

Application No: 15/1683M

Location: LAND OPPOSITE, Lowerhouse Mill, ALBERT ROAD, BOLLINGTON

Proposal: Development of 30 new houses including 9 affordable houses, landscaping, landscape buffer zone, flood mitigation and ground works, roads, associated highways and infrastructure.

Applicant: Johnson Mulk, Prospect GB

Expiry Date: 10-Jul-2015

**SUMMARY:**

At the heart of the adopted Cheshire East Local Plan Strategy (CELPS Policy MP 1 refers) and the National Planning Policy Framework is a presumption in favour of sustainable development. Policy states that decision takers should be approving development proposals that accord with the development plan without delay unless material considerations indicate otherwise.

The principle of developing the site for residential purposes has already been accepted in a previous resolution and therefore whilst the Council can now demonstrate a 5 year housing land supply, the development of this site for housing has already been included within these calculations, albeit with a higher number of 32. The key issue for Members to consider is whether or not in light of additional flood risk information and local concerns regarding flooding as well as the recently adopted CELPS, the Council should proceed to grant planning permission subject to a s106 legal agreement.

There is an environmental impact in the locality due to the development taking place on a green field, however, the proposal falls on land which is allocated for employment uses and appeals on this site and the land opposite have been allowed and development has been found to be acceptable.

It is considered that a scheme for housing would fall in line with policies contained within the NPPF and the Development Plan. The principle of developing land, which is allocated for employment purposes, has been established. It is considered that housing on the application site will also have a more positive impact on the local area than industrial development.

The proposal would satisfy the economic and social sustainability roles by providing market and affordable housing adjoining an existing settlement where there is existing infrastructure and amenities. The proposal (as amended) would provide policy compliant levels of affordable housing, and contributions to public open space. In addition, it would also provide appropriate levels of public open space both for existing and future residents.

Local concerns of residents are noted, particularly in respect of highway matters and flood risk, but the impacts are not considered to be 'severe' under the NPPF tests. The impact from a residential scheme would be less than that of a commercial one in highways terms and the proposal would not increase the risk of flooding elsewhere (subject to mitigation). Further, the sequential and exception test when considering proposals in Flood Risk Zone 3 have been satisfied and the built form would not occupy land falling within the functional flood plain (Flood Zone 3b).

The design is considered to be appropriate as is any impact on amenity. Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, flood risk, drainage, landscape and ecology. The scheme represents a sustainable form of development that is in accordance with the Development Plan and therefore the resolution to grant planning permission should proceed subject to updated heads of terms..

**RECOMMENDATION:**

Approval subject to conditions and completion of a S.106 Agreement.

## **BACKGROUND**

At the meeting of the Northern Planning Committee on 4<sup>th</sup> November 2015, Members resolved to approve this application (which at the time proposed 32 no. dwellings) subject to conditions and a Section 106 Agreement. The s106 agreement was to secure:

**30% Affordable Housing;**

A contribution of **£75,924** towards primary education;

Provision of **£32,000.00** towards Public Open Space

Since this resolution was made, work has been progressing on the drafting of the s106 agreement. However, in addition, the Council has been made aware of local flooding issues in the area generally and on this basis, undertook to review this application and resolution in light of further flooding information.

It is also important to note that there have been a number of material changes in policy position and so in undertaking a review of this resolution, the proposal has been reconsidered in light of the newly adopted Cheshire East Local Plan Strategy.

Largely, the proposal remains unchanged from that which Members resolved to approve, save for the submission of additional Flood Risk information which has been reviewed by the Council's Flood Risk Team, the Environment Agency and United Utilities and some amendments to the layout. The following report follows a review of the application which Members considered back in November 2015.

## **DETAILS OF PROPOSAL**

This application seeks full planning permission for the construction of 30 residential units, comprising of 17 detached dwellings and 11 semi-detached dwellings and 2 apartments. The application would also include 9 affordable dwellings. All properties would be provided with off street parking spaces. The detached and semi detached properties would all have private gardens.

It should be noted that when the scheme was first submitted, it was for 38 units. However, revised plans were subsequently received, which saw the number of dwellings reduced from 38 to 32. Following further discussions, the scheme has further been reduced from 32 to 30.

## **SITE DESCRIPTION:**

The application site consists of predominantly flat agricultural grassland surrounded by mature hedgerows. The site measures approximately 3.13 hectares in size. The central section of the site is, in part, characterised by elongated and rectangular mounds of top soil, scraped from the rest of the site a number of years ago.

To the south, it is bounded by industrial buildings, which form Slater Harrison. The road to the west of the site terminates at the Council's Household Waste Recycling Centre. To the north of the site is the River Dean, with open countryside beyond it.

Access to the site is taken from Albert Road.

It should be noted that residential development has been granted on the land opposite (application 14/3844M) for 33 dwellings in January 2015. Beyond this, the closest residential properties to the application site lie on Woodlea Drive and are two storey detached properties.

The site is allocated as an existing employment area in the Macclesfield Borough Local Plan and the part of the site to the east falls within the Green Belt. Parts of the site fall within Flood Zones 2 and 3 of the Environment Agency's flood map.

### **RELEVANT HISTORY:**

- |          |                                                                                                                                                                                       |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/3836M | Erection of 3 no detached industrial buildings divided into 16 no. small units with associated parking and landscaping (renewal of 06/2355p) – Approved 3 <sup>rd</sup> February 2010 |
| 06/2355P | Erection of 3no detached industrial buildings divided into 16no small units with associated parking and landscaping – Approved 27 <sup>th</sup> November 2006                         |
| 05/0270P | Renewal of application 99/2296P for industrial development (B2 usage) – Approved 29 <sup>th</sup> March 2005                                                                          |
| 99/2296P | Industrial development (B2 usage) revised scheme – Refused 10 <sup>th</sup> January 2000 – Appeal Allowed 21 <sup>st</sup> July 2000                                                  |
| 99/0695P | Industrial development (B2 usage) – Withdrawn 16 <sup>th</sup> June 1999                                                                                                              |

### **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
- 69-78 Promoting healthy communities
- 94 Flood risk
- 100 Flood risk
- 103 Determining planning applications and flood risk

#### **Development Plan:**

**It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27<sup>th</sup> July 2017. However, there are policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.**

The relevant Macclesfield Local Plan Saved Policies are considered to be: -

**Built Environment**

BE2 – Historic Fabric

**Development Control**

DC3 – Amenity  
DC6 – Circulation and Access  
DC8 – Landscaping  
DC9 – Tree Protection  
DC35 – Materials and Finishes  
DC36 – Road Layouts and Circulation  
DC37 – Landscaping  
DC38 – Space Light and Privacy  
DC40 – Children’s Play Provision and Amenity Space  
DC41 – Infill Housing Development  
DC63 – Contaminated Land

**Employment**

E4 – General Industrial Development

**Environment**

NE11 – Protection and enhancement of nature conservation interests  
NE17 – Nature Conservation in Major Developments

**Recreation and Tourism**

RT5 – Open Space

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

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

The following are considered relevant material considerations of the adopted Local Plan Strategy:

- PG3: Green Belt
- MP1: Presumption in favour of sustainable development;
- PG7: Spatial Distribution of Development;
- SE1: Design;
- SE2: Efficient Use of Land;
- SE3: Biodiversity and Geodiversity;
- SE4: The Landscape;
- SE5: Trees, Hedgerows and Woodland;
- SE6: Green Infrastructure;
- SE7: Heritage Assets
- SE9: Energy Efficient Development;
- SE12: Pollution, Land contamination and land instability;

- SE13: Flood risk and water management;
- EG3: Existing employment sites;
- IN1: Infrastructure
- IN2: Developer Contributions:
- SC4: Residential Mix
- SC5: Affordable Homes
- SD1: Sustainable Development in Cheshire East;
- SD2: Sustainable Development Principles; and
- CO1: Travel Plans and Transport Assessments.

### **Bollington Neighbourhood Plan:**

The Bollington Neighbourhood Plan has been submitted for independent examination (Regulation 17 stage). The examiner's report has not yet been made and therefore the plan is not yet part of development plan. As such, the weight to be afforded to it is limited at this stage. However, the relevant policies are considered to be:

Housing Policy HO.P2 – Housing location  
 Housing Policy HO.P3 – Type of housing  
 Housing Policy HO.P4 – Design of housing  
 Housing Policy HO.P5 – Parking provision for new dwellings  
 Employment and Business Policy EB.P1 – Regeneration of existing employment land  
 Employment and Business Policy EB.P3 – Encourage the growth of home-based businesses  
 Open Space Policy EOS.P2 – Maintenance of Open Space allocations  
 Green Belt Policy EGB.P3 – Development in the Green Belt  
 Natural Environment Policy ENE.P1 – Natural Environment Policy  
 Natural Environment Policy ENE.P2 – Maintenance of views  
 Natural Environment Policy ENE.P3 – Provision of Landscape Plan  
 Natural Environment Policy ENE.P4 – Footpaths, Quiet Lanes and Bridlepaths  
 Moving Around Policy MA.P1 – Improve safety and efficiency of moving around  
 Moving Around Policy MA.P2 – Parking provision

### **Supplementary Planning Documents:**

The following Supplementary Planning Documents (SPDs) have been adopted and are a material consideration in planning decisions (within the identified former Local Authority areas):-

Cheshire East Strategic Flood Risk Assessment (2013)  
 Strategic Housing Market Assessment (SHMA)  
 SPG on Section 106 Agreements (Macclesfield Borough Council)

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

#### **HIGHWAYS:**

The Head of Strategic Infrastructure (Highways) raises no objections to the proposals. There is one point of access to the site. The technical designs of the access points are acceptable

and adequate visibility has been provided at the junction. The parking provision for the residential units within the site meets current standards.

#### **ENVIRONMENTAL PROTECTION:**

No objection subject to conditions relating to hours of operation, dust control, floor floating, pile driving and contaminated land.

A noise impact assessment has been carried out to gauge the impact between the commercial/industrial uses. The EHO had concerns of the proximity of the houses and gardens to odour sources and recommends bunding (with a fence on top of a mound) to the southern boundary.

This site is within 250m of a known landfill site or area of ground that has the potential to create ground gas. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. A gas risk assessment has been undertaken and the results provided. Although the report shows that there are not significant quantities of gas present on the application site, further gas risk assessment is required as currently the monitoring is insufficient. The Contaminated Land Officer recommends that a condition can be attached to ensure that a Phase II investigation is submitted for approval and any recommended remediation is carried out on site.

#### **UNITED UTILITIES:**

No objection subject to a condition relating to the submission of a scheme for the disposal of foul and surface waters for the entire site.

#### **STRATEGIC HOUSING:**

No objection.

#### **PUBLIC RIGHTS OF WAY:**

The Public Rights of Way Officer raises no objections to the proposed development. The Public Right of Way Officer advises that the site lies adjacent to public footpath No. 47 Bollington. It appears unlikely, however, that the proposal would affect the public right of way, although the PROW Unit would expect the planning department to add an advice note to any planning consent to ensure that developers are aware of their obligations.

#### **ENVIRONMENT AGENCY (EA):**

No objection subject to conditions and informatives relating to the following:

The development shall be carried out in accordance with the approved and updated Flood Risk Assessment and the mitigation measures detailed within, which includes:

- 1. Provision of compensatory flood storage, on the adjacent land to the east of the proposed dwellings*

2. *Finished floor levels of proposed dwellings are set no lower than 600mm above the relevant 1 in 100 year plus climate change fluvial flood level*
3. *Finished levels of proposed access roads, parking areas, footpaths are set no lower than 300mm above the relevant 1 in 100 year plus climate change fluvial flood level*

The EA previously reviewed the Preliminary Risk Assessment with respect to potential risks to controlled waters from land contamination. The site is situated in a sensitive location with respect to controlled waters. The report provided indicates that the site has potentially been subject to significant previous contaminative land, which may be potential sources of contamination to Controlled Waters in the vicinity of the site. An off-site historic landfill has been identified adjacent to the northern site boundary in close proximity to the site and industrial use has been identified adjacent to the southern site boundary. Planning permission should only be granted with a condition which requires a scheme of foul and surface water to be submitted to prevent pollution of the water environment and controlled waters.

### **FLOOD RISK MANAGER:**

No objection subject to conditions that the proposed development is carried out in accordance with the submitted flood risk assessment and a number of mitigation measures, the submission of a drainage strategy and the submission of details of a cut and fill exercise.

### **EDUCATION:**

This development will generate 7 primary and 6 secondary aged pupils.

The primary schools within a 2 mile radius of the site are forecast to have a shortfall of 25 places by 2019, and therefore a contribution will be required for those pupils generated by this development.  $7 \times 11919 \times 0.91 = \text{£75,924}$ .

There is forecast to be 130 surplus places in the local secondary schools and therefore, no sum is required for Secondary school places.

### **GREENSPACES (ANSA):**

The Green Spaces Officer initially raised concerns with the location of the formal equipped play area, however, revised plans showed this to be in a far more favourable location.

A commuted sum for offsite Recreation Open Space provision will be required. The amount for 30 family units would be £30,000 based on the original comments provided by ANSA.

### **REPRESENTATIONS**

The planning application was originally advertised by the Council through neighbour notification letters that were sent to all adjoining land owners and by the erection of a site notice. Following the receipt of further flood risk information, a further consultation was carried out.

Approximately 7 letters of objection were received from local households in response to the original consultation. Only 5 further representations have been made following the re-



consultations, one of which states that if the Council proceed with the grant of planning permission, then an application will be made to Judicially Review the decision.

The objections are summarised as follows: -

#### Access/traffic

Housing traffic demand is very different to employment demand and will contribute massively to peak traffic levels. Peak times are the biggest issue with Albert Road and must not be increased further or gridlock will occur. Not a good state of affairs when the unmanned fire station is located on the road and the firemen need to get to the fire station before the engine can leave.

The access to the site can only be described as potentially dangerous with traffic congestion at various and frequent times of the day both on Albert Road and Moss Brow. The safety of school children, parents, runners, walkers and cyclists, not to mention, the maximum possible access for the fire station in any emergency situation needs taking into account.

The parking on Albert road on the bend near the Mill adjacent no 11 Ridley Road is causing increased difficulty in safely pulling out of Ridley Road and an increased traffic flow would make this problem worse.

#### Flood risk

This land floods regularly. Last time the river flooded, it flooded it removed all evidence of the Sandmartins, which nested in the banks. It is crucial that the Sandmartins be allowed to return to this long established site even if the wildlife officer could find no evidence of the nests, which had been washed away in the floods. They have nested here every year since records began.

Are the properties in the flood plain, as they are clearly only metres away from the source of the flood plain, i.e. the stream? After a heavy nights rain, the stream had risen to within 6 inches of the bridge, (a rise of approximately 24 inches,) so what we wonder after three days heavy rain..... residents are sure this matter is under consideration and the implications it may have on existing flood plain levels and to unsuspecting purchasers of new houses on what neighbours earlier property searches suggests is a flood plain.

There is in several places along the stream banks evidence of flood debris well above the bridge height.

The area is a precious habitat that supports badgers, water voles, bats, barn owls, kingfishers and sand martins. Changes to the river made elsewhere in Bollington have already affected detrimentally the nesting sites for sand martins so further changes that put this and other species at risk must not be made.

The proposal does not accord with the recommendations made by the Macclesfield Borough Strategic Flood Risk Assessment. Excerpts from the Macclesfield Borough Strategic Flood Risk Assessment are included which reference the sequential test and exception rules and the duty of the authority to correctly consider flood risk in Flood Zones 2 and 3.

The proposal would result in development within the flood plain and there are sequentially preferable sites elsewhere in the borough. The sequential and exceptions tests are not met.

#### Loss of employment land

The applicant claims that the site has not been developed and as such should be removed from employment land. The situation is that in an economic downturn employment land will not be developed but will be saved for the future. Also, with development of several key employment sites within Bollington (Kay Metzeler and the canal side timber site) it is debatable if there is enough employment land in Bollington.

The new Cheshire East Plan makes particular reference to the importance of employment land and states that 27 hectares are needed to keep pace with growth in the economy. This beautiful green field was previously designated as employment land and should be retained as such if it is to be developed at all. At least then its new use will remain in keeping with the location's industrial heritage.

#### In keeping

It appears that the style and layout of the proposed development is not in keeping with that of what is a settled and harmonious area.

#### Other matters raised

This site should be reviewed as part of the Neighbourhood Plan.

These house are being built adjacent to the refuse/recycling tip. One resident is sure that any future residents will complain of noise, smell, and traffic at the weekend

The area under consideration is quite a unique flood plain been of some fertile grassland, wooded and natural river formation, and all the bugs, birds etc. that live there, and of course the amount of daily visits to the net work of footpaths that grace this area, used and enjoyed by numerous dog walkers, naturists, walkers and visitors alike. One proposal is to preserve this area in perpetuity for the people of Bollington, and visitors, as a park in similar fashion to the Bollin Valley.

One resident puts forward that the prevailing economic demand and conditions of the time of the original planning no longer exist.

It is generally agreed that Lowerhouse is an area of architectural and historic significance (Greg Mill, workers cottages, school and library etc.) and notwithstanding the development in question, it is only a matter of time before it is elevated to conservation status (to be included in the local plan). To put up a modern housing estate in this location will be an insult to the concept of this status. This point is especially pertinent now that the importance of Bollington's industrial Heritage has been confirmed by Cheshire East Council.

New occupants will need healthcare and the children will need schooling. Do the Bollington Health Centre, the 4 primary schools and Tytherington High School have sufficient extra capacity to accommodate new patients and pupils? If not, the proposal should be rejected.

Any conditions applied to the other side of the road should be applied including those included by the planning inspector when the appeal occurred.

Following the submission of revised plans, further neighbour consultation letters have been posted. At the time of preparing the committee report, no further comments had been received from residents.

## **VIEWS OF THE TOWN COUNCIL**

**Bollington Town Council** originally recommended the application for refusal on the following grounds: -

### **1. Potential flooding and compounded drainage issues for surface and foul water.**

The Town council's view is that this land should be left to fulfil its important purpose as a flood plain and at the very least no permission be given until the issue of effective mitigation measures have been fully resolved on the application site and the adjacent site.

### **2. Traffic flows.**

It is simplistic to use the argument that the 38 new houses on the proposed site will generate less traffic than the employment approved in the 1970's but not implemented. Since this application was granted we have seen very large increases in car ownership. Bollington has also seen vastly increased use of cars not least on school runs.

It is the Town Council's and the local community's view that no permission should be granted for this proposed development until there has been a full analysis of traffic impact taking into account the impact of the 34 homes approved under 14/3844M.

The Council and the community are also concerned that the proposed development threatens the long term sustainability of Bollington's Recycling Centre which is a major resource for the Bollington Community and its surrounding residents. The proximity to the Household Waste Site could give rise to pressure from the new residents to close the site.

### **3. Loss of Employment Land**

The land is currently designated for employment purposes and is a logical continuation of the employment opportunities provided by Lowerhouse Mill and the adjacent units. It has been stated many times by the Town Council to Cheshire East that employment land in Bollington is being replaced by housing. The latest supplementary work for Cheshire East's Local Plan resubmission has identified an increased need for employment land of 27 hectares and the continued loss of such land in Bollington undermines Bollington's position as a sustainable working community. It should also be noted that National Planning Policy recommends that in flood prone areas development for employment is preferred rather than housing.

In terms of the history of this site and the apparent lack of demand for employment, the Town Council's view is that such marketing has not been active enough, particularly over the last 5 years. Bollington Town Council has evidence of local companies being

unable to find suitable sites in Bollington to relocate or expand into and are left with no choice but to move outside Bollington. Bollington's only business park is the Bailey Business Park. This is relatively small and fully occupied. We are currently in the process of visiting all our 360 local businesses as part of our Neighbourhood Plan process to understand their needs for growth and the above message is coming through, for example from our local Joinery business, our brewery and our tyre depot all of which have already, or may in future be forced to relocate.

#### **4. Vital Heritage Issues**

Lowerhouse is the repository of the legacy of the Greg family centred on the work of Samuel Greg between 1832 and 1847 and subsequently by his brother Robert and younger Greg family members who donated Bollington the recreation ground and the Greg Fountain, scene of the first Well Dressing Bollington in 2005. Lowerhouse Mill currently stands out in the landscape in this area.

An estate of modern houses backing up against the Mill, which is a listed building, will severely diminish the buildings stature and position in the Neighbourhood.

Many people will know that the Civic Society for a number of years has advocated a Conservation Area at Lowerhouse to protect the important Greg legacy in architecture and history.

Cheshire East have commissioned Arup to provide a report which is designed to assess issues such as the Green Belt and cultural heritage and legacy in Cheshire East. That report recognises the need to re-invigorate the importance of heritage and legacy in Cheshire East and specifically recognises the importance of Bollington's industrial heritage in that context.

The Town Council objects to this application on the grounds that it will demean and diminish the impact of that heritage in Bollington.

#### **5. Bollington is in the midst of creating a Neighbourhood plan.**

Cheshire East Council has approved Bollington's Neighbourhood Plan declaration and is supporting us with consultancy time from Cheshire Community Action and expert planning advice. Bollington Town Council has a group of 42 committed community volunteers, a steering group and five active sub groups and are well into the process of consulting everyone 16 years and over in Bollington regarding their views on how Bollington should develop over the next 15 years. This includes where development should take place and what that should be.

Bollington Town Council understand that Bollington cannot stand still but in accordance with the ethos of neighbourhood planning Bollington Town Council feel that developments such as that proposed should be part of the Neighbourhood Plan process. Bollington's plan process will be robust, professional and inclusive of the views of all parties including developers.

Bollington understands Cheshire East's housing growth needs and Bollington will continue to play its part. However, Bollington already have over 200 homes being built or in the pipeline all of which have been built on former employment sites. Bollington Town Council feels that very soon Bollington will be looking at employment growth and the best land for employment will have gone.

The Town Council recommends that Cheshire East refuses or defers this application until Bollington's Neighbourhood Plan can provide proper evidence of employment need, housing affordability and our land allocation process within the Plan can balance these needs with the needs for open space, protecting Bollington's heritage and Bollington's future as a sustainable town rather than a dormitory of Macclesfield.

Following the additional information that has since been submitted, Bollington Town Council have further commented as follows:

"The Town Council notes that the plans, as submitted, show less homes than described in the planning application i.e. 29 houses including 9 affordable. The Town Council objected in June 2015 to the outline application which was subsequently granted. However, the Council remains very concerned with the issues raised in that submission which include the potential for serious flooding of the site, the changes in our weather which renders 100 year predicted flood levels very suspect and the adjoining development which will also challenge the capacity of the flood plain on which this development will also sit. Traffic access to the development via Albert Road and Moss Brow is also a major issue. It is accepted that this application is for less homes, and that the die is already cast in terms of the extent outline permission, however, it is imperative that Cheshire East Council Flood Officer is very rigorous in ensuring that the flood defence measures provided will prevent these homes being flooded. The site on the other side of the Household Waste Access Road includes flood measures which include raising the ground on which the homes sit and tanks to retain water and slowly release it to mimic the action of the former flood plain. The Town Council asks that no less comprehensive measures are applied to this application site and the impact on the flood plain of that adjacent site is taken into account in these measures. The Town Council is also concerned regarding the reduction in affordable properties to 9 (according to the plan) from the original 11. Bollington needs affordable properties. The comment from your own Housing Strategy Manager, Vikki Jeffrey, is also noted in that they are not pepper potted within the development but are all contained at one end of the site. Also, that they are all 2 and 3 bedroomed houses and because of local housing need should be 1,2 and 3 bedroom general needs dwellings with provision via either flats, cottage style flats or bungalows for 2 bedroom older person accommodation. Because of this, Town Council **objects to the application** as submitted."

## **OFFICER APPRAISAL**

The key issues to consider in the determination of this application are:

- Principle of the Development;
- Loss of land allocated for Employment purposes;
- Affordable Housing;
- Impact on open space;

- Design, Layout and Visual impact;
- Landscape/Trees;
- Highways;
- Residential Amenity;
- Nature Conservation;
- Flood risk
- Environmental Health; and
- Other Material consideration or matters raised by third parties

## **Principle of the Development**

Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The site lies adjacent to the settlement boundary and Predominantly Residential Area of Bollington and occupies part of an existing employment area as designated in the Macclesfield Borough Local Plan. The eastern portion of the site extends into the Green Belt although this part of the site would remain undeveloped and would serve as a flood storage / compensation area. The area of the site within the Green Belt would remain in agricultural use and accordingly, the proposals would not constitute inappropriate development in the Green Belt.

Para 14 of The Framework indicates that there is a presumption in favour of development except where policies indicate that development ought to be restricted. This advice is reflected in the newly adopted Policies MP 1, PG 7 and SD 2 of the Cheshire East Local Plan Strategy (referred to hereinafter as CELPS) which seek to direct residential development to sustainable locations.

Specifically, CELPS Policy MP 1 states that the Local Planning Authority “will always work proactively with applicants to find joint solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area”.

The site is located within a sustainable location by virtue of its proximity to shops and services within Bollington as it adjoins the settlement boundary of Bollington. It is considered that the development of this site would make effective use of the land without the built form encroaching into the surrounding Green Belt and would make a contribution to the Council’s 5 year housing land supply in the context of this Local Service Centre. CELPS Policy PG 7 states that ‘Local Service Centres, of which Bollington is identified as, between them are expected to accommodate in the order of 7 hectares of employment land and 3,500 new homes.

The site is allocated as an existing employment area where policy E4 (which normally permits Use Classes B2, B8, B1b and B1c) applies. Furthermore, CELPS Policy EG 3 much like the legacy Policy E1 seeks to retain both existing and proposed employment areas for employment purposes to provide a choice of employment land in the Borough. As such, there is a presumption that the site will be retained for employment purposes. This proposal therefore constitutes a departure from the Development Plan. Planning decisions must be

made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, there are a number of relevant material considerations when considering the proposed loss of employment land. These are:

- Replacement of a potentially unneighbourly use to nearby residents, including those on the land opposite which has already been considered acceptable for residential development.
- HGV's associated with the allocated use would be removed from the highway.
- The site is vacant and is unlikely to come forward for employment development.
- The proposed scheme provides a good mix of housing types 30% of which are to be affordable.
- Some on-site public open space would be provided.
- Provision of family-sized and smaller homes in Bollington.
- The site is in a relatively sustainable location. The site has good access to the major road network (Wellington Road) and a bus service. Shops and schools are in walking distance.
- The Council has already accepted (in already resolving to approve this application), that the site is suitable for residential development and will not contribute to the Council's employment land.

Consequently, although contrary to the Development Plan, it is acknowledged that there are significant material considerations that indicate that the principle of a residential development on this site is acceptable (as already accepted) in this location and that a case to retain employment land would not be sustainable. This is considered in more detail below.

## **Loss of Employment Land**

CELPs Policy EG 3 seeks to retain employment land for employment purposes. However, EG 3 also accepts that it may not be possible to retain land for employment purposes where they are causing 'significant nuisance or environmental problems or are no longer suitable or viable for employment uses'. This aligns with Paragraph 22 of The Framework states that:

*"Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."*

The land at Albert Road has been allocated for employment use since 1997 and despite obtaining consent; it has never come forward for development. The Employment Land Review considered this site in Appendix E1 (page E1-123). It noted that the site had zero prominence, had been actively marketed for rent or for sale, had access constraints and flooding constraints. Other barriers to delivery of employment development included market conditions and the size of the market.

This suggested that the site was not a prominent site in an attractive location for business as well as having some constraints to its development. The 'Market Attractiveness' section (completed by Colliers CRE) of the site pro-forma in the Employment Land Review suggested that residential use would seem a logical use for the site.

The employment land lost at Tytherington Business Park was intended for a completely different market sector (serviced offices) and it is not considered that the loss of that employment land increases the likelihood of the land at Albert Road being developed.

The following is a list of large employment sites in the former Macclesfield Borough where employment land is available:

- Tytherington Business Park
- Lyme Green Retail and Business Park
- Hurdsfield Industrial Estate
- Adlington Park
- Poynton Industrial Estate
- South Macclesfield Development Area
- Stanley Green Industrial Estate, Handforth

Whilst the recent adoption of the Cheshire East Local Plan Strategy has identified that more employment land is required in Cheshire East as a whole, this needs to be of the right type, and in good accessible locations. In the context of NPPF paragraph 22 and CELPS Policy EG 3, on the evidence to date, it would be difficult to argue that there is a reasonable prospect of the site being used for employment purposes and therefore be protected for such use. It is also important to note that the Cheshire East Local Plan Strategy has been adopted in the knowledge that this site would be released for housing and not retained for employment use.

## **Housing Land Supply**

On 27 July 2017, the Council adopted the Cheshire East Local Plan Strategy. This followed an extensive public examination led by an independent and senior Planning Inspector.

The Inspector's Report on the Local Plan was published on 20 June 2017 and signalled the Inspector's agreement to the Plans policies and proposals. The Local Plan Inspector confirmed that, on adoption, the Council was 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"*



The Inspector's conclusion that the Council had a 5 year supply of deliverable housing land was based on the housing land supply position as at 31 March 2016.

Following the adoption of the Local Plan Strategy, the Council released its annual Housing Monitoring Update, in August 2017. It sets out the housing land supply as at 31 March 2017 and identified a deliverable housing land supply of 5.45 years.

On 8 November 2017, an appeal against the decision of the Council to refuse outline planning permission for up to 400 homes at White Moss Quarry, Alsager (WMQ) was dismissed due to the scheme's conflict with the Local Plan settlement hierarchy and its spatial distribution of development.

However, in his decision letter, the WMQ Inspector did not come to a clear conclusion whether Cheshire East had a five year supply of deliverable housing land. His view was that it was either slightly above or slightly below the required 5 years (4.96 to 5.07 years). In this context, the Inspector engaged the 'tilted balance' set out in the 4<sup>th</sup> Bullet point of paragraph 14 of the National Planning Policy Framework (NPPF). This introduces a presumption that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

On 4 January 2018, an appeal against the non-determination of an outline planning permission for up to 100 homes at Park Road, Willaston was dismissed due to conflict with Local Plan policies that sought to protect designated Green Gap, open countryside and rural character. The Inspector also took the view that the housing land supply was either marginally above or below the required 5 years (4.93 to 5.01 years). On this basis, he adopted a 'precautionary approach' and assumed a worst case position in similarly engaging the 'tilted balance' under paragraph 14 of the Framework.

The Council is continuing to update its evidence regarding housing land supply to ensure that decisions are taken in the light of the most robust evidence available and taking account of recent case law. The Council believes it can demonstrate a five year supply.

For the purpose of determining current planning applications, it is therefore the Council's position that there is a five year supply of deliverable housing land.

Whilst the Council can now demonstrate a 5 year supply of land for housing, it is important to note that the resolution to approve this site for the construction of 32 dwellings has already been included as a commitment within the Council's housing land supply calculations and therefore already forms part of the Council's identified 5 year supply. As amended, this proposal will reduce this number by 2. It is important to keep the supply rolling and given that Bollington is one of thirteen Local Service Centres identified in the adopted CELPS, the proposal is assisting in relieving pressure on other edge of settlement sites and the Green Belt.

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

Policy SC 5 of the CELPS states that in Local Service Centres, developments of 9 units or more will be required to provide 30% affordable housing provision. The preferred tenure split for affordable housing identified in the SHMA 2013 was 65% social rented and 35% intermediate tenure and remains the case for this site.

The site falls within the Adlington, Prestbury and Bollington sub-area for the purposes of the SHMA update 2013. This showed a net requirement for 15 affordable homes per annum for the period 2013/14 – 2017/18. Broken down this is a requirement for 1x 1bed, 11x 2bed and 1x 4+bed general needs units and 2x 1bed older persons accommodation. In addition to this, information taken from Cheshire Homechoice shows there are currently 98 applicants who have selected the Bollington lettings area as their first choice. These applicants require 57x 1 bed, 25x 2 bed, 13x 3 bed and 3x 4 bed units.

This application includes 9 affordable units, which would equate to 6 to be provided as social / affordable rent and 3 to be provided as intermediate tenure. Following concerns expressed by the Council's Strategic Housing Officer, the size of the affordable units has been amended to show 1 bedroom housing via cottage style flats. Also the 2 bedroom affordable units are designed to accommodate older persons as it has been confirmed that they will be Lifetime Homes Standard compliant. As such, the Council's Strategic Housing Officer has confirmed that the affordable housing provision of this site is acceptable, as is the type, tenure and location.

## **Open Space**

### Public Open Space (POS)

The POS requirement at a rate of 40sqm per dwelling will be 1,200 sqm of play and amenity open space.

It is noted from the application that it is proposed to provide this on site as part of the development. Although formal comments were awaited from the Greenspaces Officer, it is understood that the applicant had liaised with the Greenspaces Officer and the proposals were generally acceptable and remain so. A detailed design scheme for the POS will be required as will a S106 agreement.

If insufficient POS is provided on site, a commuted sum for offsite provision will be required.

Clarification has been sought from the applicant as to how the applicant proposes the onsite open space to be managed. It is a requirement that the open spaces be provided in perpetuity and measures taken to ensure this. The on-site open space will be managed by way of Management Company. This matter will need to be agreed as part of the S106 agreement. A landscape management plan will need submitting prior to consent.

### Recreation & Outdoor Sport (ROS)

A commuted sum for offsite ROS provision will be required. The amount for 30 family units would be £30,000. In the absence of any further comments from the Green Spaces Officer (ANSA), this figure is deemed to remain sufficient. The commuted sum will be used to make additions, improvements and enhancements to existing Recreation and Outdoor Sport (pitches, courts and greens) provision in Bollington. The commuted sum will be used at Bollington Recreation Ground and/or Bollington Cross. The spend period will be 15 years.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Design, Character and Appearance**

The main public view would be from Albert Road from car borne residents who would be visiting the Council's Household Waste Recycling Centre, or residents/visitors to the recently approved site opposite and on foot by people accessing the local footpath network. Glimpses of the site would be visible at long range view from residents on Woodlea Drive, however, views will be largely screened by the adjacent residential development to the west.

With respect to the proposed layout, the development would be served by one point of access taken off Albert Road located roughly 22 metres from the boundary with Slater Harrison to the south. The internal road would travel west to east into the site then would bend in a northerly direction and curve round back on it self terminating in a cul-de-sac. The northern end of the site would host a play area and open space which would be well overlooked by Plot 11 and to a lesser extent Plots 6 and 7.

Where possible, most views would terminate on active frontages. There would be instances where some flanking elevation would address the street, however, this would be offset by properties on the opposite sites directly facing the street. There would be a general mix in the size and type of units. The dwellings are proposed to be constructed in reconstituted stone with grey roof tiles and white upvc windows. It would be preferable for high quality materials to be used such as natural stone and slates, or possible man made slates on the roof. The materials can be conditioned, should planning permission be granted. The dwellings would be two-storey. The design of dwellings is considered to be appropriate to the local area.

The plans do indicate a proposed 1.8m close boarded boundary fencing to the east of the site. However, to secure a more appropriate boundary to better respect the transition with the rural area, a condition should be imposed to secure alternative boundary details. Subject to conditions, the design and layout is found to be acceptable.

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

There is one point of access to the site which would serve the 30 dwellings. The technical designs of the access points are acceptable and visibility has been provided to a satisfactory standard. The parking provision for the residential units within the site is deemed to be acceptable.

Albert Road joins the B5090 Wellington Road and is a straight road of reasonable standard. It also serves two primary schools, which causes considerable on-street parking at school times in both the morning and afternoon. There are other existing industrial premises served from Albert Road. It is also noted that consent has been granted for the 34 dwellings at Lowerhouses close to the proposal site without highway objection. The Head of Strategic Infrastructure (Highways) noted the comments on highway/traffic matters from local residents referring to traffic delays on Albert Road. There is also complaint regarding the nature of the road and its ability to carry two-way traffic and also a lack of footways.

In regard to the traffic implications of the development, a development of 30 units is not considered a major development in highway terms and is likely to generate less than 22 two way trips in the peak hours along Albert Road and Moss Brow. It has to be borne in mind that the previous industrial consent for the site would have produced a similar level of traffic on the road network but would have also included an element of HGV's. All of the development trips to and from the site would not use Albert Road, a proportion of trips will be via Moss Brow.

The access road, which concludes at the Council's Household Waste Recycling Centre measures 5.5m for the short section which would be accessed by traffic generated by the proposed development. This is suitable to cater for two-way traffic, as identified by "Manual for streets". The private drive in the NE corner will need a bin collection between the last property and the "adoptable" road to minimise walk distances for residents and refuse operatives.

It should be noted that the appeal decisions for industrial development on the application site have not found the access arrangements for industrial vehicles to the site to be inadequate.

There has been an acceptance that the land in this proposal can be developed for industrial use and this is material factor in the assessment of this application. From a highway point of view, it would be preferable if this site was residential as it would not have the HGV element of vehicle trips on the local road network. It is accepted that at peak school times there is considerable on-street parking associated with the two primary schools, although this problem is confined to relatively short times in the morning and afternoon. Considering this particular application, the quantum of development does not produce a 'severe' impact on the road network even if all trips were routed along Albert Road. The traffic associated with the site will be distributed on two routes and also only a percentage of development traffic will travel during the peak school time.

Accordingly, the Head of Strategic Infrastructure cannot recommend that there is a highway reason to refuse this application especially when industrial development has previously been approved on the site. There have been no material changes in the local highway network which would change these conclusions.

## **Residential Amenity**

Saved Policy DC3 of the MBLP seeks to prevent development which would cause a significant injury to amenity through issues such as overbearing impact, loss of light and loss of privacy. MBLP saved Policy DC41 seeks to prevent the overlooking of existing private gardens in a housing redevelopment. MBLP saved Policy DC38 sets out the standards for space, light and privacy in new housing development.

The site is located adjacent to the River Dean and fields. The main relationship with existing buildings is that at Slater Harrison and the properties to the west. The most vulnerable properties (plots 26 and 25) would be sited at right angles to this boundary so that the side gable faces the industrial buildings. Plots 27, 29 and 30 would achieve a better separation with the adjoining buildings and the nearest plots to those adjoining the site to the west on the Rowlinson's site would broadly comply with standards. These relationships are found to be acceptable and would ensure satisfactory impacts in terms of loss of light, direct overlooking and visual intrusion.

With regard to the inward levels of amenity provided to the occupiers of the proposed new dwellings, it is considered that this broadly satisfies the amenity standards set out in the saved policies of the MBLP. However, the distance between plots 27 / 28 and 19 are less than would usually be expected. However, the windows in the front elevation of Plots 27 / 28 would serve kitchens (secondary) and bathrooms (non-habitable) and accordingly, would not raise concern's regarding direct overlooking. Taking this into account, the scheme is found to be acceptable in terms of residential amenity.

## **Arboricultural Implications**

The application was initially supported by an Arboricultural Method Statement but not an Arboricultural Impact Assessment. The Arboricultural Method Statement indicates which trees are proposed to be retained and removed. The loss of both T1 and T5 has been accepted as part of previous revisions, with the moderate category B trees T2, 3, and 4 retained as part of the development site. The previous revision established an area of POS immediately adjacent to the previously identified trees; this has now been replaced by plot 28 & 29, with the rear elevation of plot 29 facing directly into the linear group, with plot 28 of set to the east.

The development footprint associated with plot 29 respects the root protection areas (RPA's) of the retained trees, but modified tree protection details will be required to include ground protection in order to establish adequate space for construction. Whilst construction can be facilitated post development issues in terms of an absence of a reasonable amount of utilizable garden space and reduced light attenuation are anticipated; an amount of judicious pruning will enable a greater degree of openness and improved spatial proximity to be established. Taking into consideration the moderate value of the retained trees, the Council's Arboricultural Officer has confirmed that the revised layout is considered acceptable in relation to trees.

## **Ecology**

The Council's Nature Conservation Officer has assessed the ecological issues associated with the proposed development in respect of the following:

### Grassland habitats

The majority of grassland habitats on site are of limited nature conservation value. There are however two areas of grassland located near to the River Dean which are more diverse and worthy of retention as part of the proposed development. The submitted landscape plan refers to river margins being planted up. In order to safeguard the existing nature conservation value of the river corridor, the Nature Conservation Officer has advised that the landscape proposals should state that the river margins would be safeguarded and managed appropriately. An area of 2758 square metres has been defined for amenity and species rich grassland to be maintained and managed adjacent to the River Dean.

If planning consent is granted, the Nature Conservation Officer recommends that conditions be attached to ensure no development takes place within 8m of the top of the bank of the River Dean, and that a method statement be submitted for safeguarding of the river corridor during the construction process. In addition, a condition requiring the submission of a habitat management plan would be required.

### Roosting bats and trees

A single tree has been identified on site that has significant potential to support roosting bats. It appears that this tree would be retained as part of the proposed development. Consequently the proposed development is unlikely to affect roosting bats.

### Hedgerows

Hedgerows are a priority habitat and hence a material consideration. The proposed development will result in the loss of a section of hedgerow to facilitate the proposed site entrance. Replacement compensatory hedgerow planting should be provided as part of the proposed development. This could potentially be provided around the flood alleviation area. It is considered that this replacement planting can be secured under a landscape condition.

### Badgers

As with other previous surveys undertaken on this site, evidence of badger activity was present on site, but there was no evidence of a sett being present. As the status of badgers on a site can change within a short timescale, if planning consent is granted a condition should be attached requiring a further badger survey to be undertaken and submitted to the LPA prior to the commencement of the development.

### River Bollin Corridor

The submitted plans include an 8m buffer adjacent to the River Bollin to allow the Environment Agency to undertake maintenance works. In order to safeguard the nature conservation of the river it must be ensured that this area is retained as semi-natural habitat free from any development.

If planning consent is granted the Nature Conservation Officer advises that two conditions would be required to safeguard the river corridor, firstly that the 8m buffer is retained as semi natural habitat and secondly that proposals are submitted for the safeguarding of this corridor during the construction phase.

### Barn owls and Common Toad

The habitats associated with the river corridor have been identified as offering high quality foraging habitat for barn owls. Common Toad, a priority species, has also been recorded on site. The Nature Conservation Officer advises that the retention of the river corridor habitats described above, and the proposals within the submitted ecological report for the provision of two amphibian hibernacula, would assist in mitigating the potential impact of the development upon both barn owls and common toad.

### Himalayan Balsam

This non-native invasive species has been recorded on the application site. If planning consent is granted, the Nature Conservation Officer advises that a condition should be attached requiring the submission of proposals for the eradication of this species.

### Breeding birds

If planning consent is granted, standard conditions will be required to safeguard breeding birds and to ensure some additional provision is made for roosting bats and breeding birds as part of the proposed development:

Subject to conditions, the scheme is found to be acceptable and would not materially harm species protected by law.

## **Environmental Health**

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. Given the nature of works involved (including the cut and fill exercise), a condition is suggested to control hours of construction works in the interest of residential amenity. A condition is also suggested in the event that piled foundations are used. A condition to control dust during 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.

Due to the proximity of the proposed residential development to industrial buildings at Slater Harrison on the southern aspect of the site, a noise impact assessment was requested in order to assess any impact from the commercial/industrial uses. This recommends that a fence on top of a bund will sufficiently address any issues.

Whilst this scheme itself is of a relatively small scale, and as such would not require an air quality impact assessment, there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality. The transport statement submitted with the scheme makes reference to the accessibility of public transport, walking and cycling routes. The accessibility of low or zero emission transport options has the potential to mitigate the impacts of transport related emissions, however, it is felt appropriate to ensure that uptake of these options is maximised through the development and implementation of a suitable travel plan.

In addition, modern Ultra Low Emission Vehicle technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow home charging of electric vehicles in new, modern properties.

## **Land Contamination**

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 Report submitted in support of the application recommends that further investigation is required to address the potential for ground gas risks. The Council's Contaminated Land officer has raised no objection to the application subject to the imposition of a condition to require an additional site investigation survey and any subsequent remediation to be carried out.

## **Drainage Matters**

A water supply can be provided and a separate metered supply to each unit will be required. United Utilities suggest that conditions are attached to ensure that no development is

commenced until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority.

## **Flood Risk**

The site is located partly within Flood Zones 2 and 3 according to the Environment Agency's flood map. Flood Zone 2 is considered to have a medium probability of flooding (between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% – 0.1%)) whilst Flood Zone 3 has a high probability of flooding (land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%). Flood Zone 3 can be split into either Flood Zone 3a or 3b. Flood Zone 3b is classified as 'functional flood plain', which is land where water has to flow or be stored in times of flood.

The NPPF Technical Guidance includes a table / matrix (Table 3 refers) which advises on the 'flood risk vulnerability and flood compatibility' of uses dependent on the flood zone it finds itself in. Residential uses are classified as 'more vulnerable' uses. It states that more vulnerable development (including residential) are appropriate within Flood Zones 1 and 2 and is also appropriate in Flood Zone 3a subject to an exception test. It states that development for more vulnerable uses should not be permitted within Flood Zone 3b (functional floodplain).

The Local Planning Authority is responsible (in consultation with the Environment Agency) for designating Flood Zones 3a and 3b. As stated earlier in this report, the site is located partly within Flood Zones 2 and 3. Parts of the site that fall within Flood Zone 3 are within 3b, the functional flood plain according to the Council's Strategic Flood Risk Assessment (SFRA). However, the exact proportion was not quantified in the SFRA as it included a wider area and did not include the eastern extremities of this site. Accordingly, in the absence of an SFRA which covered the whole site, the advice of the Technical Guidance to the NPPF is that 'the Sequential Test will be based on the Environment Agency flood zones'.

Notwithstanding this, to better understand the likely flood risks posed by this development, the applicant has liaised with the Council's Flood Risk Team and the Environment Agency to model and determine the exact areas of the site that serve as functional flood plain (i.e. that which would lie within Flood Zone 3b). Following this exercise and the submission of an updated FRA, it has been confirmed and agreed that the proposed areas occupied by the proposed dwellings would not occupy any part of the functional flood plain. Consequently, no part of the more vulnerable parts of the proposed development (i.e. the residential uses) would be sited within Flood Zone 3b the functional flood plain. However, there are more vulnerable parts of the development that fall within Flood Zone 3a and this will need further consideration.

Para 103 of the NPPF states that:

*"When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:*



- *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.”*

In light of concerns raised regarding flood risk and drainage in the wider area of Bollington and having regard to the advice of the Framework and emerging (at that time) Local Plan Policy, the Council requested an updated Flood Risk Assessment from the applicant which identified the specific Flood Zones (as confirmed above) and went through the Sequential Test and subsequently the Exception Test if found to be necessary. These were subsequently received and have been the subject of a consultation exercise and have also been assessed by both the Council's Flood Risk Manager and the Environment Agency.

### Sequential Test

The applicant has undertaken a sequential test to site selection and has focused the search for more preferable alternative sites with a lower risk of flooding (i.e. not located within Flood Zone 3) in the Macclesfield housing market area. This approach and catchment area is deemed reasonable having regard to the size of the administrative area of Cheshire East's borough and ensures that the sites looked at are comparable to the site subject of this application. This accords with the Environment Agency's (EA) advice when assessing the sequential test.

In carrying out the sequential test, 6 alternative development sites of a comparable size have been identified using the Council's Strategic Housing Land Availability Assessment (SHLAA). Four of the six alternative sites have already obtained planning approval and therefore are not available to accommodate this proposed development. The EA advice when applying the sequential test is that sites that already benefit from planning permission should be discounted. The 2 remaining sites are not available from development owing to the active uses already ongoing at both sites, one being an employment use and the second being a care home. Consequently, they are not available nor are they achievable and therefore cannot be considered sequentially preferable to the application site.

In addition to this, the applicant has undertaken a search of sites available for sale that are presently being marketed. However, there are no such sites currently being marketed. As such, the Local Planning Authority is satisfied that the sequential test has been passed and there are no comparable sites available in the catchment area that are sequential more preferable than the site subject of this application.

An objector to the proposed development has cited 5 alternative sites that they consider are sequentially preferable to the application site. However, 4 of these sites are no longer available and are therefore discounted (Broadheath Farm, Over Alderley, Land off Middlewood Road, Poynton and Coppice Farm, Disley). The remaining 2 relate to 'Lot 2 of Land off Cow Lane, Rainow', 'Land at Smithy Green, Lower Peover (sold Subject to Contract)'. The remaining site relates to 'Lot 2 of "Land off Cow Lane, Rainow'. However, this is sited within the Green Belt and is not therefore free from policy constraints. These sites therefore are not able to be considered as sequentially preferable.

The objector has also referenced the resolution to approve planning ref; 17/1874M (The South Macclesfield Development Area) to provide an estimated 950 new homes. However, this is not of a comparable size to the application site and is not therefore relevant.

In accordance with para 102 of the Framework and CELPS Policy SE 13, 'if it is not possible or consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate'.

"For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall."

### Exception Test

With reference to sustainability, this is dealt with later in this report. However, owing to the flood mitigation measures and given that the submitted FRAs have confirmed that subject to mitigation, the proposals will not increase the risk of flooding elsewhere the benefits of the scheme could outweigh the harm relating to flood risk.

Whilst the former Macclesfield Strategic Flood Risk Assessment and the more recent Cheshire East Strategic Flood Risk Assessment (the latter of which has informed the policy development of the CELPS) have assessed the land at Albert Road, (Site ID reference 4036 refers), the eastern portion of the site, which would serve as a flood storage area is not included and as such, this is assessed in the 'site-specific flood risk assessments' for this application.

Similar to the original consultation exercise, the Environment Agency has assessed the submitted updated Flood Risk Assessments and remain satisfied that the proposed development would be acceptable in principle. This is subject to their earlier comments that if the suggested measures included within the FRA are undertaken, that the proposed development will meet the requirements of the NPPF. This recommendation is further supported by the Council's Flood Risk Manager, who is satisfied that subject to conditions and the proposed mitigation measures, that the risk of flooding can be appropriately mitigated and managed.

The submitted Flood Risk Assessments (FRA) demonstrate that compensatory flood storage will be provided, to mitigate for the impact of the proposed development and that the built form will not be within the functional flood plain. As such, river flooding will not be increased elsewhere. The proposed buildings are to be set with finished floor levels to be at a minimum height of 0.6m above the agreed 100 year climate change flood level. Added to this, a cut and fill exercise will be undertaken effectively lifting the land that the proposed development would occupy out of Flood Zone 3a as well as lowering the land to the east to serve as compensatory flood storage area.

While the outline design of a compensatory flood storage scheme has been sufficiently explained within the FRA and the principle established, it is considered necessary for additional detailed design information to be provided for approval. Because of the fundamental nature of the compensatory works to the development scheme as a whole it is considered necessary for this information to be submitted and approved prior to development commencing. Failure to do so may lead to unacceptable increases to flood risk elsewhere. Subject to adherence with this, it is considered that the proposal would meet with the requirements of the Framework and the recently adopted Policy SE 13 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 Bollington, including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

### **Responses to issues raised by third parties:**

The comments provided by consultees, the Town Council and residents in relation to infrastructure issues, highways issues, flood risk and wildlife issues, housing need and affordable housing, design and built environment issues and loss of employment land are noted and covered under the headings above.

It should be noted that application 06/2021P was refused on the grounds of insufficient information being provided in order to assess the impact of the proposed development (at that time 12 no. industrial and storage units) having regard to the risk of flooding from the development. It is considered that the updated FRA submitted complies with the NPPF and the statutory body responsible for flood risk, the Environment Agency, has raised no objections. It is therefore considered that a refusal on the grounds of flooding could not be justified. In addition, it should be noted that the flood mitigation for the residential development on the opposite side of the road has been agreed with the EA and Cheshire East's Flood Risk Team. The site has been considered for Conservation Area status previously and it was not considered appropriate for designation.

Bollington is in the early stages of the Neighbourhood Planning process. Whilst draft Policy HO.P2 of the Draft Bollington Neighbourhood Plan (NP) states that residential development will not be permitted on the flood plain, the NP also recognises that there is already a resolution to grant planning permission on the site. Further, the Neighbourhood Plan is at draft stage (Regulation 17 stage) and therefore is not yet part of development plan and has not yet been the subject of examination. As such, the weight to be afforded to it is limited at this stage.

The impact of the traffic, which would be generated by the proposed development is considered to be less than that which would be associated with employment use of the land and it is considered that the removal of commercial vehicles from the local area would actually provide

a benefit to the local residents. The Head of Strategic Infrastructure (Highways) raises no objections to the scheme and considers the access arrangement to be acceptable.

The request for the area around Lowerhouse to become a Conservation Area has been previously considered and rejected because the land was at that time designated employment land. This factor has not changed. Under the Macclesfield Borough Local Plan, the site is allocated for Employment purposes and this remains the case in the newly adopted Cheshire East Local Plan. However, the loss of the site for employment use has already been accepted and acknowledged by the original resolution to approve residential development on this site.

### **Heads of Terms for a Legal Agreement:**

- **30% Affordable Housing** (i.e. 9 units as proposed);
- A contribution of **£75,924** is required towards primary education;
- Provision of **£30,000** towards Recreation & Outdoor Sport Provision
- Future Management of on site Public Open Space

### **Community Infrastructure Levy (CIL) Regulations**

#### **LEVY (CIL) REGULATIONS**

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

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fair and reasonably related in scale and kind to the development.

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

The commuted sum in lieu for recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide 30 dwellings, the occupiers of which will use local facilities, and there is a necessity to provide facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The development would result in increased demand for primary school places in and around Bollington, where there is very limited spare capacity. In order to increase capacity of the school(s) which would support the proposed development, a contribution towards school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

On this basis the S106 contributions associated with the scheme are compliant with the CIL Regulations 2010.

## **PLANNING BALANCE AND CONCLUSIONS**

At the heart of the newly adopted Cheshire East Local Plan Strategy (CELPS Policy MP 1 refers) and the National Planning Policy Framework is a presumption in favour of sustainable development. Policy states that decision takers should be approving development proposals that accord with the development plan without delay unless material considerations indicate otherwise.

The principle of developing the site for residential purposes has already been accepted in a previous resolution. However, the key issue for Members to consider is whether or not in light of additional flood risk information and local concerns regarding flooding as well as the recently adopted CELPS, the Council should proceed to grant planning permission subject to a s106 legal agreement.

During the application process, negotiations have taken place between officers and the developer, which has resulted in the submission of a revised layout plan, which has improved space separation distances and the amount of public open space on site. Further, following concerns raised regarding flood risk and drainage in the wider area of Bollington and having regard to the advice of the Framework and emerging (now adopted) Local Plan Policy, the Council requested an updated Flood Risk Assessment from the applicant which went through the Sequential Test and subsequently the Exception Test. Further flood risk modelling work has also been undertaken. This has demonstrated that there are no sequential preferable sites with a lower risk of flooding than this site. Also, the Council is satisfied that the exception test has been met as the site specific flood risk assessments have demonstrated that the proposal will not increase flooding elsewhere and the benefits of the proposals would outweigh this harm. The benefits can be summarised as follows:

- The benefit to the local economy during the construction period and also future spending of residents in the local shops etc
- The social benefit of providing market housing in a sustainable location as well as 9 affordable houses in an area where there is an identified need
- The environmental and social benefits from extinguishing the vehicle movements that would likely be associated with an employment use and their potential impact on adjoining residents and the local highway network

It is acknowledged that local residents have objected to the development of this site. Appeals on this site and the land opposite have been allowed for employment development. It is considered that a scheme for housing would fall in line with policies contained within the NPPF and Development Plan. The principle of developing land (which is allocated for employment purposes) has been established elsewhere and on the land opposite (for 33 dwellings) and will help to contribute to both local housing needs and employment land without the need to safeguard this land. This site has already been accounted for in the Council's five year housing supply. It is also considered that housing on the application site will also have a more positive impact on the local area than industrial development. Accordingly, the recommendation is that the resolution to approve the development should be carried out.

## **RECOMMENDATION:**

### **APPROVE subject to conditions and a S106 Agreement making provision for:**

- **30% Affordable Housing** (i.e. 9 units as proposed);
- A contribution of **£75,924** is required towards primary education;
- Provision of **£30,000** towards Recreation and outdoor sport
- Future management of on site open space

### **Approve subject to the following conditions:**

1. Commencement of development (3 years)
2. Development in accordance with approved and amended plans
3. Removal of permitted development rights for Classes A-E
4. Construction of access prior to first occupation
5. Landscaping - submission of details and to include retention of west boundary hedge where possible
6. Landscaping (implementation)
7. Protection for breeding birds during bird nesting season
8. Submission of landscape management plan
9. Details of ground levels to be submitted
10. Nesting bird mitigation measures
11. Notwithstanding submitted detail, details of boundary treatments to be submitted and approved
12. Details of proposed noise mound / fence to be submitted and approved
13. Should any contamination be found, a remediation strategy shall be submitted to the EA
14. Features for roosting bats to be incorporated into housing
15. Method statement for the safeguarding of the river corridor and associated habitats during the construction process.
16. Submission of 10 year habitat management plan including proposals for the eradication of Himalayan Balsam
17. Submission of updated badger survey prior to commencement of development.
18. Details of pile foundations to be submitted and approved
19. Electric Vehicle Infrastructure to be provide at each property with private driveway
20. Scheme of dust control to be submitted and approved
21. Contaminated Land Survey to be submitted and approved
22. Development to be carried out in accordance with revised Flood Risk Assessment
23. Finished floor levels of habitable dwellings shall be set 600 mm above the modelled 1 in 100 annual probability (plus a 30% allowance for climate change) flood level.
24. The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a surface water drainage scheme have been submitted
25. A scheme for the management of overland flow from surcharging of the site's surface water drainage system during extreme rainfall events to be submitted and approved

26. Detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods to be submitted and approved
27. Surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing public sewerage systems
28. Details of facing and roofing materials to be submitted and approved
29. Scheme of Tree Protection to be submitted and approved
30. Tree Pruning/Felling Specification to be submitted and approved
31. Construction Management Plan to be submitted
32. Standard broadband condition
33. Details of bin stores to be submitted

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*In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chairman (or in their absence the Vice Chairman) to correct any technical slip or omission in the resolution, before issue of the decision notice.*

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