house sparrow. As such, he has advised that if outline planning consent is granted a condition to protect nesting birds and a condition ensuring that the Reserved Matters be supported by proposals for the incorporation of features for breeding birds including house sparrows.

The proposal is therefore considered that subject to the above conditions, the proposal would adhere to Policy NE.9 of the Local Plan.

Flood Risk and Drainage

The application proposal is supported by a Flood Risk and Drainage Strategy.

The Council's Flood Risk Manager has reviewed this and advised that they have no objections, subject to a condition.

With regards to drainage, United Utilities have advised that they have no objections, subject to the following conditions; that foul and surface water be drained on separate systems; the prior submission/approval of a surface water drainage scheme; the prior submission/approval of a sustainable drainage management and maintenance plan.

Design

The indicative layout shows the provision of up to 30 new dwellings within the site and indicates a mixture of house types including; detached dormer bungalows, semi-detached dormer bungalows, detached houses and a row of terraced units.

It proposes that the site be accessed via a new access point onto Marsh Green Road towards the southern portion of the site and would extend in an easterly direction which curves around in a 'U' shape ending in a turning head ending close to Marsh Green Road further to the north.

The plan indicates the provision of 3 detached dormer bungalows and a detached dwelling on the northern side of the access to the site and 12 semi-detached dormer bungalows on the opposite side. On the outside of the bend a large allotment is proposed. On the inside of the bend facing the allotments, a row of 5 terraced units are proposed. Around the bend on the northern side of the road 5 detached dwellings are indicated. On the opposite side of the road would be 4 semi-detached self-build plots.

Policy H2 of the SNP refers to design and layout. The policy advises that all new developments will be expected to, amongst other considerations; be in keeping with the character and countryside setting of the local area; contribute to the local distinctiveness in terms of scale, height, density, layout and appearance; make efficient use of land while respecting the density, character, landscape and biodiversity of the surrounding area; create environments addressing crime prevention and community safety; use respectful materials and create secure and safe layouts.

It is considered that the overall layout of the development would not appear incongruous when you consider the layout of the immediate surrounding area (comprising of King Street, The Avenue and Vicarage Lane), which lies to the south-east of the site, also arranged in a 'U' shape with a cul-de-sac end.

The siting of the proposed allotments on the north-eastern corner also helps to reduce the overall incursion of built form into the countryside and to a degree, be in keeping with the countryside setting.

As such, the indicative layout is deemed to be acceptable in principle in design terms.

Matters of scale and appearance are also reserved for subsequent approval and as such, are not a strict consideration of this application. However, Policy H3 of the SNP advises that new housing developments should be designed to provide a mix of houses to meet identified need and lists examples such as; affordable housing, starter homes and provision for housing for an ageing population.

SNP Policy H4 states that development will be supported that meets the needs of an ageing population and suggests a mixture of tenures including; private, housing association, self-builds, co-housing and affordable housing.

The indicative plan suggests that such a mix would be provided which would represent a planning benefit in line with the neighbourhood plan.

In the context of the location of the site, the properties on Marsh Green Road predominantly comprise of a mixture of two-storey semi and detached properties. However, there is a detached dormer bungalow at the entrance of Marsh Green Road to the south-west (No.2A). There are also terraced properties on George Street, The Avenue and Elm Street within the vicinity. There are detached bungalows along King Street.

As such, the mix of dwellings indicated would not appear incongruous within the area. However, the provision of bungalows within the application site would be best served away from the site frontage as this parcel of Marsh Green Road is not characterised by such development. This however, would be determined at reserved matters stage.

The indicative design of the development for the purposes of the outline application is therefore considered to comply with SNP Policies H2, H3 and H4 and Policy BE.2 the Local Plan.

Access

Local highway network

Traffic surveys undertaken on Marsh Green Road at its junction with the A533 London Road in March 2015, indicate that the road is a relatively lightly trafficked residential access road with two way commuter peak hour traffic flows of around 80 trips per hour; in the vicinity of the site, however, traffic flows will be much lower as only a handful of dwellings are served by the road in this location. Adjacent to the site, Marsh Green Road has a carriageway width of around 4.5m with footway provision restricted to the western side of the carriageway only.

As with most historic residential access roads, serving housing with little or no off-street parking provision, there is a significant amount of on-street parking on Marsh Green Road, which often restricts the carriageway width such that drivers of vehicles have to give way to oncoming traffic before proceeding past parked cars. Site observations made by the Heads of Strategic Infrastructure (HSI) indicate that as a result of the relatively low level of traffic travelling along Marsh Green Road, the availability of passing places due to side roads and, good vehicle to vehicle inter-visibility, the parked cars do not normally present a significant problem for drivers.

Access from the site to the wider highway network would generally be expected to be taken via the Marsh Green Lane / A533 London Road priority junction located to the south of the site. The A533 connects Ellworth with Sandbach providing access to the strategic highway network via the A534 and the M6 motorway at junction 17.

Access

Access to the site is to be taken from a new priority controlled junction with Marsh Green Road.

The Council's Head of Strategic Infrastructure has advised that in terms of junction geometry, layout and visibility the access proposals are considered to be acceptable to serve a development of 30 dwellings.

Traffic Impact

The HSI has advised that a development of 30 dwellings would be expected to generate less than 20 two-way trips during the morning and evening commuter peak periods. Once distributed on the road network, the HSI has advised that the development traffic would only result small increases in the traffic flow.

Conclusion

The Head of Strategic Infrastructure (HSI) is satisfied that the development proposals can be safely accommodated on the adjacent highway network and accordingly, raise no objections.

Environmental Conclusion

The proposal would result in the loss of a parcel of Open Countryside, which in itself is an environmental dis-benefit. Furthermore, the land to be developed has been classified as 'Best and Most Versatile' agricultural land which will also be lost.

The application site is considered to be in sustainable location and would not create any significant concerns with regards to; landscape, trees and hedgerows, ecology, flooding and drainage and highways safety, subject to conditions.

The provision of a mix of house types in line with the SNP would be a planning benefit.

However, as a result of the loss of the Open Countryside and Best and Most Versatile agricultural land, it is not considered that the proposed development would be environmentally sustainable.

Economic Role

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest facilities in Sandbach for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new resident's spending money in the area and using local services.

As such, it is considered that the proposed development would be economically sustainable.

Social Role

The proposed development would provide open market housing which in itself, would be a social benefit.

Affordable Housing

The Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of 3,000 or more that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or larger than 0.4 hectares in size. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in

accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 30 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 9 dwellings to be provided as affordable dwellings. The SHMA 2013 shows the majority of the demand in Sandbach and Sandbach Rural is for 31x 1 bedroom, 35x 2 bedroom, 18x 3 bedroom and 12x 4 bedroom dwellings. Also the SHMA advised the need for 13x 1 bedroom and 5x 2 bedroom dwellings for Older Persons. The majority of the demand on Cheshire Homechoice is for 111x 1 bedroom, 106x 2 bedroom, 62x 3 bedroom, 12x 4 bedroom, 1 x 5 bedroom and 1x 5+ bedroom dwellings therefore 1, 2, 3 and 4 bedroom units on this site would be acceptable.

The Council's Housing Officer has advised that 6 of the proposed units should be provided as Affordable rent and 3 units as Intermediate tenure.

The applicant has agreed to the required provision.

Should the application be approved, it is advised that the above be secured via S106 Agreement which;

- requires the applicant/developer to transfer any rented affordable units to a Registered Provider
- provide details of when the affordable housing is required
- includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy.
- includes the requirement for an affordable housing scheme to be submitted prior to commencement of the development that includes full details of the affordable housing on site.

Public Open Space (POS)

As the application proposal is for 30 dwellings, it triggers a POS requirement. The trigger for this requirement is 7 units as detailed within the *Revised Supplementary Planning Guidance Note 1: Provision of Public Open Space in New Residential Developments 2003*.

The applicant proposes the provision of on-site allotments.

Amenity Green Space (AGS)

The Council's Open Space Officer has calculated that for 30 new dwellings, a need of 720 m² of AGS would be required.

This is based on an average of 2.4 persons per dwelling in line with Interim Policy Note for POS adopted September 2008. The 720 m² is only a guide and will need to be updated once a housing schedule is produced.

SPG1 normally secures POS in the form of AGS and Children's and Young Persons Provision (CYPP), however in this instance the developer is offering POS in the form of allotments (size of area unknown at this stage). It is identified in both the Open Space Survey 2012 and in the recently adopted Sandbach Neighbourhood Plan that there is a strong requirement for a permanent allotment site within Sandbach. Therefore the Council's Open Space officer has advised that the allotment proposal is welcomed should the planning application be approved.

It is further advised by the Officer that the management of the allotment site should be by the way of Association or should be subject to discussions between developer and Cheshire East Council and Sandbach Town Council.

The applicant has advised that they are satisfied that the maintenance of this feature be secured via a management agreement amongst the future residents.

Due to concerns regarding the potential impact the provision of allotments could have upon protected trees, it is recommended that the provision of a minimum of 720m² (subject to change) of AGS **and/or** allotments and their maintenance shall be secured via a S106 Agreement.

Children's and Young Persons Provision (CYPP)

Having calculated the existing amount of accessible CYPP within 800m of the site and the existing number of houses which use it, 30 new homes will place extra demand on the facilities in the local area. The Council's Open Space Officer has advised that the qualitative deficit is identified for CYPP in the form of a skate/Scooter/BMX facility within in Sandbach. A site has initially been identified in within walking distance to the development.

Applying the standards and formulae in the 2008 guidance document, the Council would need £3,835.44 towards providing grind rails within the skate facility. The Council would also need a commuted sum of £21,492.00 to maintain the facilities over 25 years. These figures are offered as a guide and will be updated once a housing schedule is produced.

Education

The Council's Education Officer has advised that to date, already approved development in Sandbach is expected to create an increase of 591 additional primary aged children and 446 additional secondary aged children. Of these approved developments, developer contributions have been sought to mitigate the impact on education infrastructure in accordance with the CIL Regulations. To date this equates to 427 primary children and 232 secondary children.

Not including the current planning application registered on Land Off Marsh Green Road (16/1134C), at the time of application, 7 further registered and undetermined planning applications in Sandbach generating an additional 125 primary children and 93 secondary children.

The Council's Education Officer has advised that the development of 30 dwellings is expected to generate:

- 6 primary children (30 x 0.19)
- 5 secondary children (30 x 0.15)
- 0 SEN children (30 x 0.51 x 0.023%)

The development is expected to impact on secondary school places in the immediate locality. Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased capacity at schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that a shortfall of secondary school places still remains.

The Education Officer has advised that the development is not forecast to impact primary school or SEN provision.

To alleviate forecast pressures, the Education Officer has advised that the following contributions would be required:

$5 \times £17,959 \times 0.91 = £81,713.45$ (secondary)
Total education contribution: £81,713.45

Without a secured contribution of £81,713.45, Children's Services raise an objection to this application.

This objection is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without the mitigation, 5 secondary children would not have a school place in Sandbach. The objection would be withdrawn if the financial mitigation measure is agreed. The applicant has agreed to this provision.

Amenity

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

The closest neighbouring properties to the application site would be the occupiers of; Barn croft, which would be enclosed by the proposed development on 3 sides, the occupiers of the properties on the opposite side of Marsh Green Road to the development and N0.21 Marsh Green Road to the south, the occupiers of the dwellings King Street to the southeast which back onto the site and the occupiers of Marsh Green Farm and the Swallows to the east.

As layout is not sought for approval as part of this application, consideration as to whether the application site could accommodate 30 dwellings without creating any significant amenity concerns.

The indicative layout plan indicates that the closest proposed property to Barn croft would be approximately 9 metres to its east. This would result in a side-on-side relationship between existing and proposed should the indicative layout come forward at reserved matters.

It does not appear that any of the windows within the side elevation of 'Barn Croft' serve as sole windows to principal rooms and assuming that the side elevation of the closest dwelling does not include any, no issues in relation to loss of privacy, light or visual intrusion are envisaged.

All other neighbouring properties on Marsh Green Road, King Street and Vicarage Lane are either over or close to adhering with the 21.3metre separation standards detailed within SPD2. As such, no significant amenity issues in terms of loss of privacy, light or visual intrusion would be created for these neighbouring occupiers.

With regards to the future occupiers of the proposed dwellings, it is considered that sufficient private amenity space could be afforded to each of the proposed dwellings and sufficient separation distances can be achieved between the dwellings.

The Council's Environmental Protection Team have reviewed the submission and advised that they have no objections, subject to a number of conditions including; the prior submission of a piling method statement; the prior submission/approval of a Construction Phase Environmental Management Plan; the prior submission/approval of lighting details; the implementation of the noise mitigation measures proposed; the provision of electric vehicle infrastructure; the prior submission/approval of a dust mitigation scheme.

As such, subject to the above suggested conditions, from the Council's Environmental Protection Officer, the proposal is considered to adhere to Policy GR6 of the Local Plan.

Public Rights of Way (PROW)

The development site includes changes to Public Footpath No.1 Sandbach, as recorded on the Definitive Map of Public Rights of Way.

The PROW Officer has raised no objections to the planning application but recommend an informative to be inserted into the decision notice, should the application be approved, reminding the applicant of their obligations not to interfere with the public right of way either whilst development is in progress or once it has been completed.

It is indicated on the layout plan that the public footpath is to be widened and a link into the footpath to the site be created although there is no reference to this in the text.

The Officer has agreed that should the application be approved, a condition requiring that the Reserved Matters be accompanied with the details of the proposed changes to the footpath, including; its proposed width, its proposed surface materials, proposed boundary treatments and street furniture.

An informative is also requested should the application be approved to advise that the works must be undertaken in liaison with the Council's Management and Enforcement Officer.

Social Conclusion

As a result of the provision of market housing, affordable housing and the likely provision of allotments, mitigation in the form of commuted sums in respect to education and open space, it is considered that the proposed development would be socially sustainable.

Levy (CIL) Regulations

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

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

The requirement for the provision of on site Public Open Space and/or onsite allotments and their associated management is necessary, fair and reasonable, as the proposed development will provide up to 30 dwellings of different sizes, the occupiers of which will be using these on site facilities.

The provision of a financial contribution towards grind rails within the skate facility proposed within walking distance of the site is also considered to be necessary, fair and reasonable.

The education contribution is necessary having regard to the oversubscription of local secondary schools and the demand that this proposal would add.

The proposal is of a scale that hits the trigger for affordable housing for which there is a recognised need.

The above requirements are considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

Planning Balance

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

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.

Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

Policies PS8 and H6 of the Congleton Borough Local Plan First Review and Policy PC3 of the Sandbach Neighbourhood Plan are considered consistent with the aims of the Framework. Policy PC3 of the Sandbach NP has been prepared within the context of the NPPF and independently tested against its criteria by the Inspector who considered whether the Neighbourhood Plan was consistent with the Framework.

The relevant policies of the development plan are therefore considered consistent with the Framework and should be afforded due weight, with the conclusions drawn in PC3 based on up to date and recent evidence. In this case, the SNP presents a policy approach which supports sustainable development on the basis of recent and up to date housing evidence that advocates a strategic approach. The undermining of this approach would represent a significant and adverse impact in Para 14 terms that would outweigh the benefits of the proposal.

Neighbourhood planning provides a powerful set of tools for local people to ensure they get the right kind of development for their community. Whilst the weight afforded to those policies that restrict the supply of housing land may be limited due to the lack of a five year housing land supply, the harm done by approving a proposal which does not comply with the Development Plan and housing policies contained in the Sandbach Neighbourhood Plan is significant and directly conflicts with the overall aims of the framework to deliver sustainable development, through a plan led system which seeks to ensure that proposals contrary to an adopted neighbourhood plan should not normally be granted permission.

It is accepted that the development would provide positive planning benefits such as the provision of a market and affordable dwellings in a relatively sustainable location, The minor economic benefits created predominantly during the construction phase of the scheme and social benefits such as open space/allotment provision and design features that are sought with the Neighbourhood Plan.

Balanced against these benefits, however, must be the adverse impacts, which in this case would be the loss of Open Countryside, the loss of Best and Most Versatile agricultural land, and the harm caused to the plan led system by virtue of the proposal's non compliance with policies within the made Sandbach NP.

In this instance, it is considered that the dis-benefits of the scheme, outweigh the benefits.

Accordingly it is recommended for refusal.

RECOMMENDATION

REFUSE

- 1. The proposal involves the development of a parcel of countryside outside of the Settlement Boundary for Sandbach as defined in the Sandbach Neighbourhood Plan 2016. It is also involves development within the Open Countryside as set out in the Congleton Borough Local Plan First Review 2005. The proposal erodes the rural character of the countryside and undermines the ability of the community to shape and direct sustainable development in their area, contrary to Sandbach Neighbourhood Plan Policy PC3, Congleton Borough Local Plan First Review 2005 policies PS8 and H6**

and the advice of NPPF paragraphs 17, 183-5 and 198. In addition, the development will also result in the loss of Best and Most Versatile agricultural land, contrary to paragraph 26 of the Natural Environment National Planning Policy Guidance. These conflicts are considered to significantly and demonstrably outweigh the benefits of the proposal.

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Planning Manager (Regulation) in consultation with the Chair (or in their absence the Vice Chair) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should the application be subject to an appeal, Committee authority is sought to secure the following Heads of Terms as part of any S106 Agreement:

- 1. On-site Amenity Green Space and/or Allotments provision of at least 720sqm and associated maintenance plan**
- 2. Contribution of £3,835.44 towards providing grind rails within the skate facility within Sandbach and a commuted sum of £21,492.00 to maintain the facilities over 25 years**
- 3. 30% on-site affordable housing provision in a 65:35 split affordable rent: intermediate**
- 4. Secondary School Education contribution of £81,713.45**

