

Application No: 14/1945M

Location: LAND OFF, SAVILLE STREET, MACCLESFIELD

Proposal: Demolition of existing buildings on site and erection of residential development comprising of 18 two storey dwellings

Applicant: Saville St Garage Ltd The Helpful Hand

Expiry Date: 16-Jul-2014

### **SUMMARY**

The applicant is seeking to amend the terms of the Section 106 associated with 14/1945M (demolition of existing buildings and erection of 18 two storey dwellings) to remove the requirement for affordable housing and a commuted sum payment for off site provision of open space, due to the viability issues associated with the redevelopment of the site.

An open book viability report has been submitted which has been independently assessed and it has been confirmed that the development could not support affordable housing or a commuted sum for open space.

**RECOMMENDATION: Approve Subject conditions and Section 106 to secure parking provision, green infrastructure and a landscape management plan.**

### **REASON FOR REPORT**

Planning application 14/1945M for the demolition of existing buildings on site and erection of residential development comprising of 18 two storey dwellings was previously considered by the Northern Planning Committee on 6 August 2014. The committee report for this meeting is attached at the end of this report.

It was previously resolved that for the reasons set out in the report and in the update to Committee, that the application be delegated back to officers for approval in consultation with the Chairman, Vice Chairman and Ward Councillor subject to the submission of an acceptable Flood Risk assessment and subject to the completion of a Section 106 agreement to secure the following:

- Commuted sums of £58k to mitigate for the loss of existing open space and for POS in lieu of onsite provision;
- Five units as affordable and these will be plots 15,16,17,18 and 10. Four units (plots 15,16,17, and 18) will be rented tenure and one unit(unit 10) as intermediate tenure;

- 100% of the affordable units will be provided before the sale of let of 50% of the market dwellings;
- Dedicate the 7 parking spaces on Saville Street as Public highway (separate legal agreement);
- Provision for the embankment of trees to be transferred to a communal area as Green Infrastructure and;
- Landscape and Management Plan

It is understood that since the planning committee resolved to approve the application, the redevelopment of the site has stalled as the owner has been unable to find a buyer for the site. The owner of the site has employed Land Agent Land 4 Homes to help find parties who would be interested in purchasing the land, with the current planning status.

Due to the complexities of the site and the obligations of the section 106 agreement Wiggett Homes Ltd are the only seriously interested party to come forward with an offer for the site in the last 3 years. There has not been a great deal of interest from other potential buyers.

### **Viability**

A viability assessment has now been submitted to the LPA which advises that due to significant abnormal costs associated with the site it would not be feasible to provide any element of affordable housing or contributions to off site open space provision.

The costs are associated with the site being formerly a brick works as the site is backfilled with deep made ground, with a risk of buried structures being on the site brickworks and potential contamination from previous uses such as a paint shop, lock up garages, and land used for breaking up scrap cars, also underground fuel tanks, surface tanks, asbestos sheeting and a Japanese knotweed outbreak on the site.

This appraisal has been independently examined by Savills (on behalf of the Council) who confirm that the assertions by Wiggett and Grasscroft in relation to viability are fair and reasonable and that the scheme cannot withstand the additional costs associated with the original Section 106.

Following discussions with the LPA regarding the trees and the setting of Knights Pool, the agent has committed to the S106 requirements in relation to parking provision, green infrastructure and the landscape management plan.

The 7 parking spaces identified on the proposed plans would be constructed, in agreement with Cheshire East Highways department. They have also agreed to retain the trees on the embankment and to submit an arboricultural report on the pruning works required to strike a balance with the residential proposals and the installation of green weldmesh fencing to the rear boundary of the proposed properties to maintain security to the rear of properties whilst mitigating the impact on the visual amenity that may have been caused by traditional concrete post and timber infill panels. These matters can be formalised through a Landscape Scheme and Management Plan, with a management company to maintain the landscape on the site.

Given the changes to local plan policies since the application was resolved to be approved, this report provides an update on the previously accepted policy position.

## **POLICIES**

The Cheshire East Local Plan Strategy is now adopted and therefore the following policies apply:

Policy MP1 - Presumption in favour of Sustainable development

Policy PG1 - Settlement Hierarchy

Policy PG6 - Spatial distribution

Policy SD1 - Sustainable development in Cheshire East

Policy SD2 - Sustainable development principles

Policy SC4 - Residential mix

Policy SC5 - Affordable homes

Policy SE1 - Design

Policy SE2 - Efficient use of land

**There are policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.**

Macclesfield Borough Local Plan - saved policies

Policy DC3 - Protection of the amenities of nearby residential properties

Policy DC6 - Circulation and access

Policy DC8 - Landscaping

Policy DC17 - Water resources

Policy DC19 - Ground water

Policy DC20 - Watercourses

Policy DC35 - Materials and finishes

Policy DC36 - Road layouts and circulation

Policy DC37 - Landscaping

Policy DC38 - Space, light and privacy

*The National Planning Policy Framework;*

Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

*Supplementary Planning Documents:*

Cheshire East Design Guide

## **CONSULTATIONS (External to Planning)**

The following were consulted on the proposed changes to the s106:

**Environmental Health** - No objection

**Strategic Housing Manager** – No objection

**ANSA** - No objection

**Flood Risk Manager** – No objection

## **OFFICER APPRAISAL**

The assessment below highlights the relevant policies of the CELPS insofar as it relates to the amended proposal.

**Principle of Development (loss of employment)**

No policy change from previous resolution.

The site is located in a predominantly residential area, although it was last used for employment purposes.

**The principle of development (need for housing/sustainable location)**

Policy PG7 of the CELPS identifies Macclesfield as a Principal Town, and is expected to accommodate development including 4,250 new homes. Therefore the provision on this site of 18 dwellings within the Macclesfield Town Boundary, would comply with the spatial principles of this policy.

**Requiring good design and character and appearance of the area**

The design and layout accord with design principles laid out in the Cheshire East Design Guide and complies with Policy SE1 of CELPS.

**Residential amenity implications**

No policy change from previous resolution

**Highways access, parking, servicing and highway safety**

No policy change from previous resolution.

The applicant still proposes that 7 parking spaces are provided for residents of Saville Street along the frontage of the site.

**Flood Risk implications**

No policy change from previous resolution.

The Flood Risk Manager section have raised no objection and recommend conditions as previously suggested.

**Need for additional affordable housing in the area**

There was a previous requirement for affordable housing, which is now encompassed in Policy SC5 of the CELPS, which requires that in developments of 15 or more dwellings in the principal towns such as Macclesfield at least 30% of affordable housing should be provided.

Policy SC5 acknowledges that *“In exceptional circumstances, where scheme viability may be affected, developers will be expected to provide viability assessments to demonstrate alternative affordable housing provision.”*

In accordance with this policy requirement, the applicant has submitted a financial appraisal which has been independently assessed, and it is confirmed that the proposed development cannot sustain the requirements for affordable housing.

Additionally, it should be noted that the existing buildings on the site are now vacant, and therefore Vacant Building Credit (as detailed in the NPPG) is relevant to the consideration of this application. This is an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be

replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

In this case, the floorspace of the existing buildings is 1,038sqm and the proposed floorspace is 1,524sqm, an increase of 486sqm or 32% of the total proposed floorspace. To put that as numbers of dwellings (rounded up) - 32% of 18 dwellings is 6 dwellings. Therefore, the affordable housing contribution can therefore only be sought from 6 dwellings. 30% of 6 dwellings, which would be the requirement for this site, equates to 2 units.

Notwithstanding this change from the previous requirement (reduction from affordable requirement from 5 to 2 units), as noted above the viability assessment as confirmed that the development is not able to support any affordable housing contributions.

The Housing Needs Manager has also accepted the independent assessment of the Financial Appraisal submitted and does not object to the removal of the affordable housing requirement from the Section 106.

The proposal therefore accords with Policy SC5 of the CELP.

#### **Provision of Provision of Public Open Space**

In respect of policies IN2, SC2 and SE6 of CELPS, there would be a requirement for the provision of both Public Open Space (children's play and amenity) and Recreation and Outdoor Sports facilities. There are no specific financial criteria listed under policy IN2 and SC2. However, under policy SE6, the criteria for the requirement for children's play space, amenity green space and green infrastructure is greater than the previous financial requirement in the superseded SPG on Open Space and Recreation and Outdoor Sports facilities.

Therefore as the applicant has provided financial information that the development of the site cannot support the previous requirement of £58,000, it is even less likely that it could support the new policy requirements.

Discussions took place with the applicant in respect of this sum not forming part of the Section 106 due to unexpected costs. As a result the applicant has agreed to protect the setting of Knights Pool to the rear of the site by retaining trees along the steep banking of the pool and has submitted an indicative plan to show how this might be achieved.

Whilst the requirement for open space cannot be achieved as part of this development, it should be noted that existing open space facilities do remain available for future occupants of the site in very close proximity to the site.

#### **Arboricultural implications**

No policy changes from previous resolution

#### **Ecological implications**

No policy changes from previous resolution

**Landscape issues**

No policy changes from previous resolution

**Environmental health**

No policy changes from previous resolution

**Land contamination**

Environmental Health have been re-consulted in respect of the submitted financial detail regarding cost implications of developing the site and they confirmed that site is contaminated and raised no objection.

The proposal would accord with policy SE12 of the CE Local Plan Strategy.

**Archaeological potential**

No policy change from previous resolution

**ENVIRONMENTAL SUSTAINABILITY**

The redevelopment of this site and the removal of various industrial buildings from vehicle maintenance to fuel sales and garages for local cars on this site would improve the local environment and is considered to be environmentally sustainable.

**SOCIAL SUSTAINABILITY**

The proposal to provide housing in the principal town of Macclesfield would add to the supply of housing and accords with policy SD1 of the CE Local Plan principles on Sustainable development.

**ECONOMIC SUSTAINABILITY**

The proposal to redevelop the site would accord with policy SD1 of the CE Local Plan principles on Sustainable development by clearing a contaminated site; removing an unsuitable industrial business from a residential area; and providing a choice of quality homes.

**PLANNING BALANCE**

It is considered that the proposal, without the affordable housing provision and commuted sum for off site provision of open space is acceptable in relation to policies SE1, SE3, SE4, SE14, IN2, SC2 and SE6 of CELPS and all saved policies of the Macclesfield Borough Local Plan. In such circumstances the NPPF at para.14 requires development proposals that accord with the development plan to be permitted without delay and therefore the application is recommended for approval subject to appropriately worded conditions being attached to any grant of permission and subject to a Section 106 for parking provision and a green infrastructure and landscape management plan.

**Heads of Terms**

- Dedicate the 7 parking spaces on Saville Street as public highway (separate legal agreement); and
- Provision for the embankment of trees to be transferred to a communal area as Green Infrastructure.

### **Community Infrastructure 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;
- (a) Directly related to the development; and
- (b) Fairly and reasonably related in scale and kind to the development.

The Provision for the embankment of trees to be transferred to a communal area as Green Infrastructure is necessary, fair and reasonable to secure appropriate ongoing management of the landscape areas that are not within private gardens.

All elements are necessary, directly relate to the development and are fair and reasonably related in scale and kind to the development.

### **RECOMMENDATION**

**Approve, subject to conditions listed at the end of original report below and a Section 106 agreement securing the Heads of Terms above.**

*In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Planning and Enforcement Manager, in consultation with the Chairman (or in his 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.*

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### **Previous Committee Report from 6 August 2014**

**Application No:** 14/1945M

**Location:** LAND OFF, SAVILLE STREET, MACCLESFIELD

**Proposal:** Demolition of existing buildings on site and erection of residential development comprising of 18 two storey dwellings

**Applicant:** Saville St Garage Ltd The Helpful Hand

**Expiry Date:** 16-Jul-2014

**Date Report Prepared:** 15 July 2014

### **REASON FOR REPORT**

The proposal is a major development as defined by The Town and Country Planning (Development Management Procedure) Order 2010. Under the Council's constitution such applications are required to be considered by Committee. Subject to the recommended

conditions, the proposal is considered to be acceptable for the reasons set out in the appraisal section of this report.

## **DESCRIPTION OF SITE AND CONTEXT**

The site is presently used as a garage, workshops and car sales pitch and covers an area of approximately 0.44 hectares. The northern boundary is formed by the rear gardens of a residential development, as is the western section of the southern boundary. The remainder of the southern boundary is formed by works and a depot, the western boundary by a steep bank (4.5 to 5 metres in height, leading down to Knight's Pool and the eastern boundary by Saville Street, which is open apart from a short length of wall in the north east corner.

Approve, subject to conditions and the prior completion of a S106 agreement.

## **MAIN ISSUES:**

- The principle of development (need for housing/sustainable Location);
- Requiring good design and character and appearance of the area;
- Residential amenity implications;
- Highways access, parking, servicing and highway safety;
- Flood Risk implications;
- Need for additional affordable housing in the area;
- Provision of public open space; and
- Other material planning considerations.

The topography of the site is gently sloping to the south west, the drop in levels being about 1m. A retaining wall accommodates the difference in height between the site and the rear gardens to the north, which is 2 to 3 metres lower than the site.

The main access to the site is from Saville Street, in the north east corner of the site, and leads to a fuel station with a kiosk, de-commissioned Pump Island and four underground diesel and petrol tanks. Vent pipes are situated adjacent to a wall fronting onto Saville Street and adjacent to the kiosk. Access is also afforded along most of the frontage with Saville Street.

There are six units on the site including three sets of "lock up" garages with asbestos sheet roofs situated on the eastern part of the site and three buildings on the north western and northern part of the site, which are used as a paint shop, workshops and garages. There is a padlocked gate between these buildings, securing a small, empty compound. An overhead electricity cable runs the short distance between the two northernmost buildings and overhead telecom cables enter the site from Saville Street. Surface tanks are located at the top of the bank, behind the workshops on the north west corner of the site. Access to this area is secured by a padlocked gate.

Much of the north eastern part of the site is used as a forecourt for displaying cars for sale. The western bank and western section of the southern boundary are covered with semi mature trees and shrubs. The surrounding area to the site is residential with many older terrace dwelling units as well as new two storey housing of many types being primarily terraced and semi detached.

## **DETAILS OF PROPOSAL**



This application seeks planning permission for the demolition of existing buildings on site and erection of residential development comprising of 18 two storey dwellings. The proposed dwellings backing onto Knights Pool being 3 bedroom semi-detached houses and on the Saville Street frontage the 2 bedroom terraced units are sited at right angles to the street continuing to permit the existing terraced dwellings to see through the development to the west and Knights Pool.

Access to the site is from the existing public highway Saville Street. This street has little or no through traffic and has good visibility standards. The application takes access to the site from the existing corner of the street as it turns some 90 degrees. The existing highway has a footpath on its eastern side only. This scheme creates a new public footpath on the western side of Saville Street and parking off the street for existing residents cars. Access to the site off Saville Street is at the street's only corner and is a cul-de-sac. The semi detached houses have car parking between each pair of semis and the terraces in tight groups adjacent to them.

### **RELEVANT HISTORY**

There is no relevant planning history for the site.

### **POLICIES**

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plan (January 2004).

#### **Local Plan Policy:**

The application site lies within a predominantly residential area in Macclesfield and is in employment use, therefore the relevant Macclesfield Local Plan policies are considered to be:

- Policy H1 (Phasing policy);
- Policy H2 (Environmental quality in housing developments);
- Policy H5 (Windfall housing sites);
- Policy H13 (Protecting residential areas);
- Policy E1 (employment land Policies);
- Policy E14 (Employment in Housing Areas);
- Policy DC1 (High quality design for new build);
- Policy DC3 (Protection of the amenities of nearby residential properties);
- Policy DC6 (Circulation and Access);
- Policy DC8 (Requirements for Landscaping);
- Policy DC35 (Materials and finishes);
- Policy DC36 (Road layouts and circulation);
- Policy DC37 (Landscaping);
- Policy DC38 (Guidelines for space, light and privacy for housing development);
- Policy DC41 (Infill housing development);
- Policy NE11 (Nature Conservation); and
- Policies RT5 and DC40 (Children's Play Provision and Amenity Space).

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28 February 2014, the Council resolved to approve the Cheshire East Local Plan Strategy – Submission Version for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

Replacing MBLP policies NE1, NE2, NE11, BE1, BE3, BE4, H4, H13, E1, T2, T3 and T4 are (CELP) policies SE3, SE1, SD2, SE1, EG3 and CO1, which are summarised below: -

- Policy SE3: which seeks to protect and enhance biodiversity and geodiversity;
- Policy SE1: sets out requirements for design;
- Policy SE12: Pollution and Unstable Land ensures that development protects amenity;
- Policy SD2: sets out sustainable development principles;
- Policy EG3: updates the approach to be taken to existing employment sites; and
- Policy CO1: deals with sustainable travel and transport including public transport.

### **The National Planning Policy Framework**

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight.

### **Supplementary Planning Documents:**

Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes:

- Section 106/Planning Obligations Supplementary Planning Guidance Note;
- Annual Monitoring Report (AMR; 2011/12);

- Strategic Housing Land Availability Assessment (SHLAA; February 2011); and
- Employment land review (2012).

## **CONSULTATIONS (External to Planning)**

### **HIGHWAYS:**

No objections.

### **CANAL & RIVER TRUST:**

After due consideration of the application details, the Canal & River Trust has stated they have no comments to make.

### **DEVELOPMENT CONTROL ARCHAEOLOGIST:**

No objections, however it is advised that relevant works in the northern part of the site are subject to archaeological monitoring in order to identify and record evidence of archaeological structures and any associated features.

### **COUNTRYSIDE AND RIGHTS OF WAY:**

Development does not appear to affect a public right of way.

### **ENVIRONMENT AGENCY:**

No objections, subject to contaminated land conditions.

### **UNITED UTILITIES ASSET PROTECTION:**

No objection provided the site is drained on a total separate system with only foul drainage connected into the public sewer. Surface water should be discharged directly into the adjacent watercourse and may require Local Authority consent.

### **ENVIRONMENTAL HEALTH:**

No objections subject to conditions controlling the hours of construction, hours and method of pile foundations (if necessary), and submission of a scheme to minimise dust emissions.

A Contaminated Land Report has been submitted with the application which recommends a remediation strategy is carried out. This should be conditioned.

### **FLOOD RISK MANAGER:**

It is recommended that the application be deferred (holding objection) pending further detailed discussions with applicant regarding any impacts on Knights pool.

### **GREENSPACE:**

No on-site provision of public open space is proposed, therefore commuted sums will be required, in accordance with policies.

### **HOUSING STRATEGY AND NEEDS MANAGER:**

A 30% proportion of the proposed dwellings would need to be affordable housing, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

#### MACCLESFIELD CIVIC SOCIETY:

The Civic Society has raised no objections to the scheme and has stated the following general comments. "This is an area of mixed land uses albeit if the proposal proceeds then non-residential uses would be in a minority. The character of the area would become primarily residential and the amenities of other occupiers would benefit. However, the change in character would diminish the availability of sites for small scale commercial activities within the town. Such sites are therefore valuable and the potential loss must be carefully evaluated.

The impact of providing new dwellings, with occupiers expecting residential standards of amenity, upon the ability of non-residential land uses to continue is an added factor. The layout appears to represent an optimum development of the site with reasonable space around and between buildings. No doubt the proximity to other non-residential uses will be evaluated for potential noise and disturbance. The access will probably have no significant traffic impact."

#### VIEWS OF THE PARISH / TOWN COUNCIL

Not applicable.

#### REPRESENTATIONS

The application has been advertised in accordance with the General Development Management Order 2010, in this case incorporating the following elements:-

- On site, by the means of four site notices on Saville Street making reference to major development affecting a public right of way;
- These site notices were posted on 13 May 2014 ;
- Notice was published in the local press (Macclesfield Express) on 7 May 2014; and
- Surrounding residential properties (x44) have also been written to directly.

The publicity period for this application expired on 4 January 2013.

Two letters of objection have been received from the properties on Barber Street that border the southern boundary, their objections can be summarised as follows:

- No objection in principle;
- The proposed development would enhance the site on Saville Street;
- Given the land level difference plot 1 would overlook 42, 44 and 46 Barber Street.
- Inadequate separation distances from Plot 1 to numbers 42, 44 and 46 Barber Street.
- Proposed removal of trees.

A letter of support has also been received from a resident of Saville Street, who welcomed the proposal as it will be great to look out of their front windows and not have to look at dilapidated units housing a spray paint shop and garage four-court as well as the two rows of garages.

A full copy of all the comments made by the local residents toward this application as summarised above, can be viewed on the electronic file on the Council's public access website.

#### APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted the following reports/documents in support of the application, details of which can be read on the electronic file on the Council's public access website.

- Planning, Design and Access Statement;
- Ground Investigation; and
- PPS3 Housing Self-Assessment Checklist

## **OFFICER APPRAISAL**

Having considered this application, it is the considered view that the main issues in this case are:

- The principle of development (loss of employment);
- The principle of development (need for housing/sustainable Location);
- Requiring good design and character and appearance of the area;
- Residential amenity implications;
- Highways access, parking, servicing and highway safety;
- Flood Risk implications;
- Need for additional affordable housing in the area;
- Provision of public open space; and
- Other material planning considerations.

### **Principle of Development (loss of employment):**

The site is located in a predominantly residential area. It is currently in use for employment purposes. The majority of employment sites are shown on the Proposals Map, though some smaller sites are not. It is acknowledged that these sites are, or have been important employment sites and are an important part of the stock of employment land and buildings.

Policy E14 states that: -

THE BOROUGH COUNCIL WILL ENCOURAGE THE RELOCATION OF BUSINESSES WHICH CREATE AN UNACCEPTABLE LEVEL OF NUISANCE TO NEIGHBOURING DWELLINGS ARISING FROM NOISE, SMELL, SAFETY OR TRAFFIC GENERATION. INFILL HOUSING WILL BE ENCOURAGED ON SUCH SITES.

This policy largely applies to the Macclesfield and Bollington area, where backstreet industrial activities have outgrown their premises, or an intensification of use has taken place. It is considered that this site is an anomalous location for existing commercial development in the middle of a mostly residential area which has grown over the years. In addition the Council is concerned to protect and enhance the character and amenities of housing areas. Any non residential uses should be appropriate in scale and should not adversely affect residential amenity. Uses which would create unacceptable noise, safety or health impacts or generate excessive traffic will not be acceptable.

### **The principle of development (need for housing/sustainable Location):**

The National Planning Policy Framework strongly encourages Local Planning Authorities to be pro-active and positive in terms delivering sustainable forms of development. At paragraph 187 it advises that "Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area"

The benefits of redeveloping the site are recognised as:

- Clearing a contaminated site;

- Removing an unsuitable industrial business from a residential area; and
- Providing a choice of quality homes.

In respect of the provision of housing, paragraph 49 states 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'. A component of the Council's evidence base is the Strategic Housing Land Availability Assessment (SHLAA) February 2013 Update, which identifies potential sites for housing development across Cheshire East. It is worth noting that the application site is identified by the Council as being one of the sites forming part of the anticipated supply of housing land, being suitable, available, deliverable and achievable for residential development. Therefore, if the application were to be approved, it would relieve pressure on other edge of settlement sites and the Green Belt as part of the provision of housing and strengthen the Council's 5 year land supply position.

The site is located within Macclesfield and is centrally located and within easy access of the town centre. Macclesfield includes a range of shops and local services and amenities. There is easy access to bus routes. Taking this into account the site is considered to be in a sustainable location and therefore accords with the NPPF's aims of fostering sustainable development. It is therefore considered that the redevelopment of this site should be considered positively.

### **Housing Land Supply**

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should: "identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land".

The NPPF clearly states at paragraph 49 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."

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

"where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted."

Appeal decisions in October 2013 concluded that the Council could not conclusively demonstrate a five year supply of deliverable housing land. This was founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013. In response, in February 2014 the Council published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31 December 2013. The Position Statement set out that the Borough's five year housing land requirement as 8,311. This is based on the former RSS housing target of 1150 homes pa – mindful that the latest ONS household projections currently stand at 1050 pa. This was also calculated using the 'Sedgefield' method of apportioning the past shortfall in housing supply across the first five years. It included a 5% buffer, which was considered appropriate in light of the Borough's past housing delivery performance and the historic imposition of a moratorium.

The current deliverable supply of housing was therefore assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the 'Sedgefield' methodology and a 5% 'buffer' the Five Year Housing Land Supply Position Statement demonstrated that the Council has a 5.87 year housing land supply. If a 20% 'buffer' was applied, this reduced to 5.14 years supply.

Members will be aware that the Housing Supply Figure is the source of constant debate as different applicants seek to contend that the Council cannot demonstrate a five year supply. This has been the source of the many and on-going appeals as the Council's defends its position against unplanned development. Despite the high number of appeals only a limited number of decisions have been determined at this time, but they in themselves demonstrate the apparent inconsistency of approach.

Elworth Hall Farm, Sandbach (11 April 2014). It was determined that the Council had still not evidenced sufficiently the 5 year supply position, although the Inspector declined to indicate what he actually considered the actual supply figure to be. 1150 dwellings pa was the agreed target figure. The Inspector accepted the use of windfalls but considered a 20% buffer should be employed. Members should note, however, that the Elworth Hall Farm inquiry took place shortly after the publication of the Position Statement with only very limited time available to evidence the case. Since that time, the housing figures have been continuously refined as part of the preparation of evidence for further public inquiries which have taken place during the last few

months and more are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 6.11 year housing land supply with a 5% buffer or 5.35 year housing land supply with a 20% buffer.

Dunnocksfold Road, Alsager (14 July 2014). Inspector considered that the RSS figure was now historic and that the SHMA, SHLAA and populations forecasts were more recent along with the emerging Pre-Submission Core Strategy which proposes a target of 1350 dwellings pa. 1350 should therefore be the target (6750 as a 5 year supply figure). The Inspector also accepted the appellants' backlog figure but agreed that a 5% (not 20%) buffer should be applied. However the use of windfalls was rejected. This gave a five year requirement of 10146 dwellings or 2029 pa. This results in a supply figure of 3.62 years. Even using the Council's assessed supply figure of 9897 this only provided 4.8 years of supply.

Members should note that this Inquiry also took place just a few days after the introduction of the position statement when there was little or no time to prepare the full evidence case.

Newcastle Road, Hough (14 July 2014). In the absence of evidence to the contrary the Inspector accepted that the position statement and that the Council could demonstrate a five year supply - 5.95 years with 5% and 5.21 with a 20% buffer. It was also considered that the RSS figures of 1150 pa represented the most recent objectively assessed consideration of housing need.

There is hence little consistency over the treatment of key matters such as the Housing Requirement, the Buffer and use of windfalls. This state of affairs has drawn the attention of the Planning Minister Nick Boles MP who has taken the unusual step of writing to the Inspector for the Gresty Oaks appeal (14 July 2014) highlighting that the Planning Inspectorate have come to differing conclusions on whether Cheshire East can identify a five year supply. While he acknowledges that decisions have been issued over a period of time and based upon evidence put forward by the various parties he asked that "especial attention" to the evidence on five supply is given in the subsequent report to the Secretary of State. It is therefore apparent that the Planning Minister does not consider the matter of housing land supply to be properly settled.

Taking account of the above views, the timing of appeals/decisions the Council remains of the view that it has and can demonstrate a five year supply based upon a target of 1150 dwellings per annum, which exceeds currently household projections. The objective of the framework to significantly boost the supply of housing is currently being met and accordingly there is no justification for a departure from Local Plan policies and policies within the Framework relating to housing land supply, settlement zone lines and open countryside in this area. However, if the application were to be approved, it would relieve pressure on other edge of settlement sites and the Green Belt as part of the provision of housing and strengthen the Councils 5 year land supply position.

#### **Requiring good design and character and appearance of the area:**

As detailed above, over the site there have been built various industrial buildings from vehicle maintenance to fuel sales and garages for local cars. These various activities are in differing states of structure and all will be removed as a result of the proposed development. Therefore overall it is considered that the scheme will improve the character and appearance of the area.

The layout has been designed in conjunction with officers to provide a main access road within the site with a streetscene of five semi detached dwellings stepping back into the site. Driveways separate these dwellings. Two terraces of four dwellings sit 90 degrees to the access road with parking and landscaping to the front. The surrounding area to the site is residential with many older terrace dwelling units as well as new two storey housing of many types being primarily terraced and semi detached. The scheme was deliberately designed to reflect this character, the dwellings backing onto Knights Pool being 3 bedroom semi detached houses and on the Saville Street frontage the 2 bedroom terraced units are sited at right angles to the street continuing to permit the existing terraced dwellings to see through the development to the west and Knights Pool.

The detailed design of the properties has been carefully considered with single brickwork to the terraces but with tile hanging to the first floor of some of the semis with brickwork to the



lower level. All have the same clay tiled roof. It will be noted that some of the units do have chimneys above roof ridge level.

Overall it is considered that the design of the scheme is commendable and emphasises the traditional character of the area.

**Residential amenity implications:**

The side gables from the two rows of terrace properties will be approx 13m to the front elevations of the existing properties on Saville Street. Whilst this distance is slightly substandard (Policy DC38 advises a distance of 14m), given the character of the area, it is considered acceptable. The separation distance from plot 10 to the properties backing on the site from Greenhill Close is considered acceptable and meets standards. It is noted that no objections have been received from those residents on Greenhill Close and Saville Street. The separation distances within the scheme accord with the Councils adopted guidance standards.

With regard to the objections received from the residents on Barber Street, the side gable of plot 1 would be 16m away from the rear elevation of 44 Barber Street (the closest property on Barber Street to the application site). This is over the minimum distance guidance of 14 metres in Policy DC38. A bathroom window at first floor in the side gable of plot 1 is proposed.

However, the submitted plans show this as being obscurely glazed. It is considered that no overlooking of Barber Street will transpire from the front and rear windows of plot 1, due to their orientation. It is accepted that the application site is at a higher level than Barber Street, however a boundary treatment and levels conditions are suggested. Additionally notwithstanding the difference in levels between the site and Barber Street, the privacy distance standards of DC38 will still be met.

**Highways access, parking, servicing and highway safety:**

There is one proposed access to the site that uses an already established access point to the north east corner of the site. Although, the access point is close to adjacent residential properties, it is existing and has been used for many years as access to the site. This access point has provided access to a number of different commercial uses that have been on the site in the past.

Therefore, given the limited number of residential properties proposed by this application it would not lead to an intensification in use of the access.

Internally, the road layout is standard with a turning facility at the end of the access to accommodate refuse and delivery vehicles. The level of parking for each of the units is 200% and this provision accords with the Council's parking standards for residential development.

The applicant has proposed that 7 parking spaces are provided for residents of Saville Street along the frontage of the site. There are no objections to this provision although as the spaces are located on private land the land will need to be dedicated as public highway in a separate legal agreement outside this planning application. This would ensure that the spaces are available for residents use.

To conclude, there are no highway issues to warrant refusal of the application and the Strategic Highways Manager raises no objections.

**Flood Risk implications:**

The development site is adjacent to Knights Pool which is a Cheshire East Council owned land holding and water management asset of interest. Knights Pool and any associated tributary watercourses and/or culverts (inflows and outflows) are designated as non main river (ordinary) watercourses and as such, fall under the Council's regulatory powers of control as a Lead Local Flood Authority (LLFA), as described under Flood and Water Management Act 2010 and Land Drainage Act 1991 legislation. (Please note that restrictive covenants apply to this land holding and that this asset also has local recreation and amenity value).

Part of the proposed development site would also appear to be at risk from local surface water flooding and it is unclear how this site is to be drained. The developer has been asked to clearly describe how drainage and surface water risks at this site are to be managed for all phases of the development, including demolition, site remediation operations and final drainage strategy for the site.

Clearly the Council would need to ensure that sufficient information is available under this application to establish the impacts of this development proposal on Cheshire East Council's land holding and wider flood risk management interests. Restricted discharges of surface water will apply to this site and may be subject to formal land drainage consent requirements of the Authority and any further legal requirements identified by Cheshire East Legal department.

The applicant has been in discussion with the Council's Flood Risk Manager to discuss this development proposal in detail. Further comments are awaited from the Council's Flood Risk Manager and these will either be provided in an update report or verbally to committee. In any event, it is not anticipated that any in principle objections will be raised but rather that some matters may be required to be dealt with by condition.

**Need for additional affordable housing in the area:**

The site falls within the Macclesfield Sub-Area for the purposes of the Strategic Housing Market Assessment (SHMA 2013). This identifies a net annual requirement of 180 units for the period 2013/2014 to 2017/2018. Within 2013/2014 there have been 20 completions in the Macclesfield sub-area. In addition to this, information taken from Cheshire Homechoice, shows there are currently 1,160 active applicants who have selected one of the Macclesfield lettings areas as their first choice. These applicants require 682 x 1beds, 362 x 2beds, 98x 3beds and 18 4+ bed units.

The Interim Planning Statement on Affordable Housing (IPS) states that in areas with a population of more than 3,000 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 15 dwellings or more or more than 0.4 hectare in size. The IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the

recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure. On this site there is a requirement to provide 5 units as affordable, 3 to be provided as affordable or social rent and 2 to be provided as intermediate tenure.

The scheme will deliver 5 units as affordable these will be plots 15, 16, 17, 18 and 10 as defined on the block plan. The units are considered to be pepper-potted across the site. 4 units will be provided as rented tenure and 1 as intermediate tenure. This is due to the location of the affordable units in terraces of 4. To allow the affordable housing to be delivered and to ensure a Registered Provider to take transfer of the units it would be desirable to not have rented and intermediate units adjoining. 100% of the affordable units will be provided before the sale or let of 50% of the market dwellings.

### **Provision of Public Open Space:**

The application triggers the requirement for the provision of both Public Open Space (children's play and amenity) and Recreation and Outdoor Sports facilities as identified in the Council's SPG on s106 Agreements as noted above. 18 open market family dwellings would generate a need for £45,000 Public Open Space (POS) and £13,000 (£18k - £5k for the five affordable units) Recreational Open Space (ROS).

The commuted sum would be required by the Local Authority on commencement of development.

The POS contribution would be used for King George Playing Field and Play area (Windmill Street), Knights Pool amenity open space, Brookfield Lane Allotments, Brynmore Drive play area and canal access improvements. The ROS would be used for King George Playing Field on Windmill Street. The applicant's have agreed to the figure of £58,000 for POS and ROS and this would be secured by a S106 agreement under the Town and Country Planning Act 1990.

### **Other Material considerations:**

#### **ARBORICULTURAL IMPLICATIONS:**

Although the applicant has not provided a tree report in regard to the development, the Design and Access statement refers to trees and the proposed site plan indicates that one tree is to be pruned. As the trees along the embankment with Knight's Pool are significant landscape features to the local area it is essential that a detailed tree survey, an arboricultural impact assessment (AIA) report and an Arboricultural Method Statement are provided prior to commencement of the development.

A proposal to include the trees along the embankment with Knight's Pool within the garden areas of the proposed plots gives concern. The concern arises as the embankment is very steep, a change in levels of 4m occurs in a distance of only 7m to 8m. Creating access ramps or steps down to the pool could result in damage to tree roots and possible impact on tree stability and then tree loss. This will not only affect amenity but may also impact on stability of the embankment.

To avoid individual access points and changes to ground levels it is considered more sustainable to include the embankment of trees in a communal area as Green Infrastructure

(GI) and make this the subject of a landscape scheme condition and a landscape management condition.

#### ECOLOGICAL IMPLICATIONS:

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that no European Protected Species have been recorded on site. Therefore the planning authority do not have to consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) maintenance of the favourable conservation status of the species and (iii) that the development is of overriding public interest.

The Council's Heritage & Design (Ecology) section have been consulted on the application.

No evidence of protected species were identified on the site and it is considered that there are no significant ecological constraints on the proposed development.

#### LANDSCAPE ISSUES:

The Council's Heritage & Design (Landscape) section have been consulted on the application. It is considered that the proposals will not result in any significant landscape or visual impacts. Conditions are suggested to secure a suitable landscaping scheme and its implementation.

#### ENVIRONMENTAL HEALTH:

The application site is surrounded by existing residential properties and whilst other legislation exists to restrict the noise impact from construction and demolition activities, this is not adequate to control all construction noise, which may have a detrimental impact on residential amenity in the area. Therefore, a condition is suggested to control hours of demolition and construction works in the interest of residential amenity. A condition has also been suggested by the Council's Environmental Health Section in the event that piled foundations are used. A condition to control dust from the construction is suggested to reduce the impacts of dust disturbance from the site on the local environment. Details of waste and refuse provision would also be conditioned.

#### LAND CONTAMINATION:

The application area has a history of use as a brickwork, depot and garage and therefore the land may be contaminated. This site is within 250m of a known landfill site or area of ground that has the potential to create gas. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present.

The site investigation report 'Phase 1' submitted in support of the application recommends that remediation is required. However the report is not considered to be sufficiently

comprehensive to allow a detailed remediation strategy to be prepared, therefore a 'Supplementary Phase 2' investigation would be required and this is suggested via condition.

The Contaminated Land team has no objection to the above application subject to this condition being imposed. These views are shared by the Environment Agency.

#### **ARCHAEOLOGICAL POTENTIAL:**

The site lies partially within Macclesfield's Area of Archaeological Potential, as defined in the Local Plan of the former Macclesfield Borough Council. No sites are currently recorded on the Cheshire Historic Environment Record from within the application area but an examination of the Ordnance Survey mapping from the second half of the 19th century depicts the site as a brick field. The great depth of made ground demonstrated across much of the site by the geotechnical report is indicative of the amount of clay that has been removed as part of the extractive process.

In these areas of deep deposition of modern material there is no further archaeological potential but, according to the borehole data in the geo-technical report, the northern part of the site has been subject to less extraction and natural clay survives just beneath the modern ground surface. At two locations within this zone, features of industrial archaeological interest are depicted on the early mapping and consist of a 'smelt house' and a circular feature, which is almost certainly a brick kiln. Evidence of these features is likely to survive below ground and will be removed by works associated with the proposed remediation strategy.

In view of the above, it is suggested that relevant works in the northern part of the site are subject to archaeological monitoring in order to identify and record evidence of the structures noted above and any associated features. Careful planning and liaison between the groundworks contractor and the archaeological contractor will be required to ensure that the mitigation is carried out in an effective manner but experience on similar sites has demonstrated that a successful outcome is achievable where the archaeological works are properly integrated into the programme. A report will also be required and the mitigation may be secured by condition.

#### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The site is within a predominantly residential area in Macclesfield on previously developed land, in a sustainable location close to existing services, community facilities and public transport links.

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. Paragraph 14 of NPPF states that decision takers should be approving development proposals that accord with the development plan without delay; and

- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

As such Members should only be considering a refusal of planning permission if the disbenefits of the scheme significantly and demonstrably outweigh the benefits of approval.

Whilst the loss of a site in existing employment use is unfortunate, the site is not allocated as such and as the relocation of businesses which create an unacceptable level of nuisance to neighbouring dwellings arising from noise, smell, safety or traffic generation is encouraged, no objections are raised to the loss of employment on this site.

The site has already been identified by Cheshire East Council as being suitable for housing and deliverable within years 1-5 in the 2013 Strategic Housing Land Availability Assessment.

The Council should therefore take a positive view of sites which will allow it to meet its targets for the provision of new dwellings in the Borough.

## **HEADS OF TERMS**

- Commuted sums of £58k to mitigate for the loss of existing open space and for POS in lieu of onsite provision;
- Five units as affordable and these will be plots 15, 16, 17, 18 and 10. Four units (plots 15, 16, 17 and 18) will be provided as rented tenure and one (unit 10) as intermediate tenure;
- 100% of the affordable units will be provided before the sale or let of 50% of the market dwellings;
- Dedicate the 7 parking spaces on Saville Street as public highway (separate legal agreement); and
- Provision for the embankment of trees to be transferred to a communal area as Green Infrastructure.

## **Community Infrastructure 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;
- (a) Directly related to the development; and
- (b) Fairly and reasonably related in scale and kind to the development.

The commuted sum in lieu for recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide 18 dwellings, the occupiers of which will use local facilities, and there is a necessity to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The provision of 30% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The Provision for the embankment of trees to be transferred to a communal area as Green Infrastructure is necessary, fair and reasonable to secure appropriate ongoing management of the landscape areas that are not within private gardens.

All elements are necessary, directly relate to the development and are fair and reasonably related in scale and kind to the development.

*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Enforcement Manager has delegated authority to do so in consultation with the Chairman of the Northern Planning*

*Committee, provided that the changes do not exceed the substantive nature of the Committee's decision. Should this application be the subject of an appeal, authority shall be delegated to the Planning and Enforcement Manager in consultation with the Chairman of the Northern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.*

#### Application for Full Planning

**RECOMMENDATION:** Approve subject to a Section 106 Agreement and the following conditions

1. Commencement of development (3 years)
2. Development in accord with approved plans
3. Details of ground levels to be submitted
4. Submission of samples of building materials
5. Construction of junction/highways
6. No gates - new access
7. Closure of access/removal of dropped kerbs
8. Landscaping - submission of details
9. Landscaping (implementation)
10. Landscaping to include details of boundary treatment
11. Tree retention
12. Tree protection
13. Tree pruning / felling specification
14. Arboricultural method statement
15. Levels survey
16. Service / drainage layout
17. Refuse storage facilities to be approved
18. Provision of cycle parking
19. Decontamination of land
20. Details of drainage
21. Protection from noise during construction (hours of construction)
22. Pile Driving
23. A scheme to minimise dust emissions
24. Construction Management Plan
25. NPPF Informative
26. Contamination Informative



