

Application No: 16/6122C

Location: Land off Newcastle Road, Brereton Green, Brereton

Proposal: Residential development of up to 29 dwellings (C3), together with associated infrastructure and open space provision with all matters reserved except for access.

Applicant: N/a, Ashall Land Ltd, Mrs Margaret Proudlove,

Expiry Date: 23-Mar-2017

SUMMARY

The application site lies entirely within the Open Countryside as determined by the Policy PS8 of 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.

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

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

In this case, the development would provide positive planning benefits such as; the provision of a market and affordable dwellings in a sustainable location and the knock-on minor local economic benefits such a development would bring.

Balanced against these benefits must be the adverse impacts, which in this case would be the loss of open countryside and the non compliance with the Brereton Neighbourhood Plan and the ability of a local community to shape its future development via its Neighbourhood Plan and the harm to the Jodrell Bank telescope that this development would bring.

In this instance, it is considered that the adverse impacts in approving this development would significantly and demonstrably outweigh the benefits of the development and as such the application is recommended for refusal.

RECOMMENDATION

REFUSE

PROPOSAL

Outline planning permission is sought (with access provided via Newcastle Road South) for up to 29 dwellings with associated infrastructure and open space. The indicative layout shows a single access point from Newcastle Road South with a small series of cul de sacs with a total of 29 units comprising indicatively 4 one bed affordable units, 3 two bed and 2 three bed shared ownership units, with the remainder indicated to be larger detached dwellings. Allotments with dedicated parking spaces are proposed adjacent to the boundary with properties in Maple Close. Indicatively 145sqm of informal play and @ 3950sqm of open space is proposed to the southern boundary

SITE DESCRIPTION

The application site comprises of a 1.5ha field of dips and hollows located next to the settlement boundary and accessed via the A50, Newcastle Road South immediately due south of 22 Bagmere Road. A hedgerow defines the A50 frontage and there are sporadic mature trees within the site, mainly located around the field ditch to the south of the site.

The site is located in the Open Countryside as designated in the Congleton Borough Local Plan First Review.

RELEVANT HISTORY

15/4968C- Outline application for up to 49 dwellings and associated works. Refused 7 July 2016 - This comprises part of the site the subject of this application. A public inquiry due to be held in in this case in July 2017

LOCAL & NATIONAL POLICY

Brereton Neighbourhood Plan

On 8th July 2013, CEC designated the Parish of Brereton as the Brereton Neighbourhood Area. The neighbourhood plan was developed locally and submitted to Cheshire East Council on 23rd July 2015. A consultation on the submitted plan was held from 10th August 2015 to 21st September 2015.

Following the appointment of an examiner, a hearing was called to address a series of specific issues including the number of homes identified for delivery in the plan period, the introduction of a settlement boundary policy and the Parish Council's approach to self build housing. The hearing was held at Sandbach Town Hall on 11th November 2015 and following its conclusion

the examiner issued a positive examination report to Cheshire East Council on 1st December 2015, recommending a number of modifications and that the Plan proceed to referendum to be held within the neighbourhood area as originally designated by Cheshire East Council.

A decision to accept the modifications proposed by the examiner, implement the changes to the plan and proceed to referendum was taken by the Portfolio Holder for Planning and Housing on 5th January 2016. The referendum was held 10th March 2016, returning a positive result in favour of the plan.

A decision to make the plan was taken on 28th March. The plan is now made and forms part of the Development plan for Cheshire East. The relevant Policies in the Neighbourhood Plan are:

HOU1 – Settlement Boundary
HOU2 – Exceptions to New housing Development
HOU5 – Provision of Open Space in New Housing Development
HOU8 – Housing Mix
HOU9 – Housing for Local People
HOU10 – The Layout and Design of New Housing
COM05 – Provision of Allotments and additional car parking
ENV02 – Open Landscape views
ENV03 – Nature Conservation
ENV04 – Biodiversity and Geodiversity
ENV05 – Development and Landscape
TRA03 – Community Infrastructure

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;

PS3	Settlement Hierarchy
PS6	Settlements in Open Countryside
PS8	Open Countryside
GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
GR23	Provision of Services and Facilities

E10	Existing Employment Sites
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
NR1	Trees & Woodland
NR4	Nature Conservation (Non Statutory Sites)
NR5	Maximising opportunities to enhance nature conservation

Cheshire East Local Plan Strategy – Proposed Changes 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, 56-68 - Requiring good design, 69-78 - Promoting healthy communities

Supplementary Planning Documents:

Interim Planning Statement: Affordable Housing (Feb 2011)
 North West Sustainability Checklist
 SPG2 - Provision of Private Amenity Space in New Residential Development
 The EC Habitats Directive 1992

CONSULTATIONS

Head of Strategic Infrastructure (HSI) – No objections, subject to conditions

Environmental Protection (Cheshire East Council) – No objections, subject to a number of conditions including; the submission of an acoustic assessment and implementation of noise

mitigation with regard to properties affected by noise on the A50; the prior submission/approval of an Environmental Management Plan; the prior approval of air quality mitigation measures including travel plan and electric vehicle charging and contamination land report

Flood Risk Manager (Cheshire East Council) – No reply but previously advised no objections, subject to a condition requiring the prior approval of a detailed drainage strategy/design in accordance with the appropriate surface water drainage for the conditions on site

United Utilities – No objections, subject to a condition that the site be drained on a separate system and the prior approval of a surface water drainage scheme

Housing (Cheshire East Council) – No objection, the revised mix meets local need

ANSA Greenspaces (Cheshire East Council) – No reply but previously advised that Brereton Community Space is just over 300m away and offers a high quality standard of play provision and amenity green space. No requirement is needed for off site provision, however, ANSA advise that the allotments are indicated to be provided on site, are not in an area of the site which sits on wet land and drains adequately.

Education (Cheshire East Council) – The development of 29 dwellings is expected to generate:

6 primary children (29 x 0.19)

4 secondary children (29 x 0.15)

0 SEN children (29 x 0.51 x 0.023%)

There is sufficient available capacity in the local primary schools to accommodate the pupils generated of this age.

The development is forecast to increase an existing shortfall predicted from 2018 onwards for secondary provision in the immediate locality. Negotiated contributions are factored into forecasts and equations, however a shortfall still remains.

The analysis undertaken has identified that a shortfall of secondary school places still remains.

To alleviate forecast pressures, the following contributions would be required:

$4 \times £17,959 \times 0.91 = £65,371$ (secondary)

Total education contribution: £65,371

Without a secured contribution of £65,371, Children's Services raise an objection to this application.

Jodrell Bank : Objection – whilst the impact is minor in terms of their assessment , the concern relates to the cumulative impact that this proposal would have in conjunction with all the other developments that have been approved in this area.

Brereton Parish Council – Object on the following grounds:

- Non compliance with the Brereton Neighbourhood Plan for which there is a strong community mandate
- The proposal is a substantial development outside the settlement boundary
- Proposal is not sustainable
- Housing needs met by the 190 unit Gladman development
- Does not reflect local pattern of development
- Detrimental to the amenities of neighbours
- The site has a flooding problem, as do neighbouring houses and the submitted report is inadequate
- Public transport is infrequent and out of peak hours
- Site access on to A50 is dangerous
- Limited village amenity leading to reliance on the car
- Impact upon health and education infrastructure
- Dispute ecological report saying no bats present
- Lack of information concerning newts
- Lack of information in transport statement
- Lack of locational sustainability

REPRESENTATIONS

Neighbour notification letters were sent to all adjacent occupants, a site notice was erected and an advert placed in the local paper.

Approximately 58 letters of representation have been received objecting to the proposal. The main areas of objection are:

- Principle of development
- The land sold to adjoining residents by farmer should not be utilised as buffer by this development
- Loss of agricultural land
- Not meeting locals needs
- Not needed
- Loss of open countryside views
- Sustainability of the location
- Ecology – Impact upon protected species / wildlife
- Impact upon hedgerows
- The indicate buffer to south of Maple Close is in ownership of Maple Close residents and should not be used as buffer for this development
- Lack of buffer to adjoining houses
- Highway safety – Dangerous road with many accidents
- Design – Character and scale
- This is a Greenfield site and Brownfield sites should be used in preference
- Loss of hedge
- Premature
- Amenity – Loss of privacy / overlooking, light, visual intrusion, noise and dust
- Inaccurate statements re bats on site
- Impact upon schools and medical services locally

- No footpath links / pedestrian safety / cyclist safety
- No need for more housing / affordable housing in this location
- Flooding – inaccurate information
- Poor public transport links
- Future development pressures
- Contrary to the Brereton Neighbourhood Plan

Fiona Bruce MP has written to support her constituents. Considers the proposal should be considered in the light of the Brereton Neighbourhood Plan

APPRAISAL

The key issues are:

- The principle of the development
- Sustainability including the proposal's 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.

As such, although weight that can be given to the Brereton Neighbourhood Plan (hereafter referred to as the Brereton NP), at present due to the Council's Housing Land Supply position, this weight is limited and this feeds into the overall planning balance of the proposal.

The site is designated as being within the Open Countryside where Policy PS8 (Open Countryside) of the 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 up to 29 new dwellings in the Open Countryside, it is 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 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 application does not fall within the settlement boundary as defined by the Brereton NP policy HOU1. In such locations, housing development may be permitted where it is appropriate to local character and complies with other policies in the Brereton NP and the Cheshire East Council Local Plan

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 to the loss of open countryside and the non compliance with the Brereton NP.

LOCAL PLAN MAIN MODIFICATION / HOUSING LAND SUPPLY

On 13 December 2016 Inspector Stephen Pratt published a note which sets out his views on the further modifications needed to the Cheshire East Local Plan Strategy. This note follows 6 weeks of Examination hearings concluding on 20 October 2016.

This note confirms that his previous endorsement for the core policies on the plan still stand and that *“no new evidence or information has been presented to the examination which is sufficient to outweigh or alter my initial conclusions”*. This signals his agreement with central issues such as the ‘Duty to Cooperate’, the overall development strategy, the scale of housing and employment land, green belt policy, settlement hierarchy and distribution of development.

The Inspector goes on to support the Council’s approach to the allocation of development sites and of addressing housing supply. He commented that the Council:

“seems to have undertaken a comprehensive assessment of housing land supply, and established a realistic and deliverable means of meeting the objectively assessed housing need and addressing previous shortfalls in provision, including assessing the deliverability and viability of the proposed site allocations”

The Inspector went on to state that the development strategy for the main towns, villages and rural areas appeared to be “appropriate, justified, effective, deliverable and soundly based.” As a consequence there was no need to consider other possible development sites at this stage.

The Inspector’s recommendations on Main Modifications mean that under paragraph 216 of the Framework the emerging policies of the Cheshire East Local Plan Strategy can be attributed a greater degree of weight – as the Plan as revised is at an enhanced stage, objections are substantially resolved and policies are compliant with National advice.

The Inspector’s recommendations on housing land supply, his support for the Cheshire East approach to meeting past shortfalls (Sedgepool 8) indicate that a remedy is at hand to housing supply problems. The Council still cannot demonstrate a 5 year supply of housing at this time but it will be able to on the adoption of the Local Plan Strategy. This is highly relevant to the assessment of weight given to housing supply policies which are deemed out of date by the absence of a 5 year supply. Following the Court of Appeal decision on the *Richborough* case, the weight of an out of date policy is a matter for the decision maker and could be influenced by the extent of the shortfall, the action being taken to address it and the purpose of the particular policy. Given the solution to housing supply now at hand, correspondingly more weight can be attributed to these out of date policies.

This matter is further emphasised in light of the Richborough Court of Appeal decision. The judges concluded that paragraph 49 refers to all policies ‘affecting’ housing land supply in its

widest context – this includes any policy which is capable of preventing land from being developed for housing. As such all such housing policies could be considered to be out of date.

However, whereas previously ‘out of date’ policies have been given little or no weight, it was clear that they are not irrelevant and should be given weight. The judges were clear that it is for the decision maker to consider what weight to give to the competing issues in arriving at a decision.

The Government has recently issued a Ministerial Statement in relation to Neighbourhood Plans which states that the relevant policies for the supply of housing in a neighbourhood plan, that is part of the development plan, should not be deemed to be ‘out-of-date’ under paragraph 49 of the National Planning Policy Framework where all of the following circumstances arise at the time the decision is made:

- This written ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less;
- the neighbourhood plan allocates sites for housing; and
- the local planning authority can demonstrate a three-year supply of deliverable housing sites.

In this case the Brereton NP does not allocate any sites for housing and as such the Ministerial Statement does not apply.

In the context of the Brereton NP, 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 the emerging neighbourhood plan, even though these policies should not be considered up-to-date.

As such, the weight that can be given to this Brereton NP, having regard to the Ministerial Statement, is limited at present due to the Council’s Housing Land Supply position. However, this does feed into the overall planning balance of the proposal.

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 Sustainability

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.

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:

- Public house (1000m) – 500m (Bears Head)
- Bus stop (500m) – 500m (Bears Head)
- Post Box (500m) – 300m
- Children's Play space (500m) 300m
- Amenity open space (500m) – on site
- Primary School (1000m) – 900m
- Child care facility (1000m) – 900m

The following amenities/facilities fail the standard:

- Railway station (2000m) – 3700m
- Any transport node – 3700m
- Post Office (500m) – 3500 (London Rd Holmes Chapel)
- Convenience Store (500m) – 3500m
- Pharmacy (1000m) – 3000m
- Medical Centre (1000m) – 3700m
- Supermarket (1000m) – over 3000m
- Leisure Facilities (Leisure Centre or Library) (1000m) – over 3000m
- Secondary School (1000m) – over 3000m
- Bank or Cash Machine (1000m) – over 300mm

In summary, the site does not comply with the majority of the standards advised by the NWDA toolkit. Furthermore, there are no footpaths currently leading from the site in any to any of the facilities within the recommended distances other than the church on the opposite side of the road.

Newcastle Road South is a well used busy road served by public transport (route 319 to Sandbach Monday to Saturday with 1st bus at 9.30am and last at 13.52, it seems likely that any future residents of the proposed houses would use private transport to access any services, facilities or local workplaces.

The bus stop is within walking distance, although the site presently does not have a pavement along the A50, the Strategic Highways Managers requests such provision so, if approved, it is likely that future residents will be able walk to this bus stop to access sustainable transport choices.

A school bus service does operate for children to go to the Holmes Chapel secondary school. Whilst most services are in Holmes Chapel, a bus service does serve the site and therefore in location terms this site must be regarded as being generally locationally sustainable.

This view is considered to be consistent with Inspectors' appeal decisions on schemes that were refused on (locational) sustainability grounds but allowed at appeal when Inspectors considered sustainability in the context of the three strands of sustainability referred to in the NPPF, not merely in the context of location.

An appeal at land adjacent to Rose Cottages, Holmes Chapel Road, Somerford an application for 25 dwellings (12/3807C) was refused by Southern Planning Committee on 12th December 2012 for sustainability reasons. In allowing the appeal the Inspector found that “it is inevitable that many trips would be undertaken by car as happens in most rural areas. However in this case many such trips for leisure, employment, shopping, medical services and education have the potential to be relatively short. A survey of the existing population undertaken by the Parish Council confirmed that the majority use the car for most journeys. Its results should though be treated with some caution in view of the response rate of only 44%. The survey does not seem to have asked questions about car sharing or linked trips, both of which can reduce the overall mileage travelled. It is interesting to note that use of the school bus was a relatively popular choice for respondents. A few also used the bus and train for work journeys. It also should not be forgotten that more people are now working from home at least for part of the week, which reduces the number of employment related journeys. Shopping trips are also curtailed by the popularity of internet purchasing and most major supermarkets offer a delivery service. The evidence also suggests that the locality is well served by home deliveries from smaller enterprises of various kinds”.

It is considered that this site is considerably less isolated than the site at Rose Cottages and therefore in the light of Inspector’s comments in that case, it is considered that this site is located in a sustainable location with regards to its accessibility to public facilities.

Landscape

The site is an agricultural (Grade 3b) field which lies within the open countryside and is governed by Policy PS8 of the Congleton Local Plan. This seeks to restrict development within the countryside apart from a few limited categories. One of the Core Planning Principles of the NPPF is to “take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

Policy PS8 accords with the NPPF desire to recognise the intrinsic character of the countryside. The application, by developing and hence eroding an area of open countryside, conflicts with Local Plan Policy PS8. PS8 accords with the intent of the NPPF and accordingly the loss of countryside sits within the planning balance.

There are no landscape designations on the application site. Within the Cheshire Landscape Character Assessment the application site is in the Brereton Heath Area.

The character of the site is significantly influenced by the existing development of housing along the entire northern boundary. The landscape officer advises that a two storey housing development would change the character of the site itself but would not have any significant impacts on the character of the wider landscape or have any significant visual impacts in landscape terms.

Although an outline application, in principle, the illustrative layout suggests that a form of layout could be achieved that would allow for the retention of the majority of the peripheral hedgerows

and trees within the site (other than to accommodate the main access point) and would allow for landscape and biodiversity enhancement measures.

Trees and Hedgerows

An arboricultural assessment has been submitted in support of the application. The report identifies 11 individual trees, 3 groups and 5 hedgerows within and immediately adjacent to the application site and have been categorised for tree quality in accordance with BS5837:2012.

Whilst there are potential shading issues in respect of the plot adjacent to Oak (T5), amendments to the plot design could be sought at reserved matters stage to provide some improvement in terms of the relationship to the tree.

The position of the proposed plot adjacent to Oak (T4) appears to extend into the Root Protection Area (RPA). The relationship/social proximity to the new build and available space for construction does not take into account existing and future growth potential and therefore amendments to the design and position of the Plot should be addressed at reserved matters.

There will be some loss of hedgerows (5 metre length approx.) to facilitate access off Newcastle Road and internally, however it is anticipated that there is sufficient provision for their replacement and mitigation within the site.

Hedgerows are deemed a Local BAP priority habitat and consideration should be given for replacement planting to offset the loss as part of detailed landscape proposals at reserved matters stage.

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.”

Although layout, external appearance and design are also reserved matters and the proposal seeks permission for up to 29 units, it is considered that an appropriate design and layout can be achieved on this site, which would need to be assessed as part of any reserved matters.

One point of concern, however, is that the indicative layout shows a majority of larger (4 and 5 bed) detached dwellings for market sale, and smaller units as affordable units. The layout appears to not include any 1 or 2 bed units for market sale. In design terms, a reserved matters layout should demonstrate a range and mix of differing units including smaller units for market sale, which would be more appropriate and would be less land hungry, likewise

this would comply with policy SC4 of the emerging Plan, the Design Guide and HOU8 and HOU10 of the Brereton NP.

Highway Safety

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

Paragraph 32 of the National Planning Policy framework states that:-

'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The proposed access and footways within the proposal and on the A50 to link this site to the existing pavement on the A50 are of acceptable widths and the visibility on exiting onto A50 Newcastle Road will adhere to standards.

Footway access from the site to the village centre is currently sub-standard due to narrow width but the applicant has proposed remedial action to bring it up to standard by increasing the width to 2m. Public transport is limited but is within walking distance and footways from the site to the bus stops are acceptable.

A simple junction with 6m radii was initially proposed at the site access. Due to the wide and rural nature of the carriageway, and the 60mph speed limit, the simple junction has been revised and a ghost island has been provided for right turning vehicles with shelter from through traffic.

The access radii have been increased and swept paths have been provided to demonstrate that large refuse vehicles can enter and exit the new site access without encroaching onto oncoming lanes.

The Strategic Highways Manager advises that although there have been 9 accidents on the A50 in the vicinity of the site over the last 5 years, contributory factors are due to human error and not the road layout.

The number of trips that would be generated from the site will be less than 1 per minute during each of the peak hours and trip generation is therefore considered minor.

Overall subject to conditions, the Strategic Highways Manager advises that he has no objections to this scheme and that this proposal will not cause any highway harm.

Flood Risk and Drainage

The site is located in flood zone 1; however there are two ponds south to the site. The risk of flooding from this source will need to be appropriately mitigated. This is a matter that could be conditioned.

United Utilities has reviewed the Flood Risk Assessment submission and advised that they have no objections, subject to conditions. The Council's Flood Risk Manager's views are awaited.

Ecology

The application is supported by an Extended Phase 1 Habitat Survey.

Great Crested Newts

The submitted ecological appraisal has identified a number of ponds within 250m of the proposed development. No evidence of great crested newts was recorded during the submitted detailed surveys and the ecologist advises that this species is not reasonably likely to be present or affected by the proposed development.

Ponds

Ponds are a local BAP priority habitat and hence a material consideration. The submitted ecological assessment states that the ponds are considered to be of 'site' value. The ecologist considers that this is an undervaluation of the ponds ecological importance. The ponds would however be retained as part of the submitted indicative layout if planning consent is granted a condition should be attached requiring the ponds to be retained as part of the proposed development.

Hedgerows

Hedgerows are also a Local BAP priority habitat and, as with the ponds, are undervalued by the submitted Ecological Assessment. There will be some loss of hedgerow to facilitate the proposed access routes, however the ecologist advises that there are sufficient opportunities for suitable replacement planting to be provided to compensate for this loss.

If outline consent is granted it must be ensured that detailed proposals for replacement hedgerow planting are provided at the detailed design stage.

Trees and roosting bats

The submitted ecological assessment identifies three trees as having potential to support roosting bats. These trees have been subject to a survey and no evidence of roosting bats was recorded. Based upon the submitted illustrative layout plan it appears feasible that these trees could be retained as part of the

development of the site.

Hedgehogs

This priority species has not been recorded on site but the habitat is potentially suitable.

If planning consent is granted the ecologist recommends a condition be attached to ensure that a scheme of gaps for hedgehogs to be incorporated in hedges and fences.

Badgers

The Badger report submitted in support of this application is now out of date. The Ecologist advises that an updated report should be provided prior to the determination of the application. At the time of writing, an updated report has just been received. This matter will be the subject of an update report

Subject to the considerations of the updated Badger Report, it is considered that the development would adhere with Policy ENV03 of the BNP, Policy NR2 of the Local Plan and Policy SE3 of the emerging CELPS.

Environmental Conclusion

Subject to conditions and satisfactory reserved matters a scheme of an acceptable design that would not create any significant issues in relation to; landscape, neighbouring amenity, trees, highway safety, drainage or flooding and ecology could be provided. As such, it is considered that the proposed development would be environmentally neutral.

Economic Sustainability

It is accepted that the construction of a housing development of this size would bring the economic benefit to the closest shops in Holmes Chapel, Sandbach and the local farm shop 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 for the local community. 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 Sustainability

Affordable Housing

The site lies in Brereton Parish on the edge of the settlement boundary for Holmes Chapel.

Brereton is in the Sandbach Rural sub-area in the Strategic Housing Market Assessment Update 2013 (SHMA). The SHMA identified a need for 12 new affordable units per year in the Sandbach Rural sub-area, made up of a need for 13 x 1 bed, 2 x 2 beds, 3 x 4+ beds and 2 x 1 bed older persons units (there is an oversupply of 3 bed units).

In addition to this, information taken from Cheshire Homechoice shows that there are 3 applicants on the housing register who have selected Brereton for their first choice. The requirement of these applicants is 1 x 2 bed and 2 x 3 bed.

In 2013 a rural housing needs survey for Brereton was carried out and showed a need for at least 12 households in need of affordable housing.

The Council's Interim Planning Statement on Affordable Housing (IPS) requires sites in settlements with a population of less than 3,000 to provide 30% affordable housing if the site is 0.2 hectares or 3 dwellings or more. This site is over 0.2 hectares and the proposal is for more than 3 dwellings, and as such there is a requirement to provide 30% affordable housing. The preferred tenure split for affordable housing outlined in the IPS was 65% social rented and 35% intermediate tenure.

For this development, 9 units of affordable housing are required to be broken down to 6 social/affordable rented units and 3 at intermediate tenure. Following revision, this has been provided. The Housing Manager therefore raises no objection

Jodrell Bank

Jodrell Bank advise that they oppose this development. Their view is that the impact from the additional potential contribution to the existing level of interference coming from the direction of this site will be minor, however, their concern relates to the cumulative impact of developments in this general direction in which there is already significant development close to the telescope.

Jodrell Bank now opposes development across a significant part of the consultation zone as a matter of principle, in order to protect the efficiency of the Jodrell Bank radio telescope's ability to receive radio emissions from space with a minimum of interference from electrical equipment. This is the case here. This is a very important material consideration to which significant weight can be attached within the planning balance in this case.

Radio telescopes at Jodrell Bank carry out a wide range of astronomical observations as part of national and international research programmes, involving hundreds of researchers from the UK and around the world. The telescopes are equipped with state-of-the-art cryogenic low-noise receivers, designed to pick up extremely weak signals from space. The location of Jodrell Bank was chosen by Sir Bernard Lovell in 1945 as a radio-quiet rural area away from the interference on the main university campus in Manchester.

The Congleton Borough Local Plan states that development within the Jodrell Bank Radio Telescope consultation zone will not be permitted if it can be shown to impair the efficiency of the Jodrell Bank radio telescope in terms of its ability to receive radio emissions from space with a minimum of interference from electrical equipment.

Equipment commonly used at residential dwellings causes radio frequency interference that can impair the efficient operation of the radio telescopes at Jodrell Bank. This evaluation is based on the definition of the level of harmful interference to radio astronomy specified in ITU-R.769, the International Telecommunications Union 'Protection criteria used for radio

astronomical measurements', which has been internationally adopted and is used by Ofcom and other bodies in the protection of parts of the spectrum for radio astronomy.

The social adverse impacts of the scheme would be the minor impact the development would have upon the efficiency of the Jodrell Bank Radio Telescope.

It should also be taken into account, that, whilst it cannot mitigate the impact or overcome the objection, the level of impact can be moderated by the use of electromagnetic screening measures with the development.

The applicant considers that this issue should not be determinative in this case, given the recent resolutions to approve numerous applications for residential developments in Congleton associated with the Congleton Link Road have attracted objection from Jodrell Bank on the grounds of 'moderate' impact, and the Council has resolved to approve these cases. In this case, Jodrell Bank opposes this development but advise the impact is minor. Jodrell Bank, however, maintain their objection on the basis of the cumulative impact on the operations of the telescope of the residential permissions in this direction from the Telescope.

This will be considered further in the Planning Balance section of this report

Open Space

As part of the indicative proposal, an area of informal play (225sqm) and public open space (circa 3945sqm) to the outer periphery of the site. As a result of Parish Council objection to the original scheme, the applicant has also sought to indicate allotments to the rear of existing dwellings in Maple Close.

The Greenspace Officer was of the view in the previous application (now at appeal) that the proposed allotments could be broken down into 6 small plots of approximately 60sqm each. It would be better for the allotments to be placed away from existing residential boundaries in the POS located in the South allowing for 6 parking spaces. This would safeguard the amenity of existing occupiers adjoining. This could be achieved by condition.

Soil samples should be tested for contamination at the proposed location and drainage should be installed if the area is wet. One of the parking spaces would be for 'drop offs' for example for a delivery of compost, soil improvers etc. The site should be marked out, securely fenced and gated, have at least a central hoggin type path for access. If securely fenced then a water supply should be provided along with appropriate accommodation for tools. As this is an indicate layout only it is considered that these concerns could be addressed by condition.

As such, and secured via legal agreement to ensure that the onsite POS and allotments are suitably maintained and managed via a private residents management agreement, it is considered that the proposal would be in compliance with Local Plan Policy GR22.

Education

The Council's Education Officer has advised that the development will generate 6 primary aged pupils, 4 secondary aged pupils and 0 SEN pupils. The Primary sector has capacity due to contributions achieved on other developments. However, the development is forecast to

increase an existing shortfall for secondary provision in the immediate locality, but would have no impact upon primary provision. In light of this the following contributions are sought towards secondary school provision -

$$4 \times £17,959 \times 0.91 = £65,371 \text{ (secondary)}$$

Total education contribution: £65,371

<u>Development</u>	Land off Newcastle Road, Brereton				Number of Dwellings		29				
<u>Planning App Number</u>	16/6122C				Primary Yield		6				
<u>Date Prepared</u>	16.1.2017				Secondary Yield		4				
					SEN Yield		0				
Primary Schools	PAN Sep 16	PAN Sep 17	NET CAP May-16	Any Known Changes	PUPIL FORECASTS based on October 2015 School Census						
					2016	2017	2018	2019	2020	Comments	
Brereton CofE Primary School	30	30	210	210	161	168	168	162	149		
Hermitage Primary School	30	30	210	210	210	220	224	225	219		
St John's CofE Primary School	25	25	175	175	158	163	171	170	169		
Developments with S106 funded and pupil yield included in the forecasts				33							
Developments pupil yield not included in the forecasts									39		
Pupil Yield expected from this development									6		
OVERALL TOTAL	85	85	595	628	529	551	563	557	582		
OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP					99	77	65	71	46		
Secondary Schools	PAN Sep 16	PAN Sep 17	NET CAP May-16	Any Known Changes	PUPIL FORECASTS based on October 2015 School Census						
					2016	2017	2018	2019	2020	2021	2022
Holmes Chapel Comprehensive School	210	210	1,050	1,050	1,038	1,050	1,065	1,051	1,043	1,036	1,045

Subject to this, the scheme would be in compliance with the development plan and Policy IN1 of the CELPS.

Residential Amenity

Policy GR6 of the Local Plan advises planning permission for any development adjoining or near to residential property or sensitive uses will only be permitted where the proposal would not have an unduly detrimental effect on their amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, and noise.

Supplementary Planning Guidance Note 2 (Congleton Local Plan) advises on the minimum separation distances between dwellings. The distance between main principal elevations (those containing main windows) should be 21.3 metres with this reducing to 13.8 metres between flanking and principal elevations. The submitted layout is indicative only, however, the indicative layout does indicate a layout that is sufficiently spacious to satisfactorily safeguard adjoining residential amenity.

With regard to noise impacts, the development is in close proximity to the A50 and is subject to high levels of road traffic noise.

The Council's Environmental Protection Officer (EPO) considers that noise levels, could be mitigated to a level which is considered adequate and requires a noise report as a planning condition, particularly to assess the impacts of noise in the living environment for dwellings close to the A50.

The EPO has advised that due to the proximity of the development to other residential properties, there is a need to protect the amenity of nearby residential properties during the construction phase of the development, as such a condition seeking the prior submission of an Environmental Management Plan is recommended.

With regard to contaminated land and air quality, the EPO has raised no objections, subject to the following conditions; prior submission / approval of a scope of works addressing the risks posed by land contamination; the submission / approval of a validation report in accordance with the approved remediation strategy and the submission of relevant evidence and verification info of any soil or soil forming materials brought into the site for use in the garden areas of for soft landscaping; travel planning and electric vehicle charging.

As such, subject to the above conditions, it is considered that the proposal would not create any significant amenity concerns.

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 long term management of on site Public Open Space and onsite allotments is necessary, fair and reasonable, as the proposed development will provide up to 29 family sized dwellings of different sizes, the occupiers of which will be using these on site facilities.

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 is agricultural land that 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

However, in the absence of a five year supply, paragraph 14 is engaged and consideration must be given to whether the granting of permission would give rise to any significant and adverse impacts that would outweigh the benefits of the proposal.

The benefits in this case are:

- The development would provide benefits in terms of much needed affordable housing provision and would help in the Council's delivery of 5 year housing land supply.
- In terms of the POS provision and allotments this is considered to be acceptable.
- The development would provide economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in the area.

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

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

Whilst, submitted in outline form only, the indicative layout demonstrates a scale of development that could be accommodated subject to the issues raised in this report. All other issues could be mitigated against by the use of planning conditions or a s106 agreement and as such, are considered to have a neutral impact.

The adverse impacts of the development would be:

- The loss of open countryside and loss of agricultural land (at Grade 3b so not determinative in its own right)
- The minor and cumulative effects on the Jodrell Bank Telescope

The development is contrary to the Brereton Neighbourhood Plan and open countryside policies, however, given the lack of a 5 year housing land supply, they are considered out of date. So the presumption in favour in Paragraph 14 applies. However, with reference to the *Richborough* Court of Appeal weight can be given to those policies and it is a matter for the decision maker to apportion the weight.

The applicant considers the harm to the telescope is outweighed by the benefits of the proposal. They cite recent resolutions to approve major schemes on allocated sites associated

with the Congleton Link Road notwithstanding objections from Jodrell Bank. It is considered that the significant and numerous planning benefits in those cases are not directly comparable to this proposal, where the benefits are minor. Those minor benefits do not outweigh the harm to the Telescope in this case

Additionally, there is now a solution to the housing supply in hand through the forthcoming adoption of the Local Plan. As a consequence of the Inspectors most recent comments in December increased weight can be afforded to these 'out of date' policies. In addition given the progression of emerging policies towards adoption it is considered that greater weight can now be given to those emerging policies. A further factor that weighs against the scheme is the extent of the harm that the cumulative harm of un-planned developments is having upon the Jodrell bank Telescope.

Therefore taking a balance of the overall benefits, the current policy position and the scale of harm it is considered that the presumption in favour is outweighed in this case and a recommendation of refusal is made.

RECOMMENDATION

Refuse for the following reasons:

- 1. The proposal involves the development of countryside outside of the Settlement Boundary for Brereton Green as defined in the Brereton Neighbourhood Plan 2016. It is also involves development within the countryside as set out in the Congleton Local Plan First Review 2005. The proposal erodes the character of the countryside contrary to Brereton Neighbourhood Plan Policies HOU01 and HOU02, Congleton Local Plan First Review policies PS8 and H6 and the advice of NPPF paragraphs 17, 183-5 and 198. These conflicts significantly and demonstrably outweigh the benefits of the proposal.**
- 2. Whilst it is acknowledged that there is a presumption in favour of sustainable development, in the planning balance it is considered that:**
 - the development is unsustainable because the unacceptable economic, environmental and social impact of the scheme upon the efficient operation of the Jodrell Bank Observatory and its internationally important work significantly and demonstrably outweighs the economic and social benefits in terms of its contribution to boosting housing land supply, including the contribution to affordable housing. As such, the proposal is contrary to Policy PS10 of the adopted Congleton Borough Local Plan First Review 2005 and Policy SE14 of the Cheshire East Local Plan Strategy Submission Version that seeks to limit development that impairs the efficiency of the Jodrell Bank radio telescope as well as the provisions of the National Planning Policy Framework.**

In order to give proper effect to the 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 there 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, 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 allotments on site to be maintained by a private management company in perpetuity
3. School Secondary Education Contribution of £65,371

