

Application No: 15/5637M

Location: Land Off, SCHOOL LANE, MARTON

Proposal: Erection of up to 23No. Dwellings

Applicant: Hollins Strategic Land LLP

Expiry Date: 17-Aug-2017

SUMMARY

On 27th July the Council adopted the Cheshire East Local Plan Strategy therefore the Council have demonstrated that they have a 5 year supply of deliverable housing sites.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan; the determination shall be made in accordance with the plan unless material consideration indicates otherwise.” The National Planning Policy Framework, which is the Secretary of State’s guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means “approving development proposals that accord with the development plan without delay”.

In this instance the dis-benefits are that the proposed development would be contrary to Policies PG6 of the Adopted Cheshire East Local Plan as the site is in the open countryside; it also lies within the Jodrell Bank Consultation Zone, where policies SE14 of the Local Plan Strategy and GC.14 of the Macclesfield Borough Local Plan do not permit development which would impair the efficiency of the radio telescope; and the site is designated as an area of open green space identified by Policy PE.3 of Marton Neighbourhood Plan for retention.

The development would provide benefits in terms of affordable housing provision, delivery of housing, education, POS / play area, provision of pedestrian links, and the usual economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact upon education, protected species/ecology, highways, and the historic environment. Impacts on residential amenity and protected trees can be fully addressed at the reserved matters stage. The impact from the small loss of best and most versatile (BMV) agricultural land is given little weight in this case.

The adverse impacts of the development would be:

- The loss of Open Countryside
- The impact upon the efficiency of the Jodrell Bank Radio Telescope
- Loss of open green space detrimental to the character of Marton
- Site not located in within desired proximity to public transport and some services and facilities

Therefore taking a balance of the overall benefits, the current policy position, the Secretary of State's findings in dismissing the previous appeal on this site, 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

PROPOSAL

This outline application is a resubmission of 15/2447M for 27 dwellings on this site which was refused and dismissed on appeal by the Secretary of State in April 2017.

The application has been amended during the course of the submission. It now seeks outline planning permission for the erection of up to 23 no. dwellings and approval of access. A revised concept plan has been submitted which provides an Illustrative layout, demonstrating how the quantum of development could be accommodated within the site.

The concept plan shows an area of open green space/POS (0.32 ha) on the site frontage with School Lane. This is proposed to accommodate a play area and incorporate a footway running parallel to School Lane.

To facilitate the development a mature sycamore tree will need to be removed from the centre of the site.

The proposal would provide on-site affordable housing (7 units).

SITE DESCRIPTION

The application site is a field located off School Lane, Marton, covering an area of about 1.3ha and bounded by post and rail fencing and hedging. The land is Grade 2 Agricultural land, gently undulating and used for grazing sheep. The site lies within open countryside and the Jodrell Bank Consultation Zone.

A small derelict brick building is located towards the south-western corner of the site (previously a Smithy). Four Listed Buildings are located close to the site, the nearest of which is 'Greenacre', a Grade II Listed residential dwelling located on School Lane opposite the proposed site access. The other three listed buildings (Grade II) are residential properties located beyond the boundaries of the existing properties located around the site's boundaries.

School Lane passes by the north-western boundary of the site, on the opposite side of which are residential properties that face towards the site frontage. A residential property (The Spinney) lies immediately beyond the north/north-eastern boundary of the site. Oak Lane passes by the eastern boundary of the site and there are residential properties and a Primary School opposite the site's eastern boundary.

A residential estate along Oak View comprising of two and single storey properties lies to the south and east of the site. Bungalows of Oak View back directly up to the south-eastern boundary of the site.

The south-western boundary of the site partly adjoins the rear boundaries of three dwellings located along the A34, and partly abuts the A34 itself.

A Tree Preservation Order (Marton, School Lane, Marton) relates to a number of trees within and around the site.

RELEVANT HISTORY

49464P Residential development for nine dwellings. Refused, 05.08.1987.

58234P Use of land for residential purposes comprising eight detached houses, six starter houses and six elderly persons units. Refused, 17.05.2015

15//2274M Outline application for up to 27 dwellings with details of access. All other details reserved. Appeal recovered and dismissed by Secretary of State on 3rd April 2017

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

Local Policy

Cheshire East Local Plan Strategy – Adopted Version (CELP):

PG 2 - Settlement Hierarchy

PG 6 - Open Countryside

PG 7 - Spatial Distribution of Development

SC 4 - Residential Mix

SC 5 - Affordable Homes

SD 1 - Sustainable Development in Cheshire East

SD 2 - Sustainable Development Principles

SE 3 - Biodiversity and Geodiversity

SE 5 - Trees, Hedgerows and Woodland

SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 6 - Green Infrastructure
SE 13 - Flood Risk and Water Management
SE 14 - Jodrell Bank
IN 1 - Infrastructure
IN 2 - Developer Contributions

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There is however policies within the legacy Local Plan that still apply and have not yet been replaced. These policies are set out below.

Macclesfield Borough Local Plan 2004 (MBLP)

The relevant Saved Policies are;

NE11 - Nature conservation
NE18 - Accessibility to nature conservation
BE2 - Historic fabric
BE16 - Setting of Listed Buildings
GC14 - Jodrell bank
RT5 and DC40 - Children's play provision and amenity space
H9 - Affordable housing
IMP1- Provision for infrastructure
DC3 - Amenity
DC6 - Circulation and Access
DC8 - Landscaping
DC9 - Tree Protection
DC10 - Landscaping and tree protection
DC16 - Servicing by existing infrastructure
DC17 & DC18 - Water resources
DC36 - Road layouts and Circulation
DC37 - Residential ; landscaping
DC38 - Residential ; Space, Light and Privacy

Marton Neighbourhood Plan – Made 29 November 2016.

The following policies are considered relevant;

RCD0 - Housing
RCD2 - Development to fit in with character and surroundings of village
RCD3 - Housing to meet local needs
RCD5 - Impact on Natural and Historic Environment
RCD6 - Design of new homes
PE1 - Visual impact of development on countryside surrounding Marton
PE3 - Enhancement and retention of green space between School Lane and Oak

- Lane/Oak View at the centre of the Village, and at the spinney
- PE7 - Retain Key views identified by Landscape and Character Assessment and Village Spatial Policies Map
- PE10 - Retention of verges, trees and hedgerows along rural lanes
- PE11 - Retain Key views
- TS1 - Safe Access
- TS2 - Minimise impact of vehicular traffic
- TS4 - Residual Cumulative Impact of Development (traffic/highway safety)

Supplementary Planning Documents:

The EC Habitats Directive 1992
 Conservation of Habitats & Species Regulations 2010
 Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
 Interim Planning Statement Affordable Housing
 Interim Planning Statement Release of Housing Land

CONSULTATIONS

United Utilities: No objections, subject to conditions relating to foul water and surface water.

CEC Flood Risk Manager: No objection subject to surface water drainage conditions and details of ground levels and finished floor levels.

Strategic Highways Manager: No objection, subject to an informative requiring the developer to enter into section 278 agreement with the Highway Authority for the proposed works (illustrated in drawing numbers SK21519-003 rev A) that are within the existing highway boundaries.

Environmental Health: No objection subject to conditions regarding, the submission of a noise mitigation scheme for the proposed dwellings adjacent A34, piling works, dust, construction environmental management plan, travel pack, electric vehicle charging and contaminated land. An informative is also suggested in relation to working hours for construction.

CEC Education: No comments received at the time of writing the report.

Historic England: No objection.

Cheshire Archaeology: No objection subject to a condition requiring the implementation of a programme of archaeological work in accordance with a written scheme of investigation as regards the Old Smithy which will be demolished.

VIEWS OF THE PARISH COUNCIL

Marton Parish Council: Updated Objection on the following grounds;

- "Development is unsustainable because it is located within the Open Countryside, contrary to Policy GC5 (Countryside beyond the Green Belt) of the Macclesfield Borough Local Plan and Policy PG5 of the emerging Cheshire East Local Plan Strategy and the principles of the

National Planning Policy Framework. These policies seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations' enjoyment and use. As such the proposed development fails to comply with one of the core planning principles in the NPPF of taking account of the different roles of countryside and rural areas".

- "The development is locationally unsustainable due to the lack of public transport links, facilities and infrastructure contrary to policy DC16 of the Macclesfield Borough Local Plan and policies SD1, SD2 and PG2 of the emerging Cheshire East Local Plan Strategy and guidance in the National Planning Policy Framework".

- The revised application of 23 homes is only a slight reduction and the lack of services remain a significant concern

- "The development is contrary to policies in the made Marton Neighbourhood Plan, in particular, policy PE3 which seeks to protect this area of open space. This policy has been endorsed by both the Neighbourhood Plan Examiner and the Secretary of State in his decision letter of 3 April 2017 in dismissing an appeal for housing development on the same site. The Secretary of State considered that the conflict with NP Policy PE3 carried significant weight".

- The latest scheme of 23 dwellings is fundamentally in conflict with Policy PE3 of the neighbourhood plan

- "Contrary to other policies for Housing and the Natural and Historic Environment, as endorsed by the Neighbourhood Plan Examiner, which recognise the rural character of this area".

- " For the appeal hearing the appellants Hollins Strategic Land submitted a report on school parking in respect of the close proximity of Marton School to the appeal site. The Parish Council responded and produced a detailed rebuttal of this report which was concerning school parking at Marton. The Parish Council have now received a brief report from Cheshire police. Its conclusion is that the traffic congestion at school time is hazardous and extremely dangerous for all children and adults. Attached to this statement the Parish Council re-submits their report on traffic at the school and also now provides a copy of the Cheshire Police report. We would request that both reports are taken into consideration as new evidence in determining this planning application"

- Provision of dangerous footpath from the proposed development straight onto the A34 where there is no pavement

- The loss of the large sycamore tree at the centre of the application site. "This significant feature and asset to the village is proposed to be removed in this new revised layout known as the Concept Plan. This tree was the subject of a TPO, which was removed by CEC following an objection by the developer". However the local tree warden disagrees with this conclusion and considers the tree will continue to provide a visual amenity for many years and should have remained protected".

- "The Secretary of State considered that moderate negative weight should be attached to the loss of open countryside and landscape impacts. He also felt that the loss of BMV land carried little weight. The potential impact on JBO carried moderate weight against the proposal. There have been no changes in either policy or circumstances insofar as these matters are concerned. The Parish Council has now established that the development site is in fact located within the inner consultation zone for JBO".

- "The new Concept Plan for this application proposes to have 25% of the site area provided for "Open Green Space" alongside a reduction from 27 to 23 dwellings. This is a new consideration. The Parish Council are mindful that these changes appear to be a device in seeking to overcome the SoS's view that the development is in conflict with made Marton Neighbourhood Plan Policy PE3. The reduction of only 4 dwellings and around 10% additional open space are not so substantially

different on this central part of the village of Marton as to warrant a different decision from that made by the SoS two months ago”.

The following documents have accompanied the Parish Council's objection;

- Extracts from Marton Neighbourhood Plan Examiner's Report paras 4.16 and 4.26
- Cheshire Police report into School Parking and Safety
- School Parking and Safety March 2016 : Marton Parish Council's response to HSL Technical Note dated 22nd February 2016 School Parking Survey.
- Report re: Sycamore Tree from PJ Percival MSc. BSc. (Village tree warden)

Earlier representations and correspondence were received from Marton Parish Council in February 2016. This documentation included;

- The Draft Marton Neighbourhood Plan and appendices
- Landscape and Settlement Character Assessment
- Technical Note Addendum prepared by Progress10 Design (October 2015);
- Risk Assessment Car Parking: Marton and District C.E. Primary School
- Risk Assessment Addendum Further Photographic Evidence - 1st February 2016
- The Application Site's Historic Use For Agriculture
- And It's Setting In Open - Marton Parish Council March 2016

REPRESENTATIONS

Letters of objection have been received from 40 households raising the following points:

- The application is not materially different to the original application (15/2274M) which was rejected by the Secretary of State. The reasons supporting this decision are still applicable, and resident's objections to the appeal still stand.
- Since this application was submitted the Marton Neighbourhood Plan has become a Made Plan
- Proposals are contrary to The Marton Neighbourhood Plan which states that this field should be left as a Greenfield site. Policy PE 3 states that the paddock and Spinney should be retained as open green space.
- The neighbourhood plan favours development of brown-field sites rather than green-field
- Housing needs should be met in accordance with policies of Marton Neighbourhood Plan
- Contrary to Policy GC5 of the MBLP (now replaced but PG6 of Adopted Cheshire East LPS) requiring development in open countryside beyond the Green Belt will not normally be permitted unless it is essential for agriculture, forestry, outdoor recreation or for other uses appropriate to a rural area.
- Marton is not a sustainable settlement. Infrastructure within the village cannot support development with no public transport, shops or leisure facilities
- Little local employment and most residents commute by car due to lack of public transport
- No local housing need in the village
- Little difference in the latest submission (amended concept plan) from the original application and previous objections are still valid.
- The revised proposals remain disproportionate to the current number of residential properties in the village of Marton (46% increase in number of dwellings)

- The Concept Plan is not detailed enough. It does not show the positions and siting of dwelling and associated buildings and no illustrations of the appearance of the development from School Lane, Oak Lane and Oak View
- Whilst revision offers a small gain in open green space, this will now result in loss of “magnificent” sycamore tree.
- Adverse impact on character of Marton and setting of listed buildings
- Loss of green field, trees and hedges
- Loss of rural aspect and agricultural land
- Increase in traffic will exacerbate problems of congestion, highway safety and pollution on surrounding roads particularly during school drop-off and pick-up times. Local police already recognise this as a problem
- Both School and Oak Lanes are narrow and traffic is already a danger to children entering and leaving the school
- Development will result in a reduction in on roadside parking on School Lane
- Previously proposed community car park omitted from revised concept plan
- Increase in traffic at dangerous junctions of Oak Lane and School Lane with the A34.
- Provision of dangerous footpath straight out onto the A34 where there is no space for pedestrians or pavement
- Impact of Construction traffic
- Exacerbate problems with drainage/sewerage system and difficulties with mains water supply
- Adverse impact on Jodrell Bank.
- Overlooking and loss of privacy
- Loss of outlook and overshadowing of adjoining bungalows
- Reduction in quality of life
- No need for a development on this disproportionate scale, given large amount of development of housing beginning on the outskirts of Congleton and Macclesfield
- The proposal is neither socially nor environmentally sustainable. No social or environmental benefit for the village and only negative impacts.

Eaton Parish Council

Objects on the following grounds;

-“The proposal is also not sustainable as Marton lacks the infrastructure needed for such a development.

- Marton is developing its own Neighbourhood Plan and this type of development is entirely against this plan, where small scale infill & conversions have been identified as better fitting the needs and character of the village. It's approval would make a mockery of the entire neighbourhood plan. A development of this scale would be totally inappropriate for Marton where brown field development is seen as preferable to greenfield development. If this application was approved an attractive field in the middle of the village which has been in constant agricultural use for generations would be lost for ever

- A number of Eaton residents have children who attend Marton School and are concerned that the existing traffic problems caused by school parking on a narrow lane without footpaths would only be made worse by the additional traffic generated from such a development. There are serious concerns over child and pedestrian safety”.

Siddington Parish Council

Objects on the following grounds;

- “This proposal is not sustainable as Marton village lacks the infrastructure needed to support such a development. The existing traffic problems caused by school parking on a narrow lane without footpaths would only be made worse by the additional traffic generated.
- A development of this size is disproportionate to the overall of houses in Marton.
- School lane is already a very narrow but busy lane - especially at school times. This development will further compound this problem”.

APPRAISAL

Background

An appeal (ref; APP/R0660/W/15/3138078) against the refusal of an outline planning application (planning ref; 15/2274) for 27 dwellings on this site was dismissed by the Secretary of State in April this year. In summary, the appeal was dismissed on the basis of the benefits of the development being outweighed by the adverse impacts of the scheme, which included the harm to the open countryside, the loss of green space in conflict with the neighbourhood plan, the potential impact Jodrell Bank and the site not being within the desired proximity to some services and facilities.

The revised concept plan has been submitted with the aim of addressing the dis-benefits identified by the Secretary of State. However, the current proposals for 23 dwellings, still represents a similar scheme to that which was dismissed on appeal, and the Secretary of State’s appeal decision is therefore a material consideration. Furthermore, the Cheshire East Local Plan Strategy has been adopted since the Secretary of State’s decision and this must now be given full weight in the determination of this application.

Principle of Development

The site lies within the Open Countryside as designated by the Borough of Macclesfield Borough Local Plan 2004, where policy PG6 of the Cheshire East Local Plan Strategy states that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Exceptions may be made where there is the opportunity for limited infilling in villages; the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere, affordable housing or where the dwelling is exceptional in design and sustainable development terms.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. In particular it is not considered that a development of 23 dwellings on this site can be reasonably considered to be “limited infilling” given the small size of the village. As a result, this proposal constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and

appeals must be determined “in accordance with the plan unless material considerations indicate otherwise”.

Marton Neighbourhood Plan.

The Marton Neighbourhood Plan was made on 29 November 2016 and therefore the neighbourhood plan forms part of the development plan and full weight can be afforded to it.

Policy RCD0 of the Marton Neighbourhood Plan states that:

Local housing needs will be met through:

- ***The redevelopment of brownfield sites***
- ***Infill (see definition above)***
- ***Conversions***
- ***And at the edge of the existing settlement in locations that will not cause harm to the wider landscape and setting of Marton.***

Policy RCD2 states that “development should be of a scale appropriate to the location... and fit in with the existing rural character and surroundings of the village”.

Policy PE3 indicates that the application site should be retained as open green space and this states;

“Proposals which enhance the green space between School Lane and Oak Lane/Oak View at the centre of the village and at the spinney will be supported. The paddock and spinney in the heart of the village should be retained as open green space”

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objections and a departure from the Development Plan.

Housing Land Supply

Paragraph 49 on the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. 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.

The Inspector’s Report published on 20 June 2017 signalled the Inspector’s agreement to the plans and policies of the Local Plan Strategy, subject to the modifications consulted on during the spring of 2016 and 2017. On adoption, all of the specified sites and policies form part of the Statutory Development plan. In particular sites that were previously within the Green Belt are removed from that protective designation and will be available for development. Other sites also benefit from the certainty that allocation in the development plan affords.

In the light of these new sources of housing supply, The Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his Report he concluded:

“I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years”

Given this conclusion from the examining Inspector, and the recent adoption of the Cheshire East Local Plan Strategy on 27th July 2017, the Council now takes the position that it can demonstrate a 5 year supply of housing land in accordance with the Local Plan Inspector’s conclusions.

SOCIAL SUSTAINABILITY

Location of the site

The site’s location, existing infrastructure, services & amenities and the future provision of a public open space accessible to all are some factors to consider within the context of appraising the overall sustainability of the proposed development.

Policy SD2 of the adopted Local Plan Strategy provides an outline of the principles that residential development should adhere to and other criteria that should be met, which includes providing access to a range of forms of public transport, open space and key services and amenities.

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.

From the list of additional public transport, open space and services/amenities given in Table 9.1 supporting policy SD2 of the Local Plan Strategy, the proposed development would meet at least four aspects;

- within 500m of a public right of way
- within 1km of outdoor sports
- within 1km of a primary school
- within 1km of a public house.

However, the proposed development would not be within the appropriate vicinity of a bus stop (the service to School/College in Macclesfield is very limited) or a multi-functional open space or convenience store. It is noted however that there is a local shop, albeit providing limited goods at present, other community facilities such as the church, and access to the open countryside and outdoor leisure facilities.

Overall, it is considered that there are a limited range of facilities within reasonable walking distance of the site and access to public transport is also limited. Although the consultation response of the Strategic Infrastructure Manager (Highways) has pointed out that services/facilities within Congleton Town Centre are within reasonable cycling distance (approx. 4 miles away), any future development of the site would inevitably be car dependent.

As regards access to local services and facilities the Secretary of State’s appeal decision stated;

“Marton is relatively well served in comparison to other rural settlements, and that the number of trips which would need to be made by private car from the proposed development could be reduced. Overall he considers that the proposal would be in accordance with Policy DC16. He considers that there would be some conflict with the emerging Local Plan Strategy Policy SD2, which requires the provision of access to a range of forms of public transport, open space and key services and amenities, as the appeal site is not located within the desired proximity to a bus stop, multi-functional open space or convenience store”. (para 21)

The decision letter goes on to conclude;

“The Secretary of State notes that the appeal site is not within the desired proximity to some services and facilities as set out in emerging Local Plan Strategy Policy SD2. He considers that this carries limited weight against the proposal”.

Given that these proposals are very similar to those which were the subject of the previous appeal, the disbenefits relating to the locational sustainability of the site will be addressed as part of the planning balance.

Affordable Housing

The Council's Interim Planning Statement: Affordable Housing (IPS) states that in Settlements with a population of less than 3,000 that the Council 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 10 dwellings or more or a combined housing floor space including garages larger than 1000sqm in size.

The desired target percentage for affordable housing for all allocated sites is 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.

The SHMA Update 2013 identified a requirement for 59 affordable homes in the Macclesfield Rural sub-area between 2013/14 and 2017/18. This was made up of a requirement for 9 x 1 bed, 6 x 2 bed, 23 x 3 bed, 11 x 4 bed. The SHMA also shows there is a need for 2 x 1 bed and 8 x 2 bed older people's dwellings each year.

In addition to the information from the SHMA Update 2013 there are currently 16 active applicants on the waiting list with Cheshire Homechoice who have selected Gawsorth and Marton as their first choice, showing further demand for affordable housing. These applicants have stated that they require 7 x 1 bed, 4 x 2 bed, 3 x 3 bed and 2 x 4 bed dwellings.

Therefore 1, 2, 3 and 4 bed dwellings on this site would be acceptable in term of need, including the provision of 1 and 2 bedroom dwellings as flats or bungalows for Older Person as the SHMA is showing the need.

This is a proposed development of 23 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 7 of the dwellings to be provided as affordable dwellings. The exact tenure mix and housing types will be formalised at reserved matters stage.

The affordable housing provision would be secured as part of a S106 Agreement.

Public Open Space (POS)

Local Plan policies DC40 and RT5 require developments to include, or make provision for, outdoor amenity and play space. The commuted sums required for provision of off-site are outlined in the SPG on S106 (Planning) Agreements.

Although the application is an outline application with all details other than access reserved for approval at a later stage, a judgement has had to be made regarding whether or not the site can accommodate the number of dwellings applied for along with, amongst many other things, the appropriate provision for outdoor amenity and play space.

Whilst the submitted masterplan is only illustrative at this stage, it is concluded that it will be possible to provide an appropriate level of public open space within the site which meet the needs of future residents of the proposed dwellings and be accessible for use by other members of the Marton community. Contributions towards improving recreation outdoor sports facilities that future residents will be able to access can be secured via a S106 Agreement. Therefore the proposals are considered to accord with policies DC40 and RT5 and other material considerations.

Education

No comments have been received from Education at the time of writing the report. These will be provided in an update presented to members at the committee meeting itself. Any contribution would need to be secured by Section 106 Agreement.

ENVIRONMENTAL SUSTAINABILITY

Countryside/Landscape

The proposed development would result in the loss of open countryside, contrary to Policy PG6, which imposes restrictions upon development in the open countryside. The proposal would also be in conflict with NP Policy PE3, which indicates that the site should be retained as open green space.

It is important to note that in the decision letter for the previous appeal, the Secretary of State was of the view that,

“the proposed development would not appear visually obtrusive or out of keeping with the settlement of Marton, and would not introduce features that would be completely uncharacteristic of the immediate area or which would represent a substantial intrusion into the landscape of the wider area”
 . (para 23)

It was considered that although glimpsed views of the open countryside beyond the village are available from and across the site, and from neighbouring properties and public viewpoints, the site is well contained by existing development. However, notwithstanding this, the decision letter then added that the Secretary of State;

“...notes from the NP that the central recommendation of the Landscape and Settlement Character Assessment was that the paddock at the heart of the village should be retained as a green space (Marton Neighbourhood Plan, page 35)”.

“ Given the importance of this open space to the character of Marton, he considers that the harm caused by the loss of open countryside in this location and the conflict with Policy GC5 carries moderate weight against the proposal.

The appeal decision letters goes on to significantly conclude that ;

He considers that the seriousness of the conflict with NP Policy PE3 is increased in the light of paragraph 198 of the Framework which states that, where there is conflict with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. He therefore gives this conflict significant weight (para 25).

The amended concept plan submitted in support of this application has increased the areas of retained green space within the site to 0.32 ha and this is now entirely located alongside the School Lane frontage. Nevertheless, the proposals will still result in the significant loss (approx. 75%) of the existing greenspace. Given the extent of this loss, it cannot therefore be accepted that the proposals would represent an enhancement of the green space between School Lane and Oak Lane/Oak View at the centre of the village in accordance with NP Policy PE.3.

Consequently, given the similarity of the proposals with those of the dismissed appeal, and notwithstanding the amendments of the revised concept plan, the conflict with Policy PE3 significantly weighs against the application.

Highways

The Strategic Infrastructure Manager (SIM) has reviewed the highways report submitted by the applicant in support of the proposals. The SIM has also confirmed that the highway documents and information submitted in support of the Parish Council's objections, have been taken into account the highway consultation response, which finds the following;

Local highway network

The SIM considers School Lane is a lightly trafficked, rural lane. It has a carriageway width of around 5.5m with no footway provision and a speed limit of 30mph. Access from the site to the wider highway network would be expected to be taken via the School Lane / A34 Congleton Road priority junction located to the west of the site. The A34 connects Congleton to the south of the site with Manchester to the north and also links with the A537 Macclesfield to Knutsford road to the north of the site.

Vehicular access

Access to the site is taken from a new priority controlled junction with School Lane and all dwellings will be served from an internal access road. The development proposals will result in some hedge removal along the site frontage with School Lane to secure acceptable standards of visibility.

The proposed junction layout is illustrated in drawing number SK21519-003. The layout comprises:

- A site access carriageway width of 4.8m;
- Corner radii of 2.0m;
- Visibility splays of 2.4m x 38m to the southwest and 2.4m x 40m to the northeast;
- A 2.0m footway leading from the site access in a south-west direction along the extent of the site boundary.

In terms of junction geometry, layout and visibility the access proposals are considered by the SIM to be acceptable to serve a development of 23 dwellings.

Pedestrian access

The indicative masterplan also indicates direct pedestrian access to the A34 to the south-west of the site and also to Oak Lane to the east of the site. The Sim considers that these links are acceptable in principle, but details would need to be submitted for consideration at the Reserved Matters Stage.

School drop-off and pick-up

The SIM is aware of concerns raised regarding the loss of on street parking provision on School Lane, as a result of the proposed site access and the impact this may have on the ability of parents to park on School Lane during school drop-off and pick up times, associated with the nearby primary school. The access from School Lane would result in the loss of around three or four parking spaces, which the Sim considers could easily be accommodated within the site. Furthermore, parents parking within the site would be able to utilise the proposed footpath running along the School Lane boundary of the site, within the proposed open green space, as a safer alternative to walking along School Lane where there are no footways.

Concerns have also been raised about parent's parked cars obstructing the proposed site access visibility splays. Guidance in Manual for Street 2 states:

“Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. At urban junctions where visibility is limited by buildings and parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic, and vice-versa”

On the basis of the above guidance and given that parking within the visibility splays is generally likely to be restricted to short periods of time during school drop-off and pick-up periods, the SIM is satisfied that vehicles parked within the site access visibility splays would not have a material impact on highway safety on School Lane.

Traffic impact

A development of 23 dwellings would be expected to generate less than 15 two way trips during the morning and evening commuter peak periods. This level of traffic generation would not be expected to have a material impact on the operation of the adjacent or wider highway network.

Summary

The SIM is satisfied that the development proposals can be safely accommodated on the adjacent highway network. It is important to note that this view reflects the recent appeal decision on this site, which stated;

“The Secretary of State has carefully considered the traffic and parking implications of the proposal. For the reasons given at IR261-270, he agrees with the Inspector that the proposed development would not lead to a significant increase in vehicular movements along School Lane or the A34 at peak times, given that it would generate relatively low levels of traffic (IR268). He further agrees that sufficient space would remain along School Lane for vehicles to park (IR268), and that vehicles entering and leaving the proposed development would be able to do so safely (IR269). Overall he agrees with the Inspector that it has not been demonstrated that the residual cumulative impacts of the proposed development would be severe (IR270).”

Trees

The site is an agricultural field laid to grass with tree and hedge cover around the periphery. Several trees on the western boundary are subject to TPO protection.

The application is supported by a Tree Survey Report (TSR) prepared by Appleton's and dated April 2015.

The revised concept plan (up to 23 dwellings) proposes the removal of a mature sycamore identified as T15 in the Tree survey report. The Arboricultural Officer has advised that the Sycamore (T15) was included and identified as T1 within a Tree Preservation Order served on the 30th June 2015. The Council were aware the tree presented a basal cavity and required a detailed inspection, but it was considered expedient on amenity grounds to include it within the Order prior to the inspection taking place. Cheshire East also received an objection to the inclusion of the Sycamore from the applicant. Following inspection, it was concluded that the extensive decay precluded consideration for its retention within the Order. The matter was placed before the planning committee (2nd December 2015) who supported confirmation of the Tree Preservation Order subject to modification; the omission of the Sycamore identified as T1.

In order to facilitate access off School Lane a section of hedge and two trees identified as T1 and T3 requires removal. However, these trees are small, immature specimens and their loss can be adequately compensated by replacement planting.

As an outline application (up to 23 houses) with only access included, the full implications of development would only be realised at reserved matters stage although the implications of the access need to be considered in detail. The capacity of the site to accommodate the scale of development proposed also needs to be considered. The Arboricultural Officer has noted that there may be some areas of conflict with the illustrative layout. However, a detailed Arboricultural Impact Assessment would be required to support a reserved matters application which should inform development and design out any potential arboricultural related problems.

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.”

Detailed issues of design, siting and appearance would be addressed at reserved matters stage. However, the potential impact of the proposed development on the character and appearance of the area, street-scene and Listed Buildings within the vicinity of the site has been considered as far as is practicable at this stage, based on the illustrative concept plan and other documents submitted.

The indicative plan shows that an acceptable layout can be achieved and that the areas of open space and all highways would be well overlooked. The density of the proposed development is around 20 dph, and considered consistent with residential development that surrounds the site.

Residential Amenity

Concerns have been raised in representations about the potential impact of the proposed development on the levels of amenity currently enjoyed by the occupants of neighbouring properties, particularly on School Lane, Oak Lane and Oak View.

As regards the concerns about loss of amenity it is acknowledged that there would be changes to the outlook of some residents, the site would have buildings on it instead of it being an empty, quiet field, there would be some buildings and noise generated from vehicles and people within and around the site.

However, an illustrative masterplan for up to 23 units has been provided, which although lacking detail, shows one possible way in which the site may be developed. Based on this layout, it is considered that the proposal could be accommodated on the site in a way to comply with the required interface distances and prevent significant harm to living conditions of neighbouring properties. However, it should be noted that the detailed layout and the design of dwellings will be determined at the Reserved Matters Stage.

Other concerns relating to disturbance from construction work could be managed by conditions, i.e. limitation on hours of demolition and construction and a construction management plan covering parking of construction related vehicles etc.

Impact on Listed Buildings

There are 4 no. Listed Buildings within the vicinity of the site. It is considered that the one that the proposed development potentially impacts most upon is ‘Greenacre’, a residential property which is situated directly opposite the proposed site access from School Lane. The other 3 No. buildings are of a sufficient distance from the site for them not to be affected.

As regards ‘Greenacre’ (grade II), the latest illustrative masterplan is considered to demonstrate that the proposed development would not have a detrimental impact on this Listed Building or its setting, particularly given the increased ‘Open Green Space’ retained along the School Lane frontage. The Council’s Conservation Officer has advised that the access could be designed and constructed in a manner that ensures there is no detrimental impact on the Listed Building ‘Greenacre’.

Ecology

Hedgerows

There are a number of hedgerows on site. Hedgerows are a priority habitat and in addition the three hedgerows on site (hedgerow 1, 2 and 3) have been identified as being Important under the Hedgerow Regulations due to the presence of native bluebells.

Based upon the revised indicative layout there would be a loss of a section of hedgerow 3, and although hedgerow 2 is not clearly shown as being retained, the Council's Ecologist considers a substantial proportion of this hedgerow could be incorporated into the site layout at the reserved matters stage. There are opportunities for the incorporation of a significant length of new hedgerow planting as part of the development. The ecologist has advised that this would mitigate for the loss of the existing hedgerows, together with the maximum length of the existing hedgerow being retained. In order to safeguard the ground flora associated with the retained hedgerows they should be retained within a narrow buffer zone of retained habitat. It is recommended that this is secured by a condition.

Bats

No evidence of roosting bats was recorded during the surveys undertaken of the buildings on site. A number of trees are present on the application site which has the potential to support roosting bats. Based upon the submitted indicative layout it appears feasible for these trees to be retained as part of the proposed development. The ecologist has concluded that roosting bats are unlikely to be present or affected by the proposed development.

Breeding Birds

If planning consent is granted a standard condition is imposed to safeguard nesting birds:

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 on at least a transitory basis. A condition is recommended for measures to be incorporated in to the development (e.g. gaps in fencing) to mitigate the impact on hedgehogs.

Ecology Summary

It is considered that any ecological concerns could be mitigated by the use of planning conditions.

Flood Risk

The site is located within an area designated as Flood Risk Zone 1 by the Environment Agency, which means the site is low risk in terms of surface water flooding. The Council's Flood Risk Officer has raised no objections in principle, subject to conditions requiring details of the surface water drainage scheme and site levels.

As a result it is not considered that the proposal would cause harm from a Flood Risk perspective.

Agricultural Land Quality

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises Local Planning Authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The proposal would result in the loss of an area of grade 2 agricultural land. However, due to its relatively small area, shape and enclosed nature the site does not offer significant opportunities for agricultural production. In dismissing the previous appeal on this site, the Secretary of State concurred with this position, and afforded little weight to the loss of BMV agricultural land in this case. Whilst the proposal would see the loss of agricultural land the quality/usability is limited, this issue needs to be considered as part of the planning balance.

Impact on Jodrell Bank

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.

Policy GC14 of the MBLP 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. Policy SE14 within the adopted Cheshire East Local Plan Strategy also reflects this policy.

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.

Jodrell Bank Observatory advises that they recognise that there is significant development across the region surrounding the telescopes and have carried out an analysis which takes into account the distribution of development and the effect of the intervening terrain between any location and the telescope itself. This analysis uses data provided by Cheshire East and the Ordnance Survey and uses the officially recognized propagation model provided by the ITU 'Prediction procedure for the evaluation of interference between stations on the surface of the Earth at frequencies above about 0.1 GHz' (ITU-P.452).

Jodrell Bank Observatory 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.

Jodrell Bank Observatory opposes this application due to the impact from the additional potential contribution to the existing level of interference coming from that direction. Whilst Jodrell Bank, in their consultation response refer to the effect being “relatively minor”, they also refer to the cumulative impact of this proposal, and significant development already close to the telescope.

The previous appeal considered the impact of the development on Jodrell Bank, and the decision letter states;

“The Secretary of State has taken into account that the Council and appellant concur that the proposed development would have a minor impact on the level of interference for Jodrell Bank Observatory (JBO) (IR272). He has also taken into account the fact that JBO opposes development across a significant part of its consultation zone as a matter of principle and that JBO stresses that such additional development should be viewed as cumulative. Further representations were made on this matter, but they do not change the Secretary of State’s view that, given the importance of the work which is carried out at the Jodrell Bank Observatory, and for the reasons given at IR272, this matter carries moderate weight against the proposal”. (para 26)

It is therefore considered that after taking into account of the findings of the Secretary of State, and the objection from the the Jodrell Bank Observatory, that the proposed development would impair the efficiency of the Jodrell Bank Radio Telescope and would be contrary to Policy GC14 (Jodrell Bank) of the MBLP and Policy SE14 (Jodrell Bank) of the Cheshire East Local Plan Strategy.

ECONOMIC SUSTAINABILITY

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

CIL Regulations

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

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

The commuted sum in lieu of recreation/outdoor sport is necessary, fair and reasonable as the proposed development is to provide up to 23 No. dwellings, the occupiers of which will use local recreation/outdoor sport facilities. As such, there is a need to upgrade/enhance existing facilities. The contribution is in accordance with the Council’s Supplementary Planning Guidance.

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

PLANNING BALANCE

On 27th July the Council adopted the Cheshire East Local Plan Strategy therefore the Council have demonstrated that they have a 5 year supply of deliverable housing sites.

The application site is located within the open countryside and is contrary to Policy PG6 of Adopted Cheshire East Local Plan Strategy. It also lies within the Jodrell Bank Consultation Zone, where policies SE14 of the Local plan Strategy and GC14 of the MBLP does not permit development which would impair the efficiency of radio telescopes. In addition, the site is also designated as an area of open green space identified by Policy PE.3 of Marton Neighbourhood Plan for retention.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.” The National Planning Policy Framework, which is the Secretary of State’s guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means “approving development proposals that accord with the development plan without delay”

The development would provide benefits in terms of affordable housing provision, delivery of housing, education, POS/ play area, provision of pedestrian links, and economic benefits through the usual economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact upon education, protected species/ecology, highways, and the historic environment. Impacts on residential amenity and protected trees can be fully addressed at the reserved matters stage. The small loss of BMV agricultural land should be afforded little weight.

The adverse impacts of the development would be:

- The loss of Open Countryside
- The impact upon the efficiency of the Jodrell Bank Radio Telescope
- Loss of open green space detrimental to character of Marton
- Site not located within desired proximity to public transport and some services and facilities

Therefore, taking a balance of the overall benefits of the scheme, it is considered that given the current policy position, the Secretary of State’s findings in dismissing the appeal for a similar scheme of 27 dwellings and the scale of harm identified that the benefits of the development are clearly outweighed by the adverse impacts. There are no material considerations which indicate that the proposal should be determined other than in accordance with the Development Plan and a recommendation of refusal is made.

RECOMMENDATION:

REFUSE

1) The proposed residential development is unsustainable because it is located within the Open Countryside, in a location with limited access to services and facilities, contrary to Policies PG6 (Open Countryside), SD1, SD2 and SE4 (landscape) of the Adopted Cheshire East Local Plan Strategy and the principles of the National Planning Policy Framework, which

seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it creates harm to interests of acknowledged importance.

2) The proposed development would result in the significant loss of open green space which will adversely impact on the character of the locality, in conflict with Policy NE.3 of the Marton Neighbourhood Plan.

3) The proposed development is unsustainable because it would impair the efficiency of the Jodrell Bank Radio Telescope and this impact is considered to significantly and demonstrably outweigh the benefits of the scheme. The proposal is therefore considered to be contrary to Policies GC14 (Jodrell Bank) of the Macclesfield Borough Local Plan and Policy SE14 (Jodrell Bank) of the Adopted Cheshire East Local Plan Strategy.

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in her absence the Vice Chair) of Northern 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 LAP. Public Open Space to include management company for maintenance in perpetuity

3. A commuted sum for the off site provision of recreation/outdoor sport

4. Contribution towards education (to be confirmed)

