

Application No: 18/1725C

Location: LAND ADJACENT TO, 68, CLOSE LANE, ALSAGER

Proposal: Proposed residential development of 16 no. dwellings with access and layout applied for, as a re-submission of application 16/2993N.

Applicant: __, Pembroke Homes Ltd & Nichola Jane Beach

Expiry Date: 06-Feb-2019

SUMMARY

The proposal would be contrary to Policy PG6 (open countryside) of the CELPS & PS8 (open countryside) of the Congleton Borough Local Plan as it is not listed as an appropriate form of development in the open countryside and therefore represents a departure from the adopted Local Plan. The proposal would also be contrary to Policies IN1 (Infrastructure) & IN2 (Developer Contributions) of the CELPS as it would not provide the full affordable housing contributions.

The benefits of the proposal would be the provision of open market housing and the limited economic benefits during construction.

The development would have a neutral impact upon, education, ecology, trees, flooding, living conditions, air quality and contaminated land.

The dis-benefits would be the loss of open countryside and the shortfall in x2 affordable units.

Applying the tests within paragraph 11 it is not considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development does not constitute sustainable development and should therefore be refused.

RECOMMENDATION

REFUSE

PROPOSAL

The proposal seeks outline consent for the proposed residential development of 16 dwellings with access and layout applied for, as a re-submission of application 16/2993N.

Appearance, landscaping and scale are reserved matters.

SITE DESCRIPTION

The application site comprises part of the garden area serving No.68 Close Lane and the open field to the rear.

The area consists of predominantly residential properties to the north, east and west, with this side of the road being a row of ribbon development. Open countryside lies to the west.

The nearest residential properties are sited immediately to the north and south of the site.

No significant variation in land levels noted on this site. The site has an existing vehicular access taken off Close Lane.

The site itself consists of two fields with hedgerows and hedgerow trees, divided by a central post and wire fence. There are large trees sited on the north-western, south-eastern and south-western boundaries.

The site is located in the Open Countryside as per the Local Plan and contains trees covered by Tree Preservation Order to the North-western boundary.

RELEVANT HISTORY

16/2993N – Proposed outline residential development of 16 no. dwellings with access and layout applied for – Approved 19-Mar-2018

7/08028 – 5 detached houses with garages – Refused 31-Mar-1981 for the following reasons:

- 1) The site is not allocated for any development of the approved development plan which means that it is the local authorities intention that the existing use of land shall remain for the most part undisturbed
- 2) The local authorities policy has been to allow limited infilling of the various gaps in the otherwise built up frontage on the western side of Close Lane but the present proposal consisting of residential development in depth behind the frontage properties, does not constitute infilling and a such would be poorly related to the existing pattern of development along Close Lane
- 3) The local planning authority are not satisfied on the evidence available to them that adequate foul and surface water drainage of the site can be achieved having regarding to the shallow depth of the available sewer in Close Lane and to the fact that soakaways are not considered to be satisfactory means of surface water disposal in this area
- 4) There is insufficient frontage available to the county highway which to form access with visibility splays and necessary standards

DIFFERENCE TO THE APPROVED SCHEME

Application 16/2993N was approved subject to 106 agreement requiring a contribution of £65,224 towards primary and secondary education and 5 affordable units.

The current proposal seeks for the same number of dwellings, on the same site with the same design and layout as per the 16/2993N approval. However this application seeks to demonstrate that the scheme is unable to provide all of the required contributions.

ADOPTED PLANNING POLICY

Development Plan

Cheshire East Local Plan Strategy (CELPS):

MP1 – Presumption in Favour of Sustainable Development
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 – Design
SE2 - Efficient Use of Land
SE3 - Biodiversity and Geodiversity
SE4 - The Landscape
SE5 - Trees, Hedgerows and Woodland
SE7 – The Historic Environment
SE9 - Energy Efficient Development
SE12 - Pollution, Land Contamination and Land Instability
IN1 – Infrastructure
PG1 - Overall Development Strategy
PG2 – Settlement Hierarchy
PG6 – Open Countryside
PG7 – Spatial Distribution
SC4 - Residential Mix
IN2 – Developer Contributions

Congleton Borough Local Plan (CBLP) Saved Policies:

PS8 – Open Countryside
GR6 – Amenity and Health
GR9 – Accessibility, Servicing and Parking Provision
GR20 – Public Utilities
NR2 – Wildlife and Nature Conservation (Statutory sites)
NR3 – Wildlife and Nature Conservation (Habitats)
NR4 - Wildlife and Nature Conservation (Non-statutory sites)

Alsager Neighbourhood Plan (ANP) Regulation 14 Stage therefore carries limited weight

H1 Type and mix of new housing
H2 Climate change and housing
H3 Infrastructure and sustainable housing development
H4 Size, scale and density of new housing developments
H5 Early consultation
H6 Affordable housing
H7 Housing design
NBE1 Open space and recreation
NBE2 Landscape quality, countryside and open views
NBE4 Woodlands, trees and hedgerows
NBE5 Wildlife and housing
TTS2 Congestion and highway safety

TTS3 Parking and electric charging points
TTS9 Infrastructure
TTS12 Drainage – SUDS design and management
TTS13 Surface water

Haslington Neighbourhood Plan (HNP)

The Haslington Neighbourhood Plan has only reached Regulation 7 stage and therefore cannot be attributed any weight at this stage

Other Material planning policy considerations

National Planning Policy Framework ('The Framework');

The relevant paragraphs include;

11. Presumption in favour of sustainable development
57. Planning Conditions and Obligations
59. Delivering a Sufficient Supply of Homes
124-132. Achieving well-designed places

PPG Viability

CONSULTATIONS

CEC Head of Strategic Infrastructure (Highways) – No objection subject to condition regarding the provision of the visibility splays as shown on the plans

CEC Environmental Protection – No objections, subject to a number of conditions/informatives including; travel information pack, electric vehicle charging points, low emission boilers and contaminated land

CEC Flood Risk – No objection subject to conditions regarding detailed proposals for disposal of surface water and detailed drainage calculations

CEC Education – No objection subject to a contribution of £32,685 towards secondary education

CEC Open Space (ANSA) – No comments received at the time of writing the report

CEC Housing – Objection as the proposal requires provision of 5 affordable units

CEC Public Rights of Way (PROW) – No objection

United Utilities - No objections subject to conditions regarding foul and surface water drainage and surface water drainage scheme

Town/Parish Council –

Haslington Parish Council – Objection on the following grounds:

- The local infrastructure is not sustainable and cannot cope with additional housing.
- The extra vehicles will create traffic problems as the highways are not of a fit and appropriate carriageway construction.
- The local education offer does not have enough space to accommodate the proposed family units.
- The local plan has identified that sufficient housing is available in Alsager and Haslington so there is no need for more development.

Alsager Town Council – Objection of the following grounds:

- The land is not in the Cheshire East Council Local Plan allocated for housing
- Cheshire East Council has a 5-year housing supply
- Overdevelopment
- Highway concerns – dangerous access.

Ward Councillor – No comments received at the time of writing the report

REPRESENTATIONS

Letters of objection received from 14 households raising the following points;

- Impact on sewers/flood risk
- Impact on ecology/wild life
- Loss of greenfield site
- Number of existing development in Alsager
- Not providing education contribution
- Various factual errors in the submission
- The site is not needed to meet the Council 5 year housing land target
- No mention of previous refusal on the site
- Highways safety
- Air quality
- Locationally un sustainable
- Over head power cables
- Harm to landscape/countryside
- Impact on infrastructure

APPRAISAL

Principle of Development

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

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Housing Land Supply

The Cheshire East Local Plan Strategy was adopted on the 27th July 2017 and forms part of the statutory development plan. The plan sets out the overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing (36,000 new dwellings over the plan period, equating to 1,800 dwellings per annum) in order to meet the objectively assessed needs of the area.

Planning law requires that applications for planning permission be determined in accordance with the development plan. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.

The National Planning Policy Framework (NPPF) identifies the circumstances in which relevant development plan policies should be considered out-of-date. These are:

- Where a local planning authority cannot demonstrate a five year supply of deliverable housing sites (with appropriate buffer) or:
- Where the Housing Delivery Test Result indicates that the delivery of housing was substantially below 25% of housing required over the previous three years. This result will be published in November by the Ministry of Housing, Communities and Local Government (MHCLG).

In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council's most recent Housing Monitoring Update (base date 31 March 2018) was published on the 6th November 2018. The report confirms:

- A five year housing requirement of 12,630 net additional dwellings. This includes an adjustment to address historic shortfalls in delivery and the application of an appropriate buffer.
- A deliverable five year housing land supply of 7.2 years (18,250 dwellings).
- Housing delivery over the previous three years (5,556 dwellings) has exceeded both the Cheshire East adopted housing requirement (5,400 dwellings) and the Local Housing Need figure (3,100 dwellings).

Relevant policies concerning the supply of housing should therefore be considered up-to-date and consequently the ‘tilted balance’ at paragraph 11 of the NPPF is not engaged.

Housing Mix

Paragraph 61 of the Framework states that ‘the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with

disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes’.

Policy SC4 of the submission version of the Local Plan requires that developments provide an appropriate mix of housing (however this does not specify a mix). This is echoed within the SNP Policies H3 (Housing Mix and Type) which states that housing should be designed to provide a mix of houses to meet identified need (e.g. affordable housing, starter homes and provision for housing an ageing population) and Policy H4 (Housing and an Ageing Population) which states that developments will be supported that provide suitable, accessible houses.

A condition could be imposed to secure a mix of house types at the reserved matters stage.

Affordable Housing

This is an outline application for 16 dwellings and there is a requirement for 30% of dwellings to be provided as affordable dwellings. In order to meet the Council’s Policy on Affordable Housing there is a requirement for 5 dwellings to be provided as affordable dwellings.

The current number of those on the Cheshire Homechoice waiting list with Alsager as their first choice is 293. This can be broken down to 142 x 1 bedroom, 96 x 2 bedroom, 46 x 3 bedroom and 9 x 4+ bedroom dwellings.

The SHMA 2013 shows the majority of the house type demand annually up to and including 2018 in Alsager is for 38 x 2 bedroom, 15 x 3 bedroom and 2 x 4 bedroom dwellings for general needs with 5 x 1 bedroom for older persons via flats, cottage style flats, bungalows and lifetime standard homes.

On this site therefore, a mix of 1, 2 and 3 bedroom dwellings with older person provision would be acceptable. This is also using the Completion and Projections data housing have for the housing types in Alsager.

In light of the above 3 units should be provided as Affordable rent and 2 units as Intermediate tenure.

This would be secured as part of a S106 Agreement.

Education

An application of 16 dwellings is expected to generate 2 secondary aged children.

The development is expected to impact on secondary school places in the immediate locality. Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased capacity at primary schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that a shortfall of primary and secondary school places still remains. No contribution is sought towards primary or SEN.

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

$2 \times £17,959 \times 0.91 = £32,685$
Total £32,685

This would be secured as part of a S106 Agreement.

Viability/Previous planning permission

History/current state play

Planning permission has already been granted on the site for 16 dwellings dated 06-Apr-2018 subject to 106 for education and affordable housing contributions which were to be met in full. This extant scheme therefore carries weight in the decision making process. The current proposal is a re-submission of this scheme but seeking to justify that it is no longer able to deliver all contributions towards education and affordable housing. As such a viability case has been put forward by the applicant.

What is required to be policy compliant

As noted above to be policy compliant the current proposal requires a contribution of £32,685 to off-set the impact on education and also requires the provision of 5 affordable units to be provided on site.

Viability case

The application has been supported by a viability statement prepared by Stanny Brook which concludes that the scheme cannot support any financial contributions. The table below shows the conclusions based on the 3 scenarios as shown. This suggests that even with no contributions the proposal would have a deficit of £-295,500.

Appraisal Assumptions	RLV	Benchmark Land Value	Surplus/Deficit
Full S106 Contributions	Nil	£432,500	Significant ¹
Affordable Housing Only	Nil	£432,500	Significant ²
No S106 Contributions	£137,000	£432,500	-£295,500

The Council has had the applicants viability assessed by an independent consultant (Geraldeve) who concluded that the scheme could provide a contribution of £30,286 and x5 affordable units on site. Thus the council consider that this shows that the scheme is more viable than has been suggested.

In response the applicant provided a revised viability report with further evidence/justification, under taken by Grasscroft, which concluded that whilst viability remains an issue the applicant proposes to provide 3 affordable units.

This report was then re-assessed by Geraldeve who conclude that a number of material inputs are not compliant with guidance, including Benchmark Land Value and Abnormal Costs and advise that further evidence in the form of adequate comparable evidence and cost report are provided to justify these inputs as per guidance.

However they also advise that having regard to low level of profit produced by the scheme, they are of the opinion that even in the instance abnormal costs are substantially lowered the scheme is incapable of meeting the Benchmark Profit level.

As such Geraldeve are of the view that the proposed scheme is unable to provide any further contributions in addition to the 3 affordable units previously offered whilst remaining financially viable.

Current offer

The applicant has also since confirmed that they would be willing to provide the full education contribution of £32,685 and 3 affordable units. With this in mind the overall shortfall is therefore x2 affordable units.

Conclusion

Given the findings of the Gerardeve appraisal, the Council do not contest the viability case put forward by the applicant. However the bottom line is that even with the revised offer from the applicant to provide 3 units and the full education contribution, the proposal would not be policy compliant as it would not provide the relevant contributions towards affordable housing (2 less units than required). Therefore this weighs against the proposal.

Open Space

As the proposal is below 20 dwellings there is no formal requirement to provide formal open space. However each plot has more than the minimum level of garden area as noted in the SPG.

Health

In this case there has been no request for a contribution from the NHS and on this basis the impact upon health care provision is considered to be acceptable.

Location of the site

Both policies SD1 and SD2 of the CELPS refer to supporting development in sustainable locations. Within the justification text of Policy SD2 is a sustainable development location checklist.

In this instance the design and access statement has done a brief appraisal of the location in terms of sustainability. This concludes that the some local amenities are available within the immediate location.

The site was also deemed to locationally sustainable through approval of the previous application and the development to the south-west. As such a refusal on these grounds could not be sustained.

Residential Amenity

The main residential properties affected by this development are 66, 68 and 70 Close Lane.

No.68 Close Lane

Plot 1 would be sited 13m to the side elevation at the closest point serving bathroom and kitchen windows, which are not considered to serve habitable rooms. Plot 1 would also sited slightly angled away thus preventing a direct relationship with these windows therefore this separation distance would be sufficient to prevent significant harm to living conditions. No elevation plans have been provided to indicate the room layout/location of side facing windows however this would be addressed at reserved stage to prevent overlooking/loss of privacy from any side facing windows.

Plot 16 would be sited 27m away from the rear elevation windows and 10 from the shared boundary. These separation distances are considered sufficient to prevent significant harm to living conditions.

There proposed garage is likely to be single storey in height and therefore would be viewed against any boundary treatments.

No.66 Close Lane

Plot 16 would be sited 31m away from the rear elevation windows of No.66 and would also be set 12m from the shared boundary. These separation distances are considered sufficient to prevent significant harm to living conditions.

There proposed garage is likely to be single storey in height and therefore would be viewed against any boundary treatments.

No.70 Close Lane

Plot 1 would be sited 8m to the side elevation windows. This distance would be shy of the 13m separation distance recommended in the relevant SPD however it does stipulate that this is a figure is a guide only and should be amended to reflect site specific circumstances. In this instance no elevation plans have been provided to indicate the room layout/location of side facing windows however this would be addressed at reserved stage to prevent overlooking/loss of privacy from any side facing windows. It is also noted that plot 1 has been set back from the front of No.70 by approximately 8m and would be set to the middle of the existing garage at No.70 which would ensure that outlook would remain from the middle and left hand side of the side facing windows (it is also considered unreasonable to rely on outlook from 3rd party land). There is potential for loss of sun light for a part of the afternoon however light would already appear restricted to the ground floor widows by the existing garage and No.70 has a substantial rear garden area therefore any overshadowing will be limited to the small section immediately adjacent to the boundary which will already suffer from an element of overshadowing from the boundary treatment. Therefore on balance it is not considered that there will be any significant harm to living conditions.

Environmental Protection have also raised no objections subject to a number of conditions/informatives including; travel information pack, electric vehicle charging points, low emission boilers and contaminated land

The plots would also provide either up to or more than the minimum 50sqm of private amenity space as noted in the SPD.

As a result it is not considered that the proposal would cause significant harm to living conditions of neighbouring properties.

Contaminated Land

As the application is for new residential properties which are a sensitive end use and could be affected by any contamination present a contaminated land condition will be attached to the decision notice of any approval.

Highways

The site is located on the west side of Close Lane; given the scale of development proposed the submission of a Transport Statement is not required to support the application.

The site plan indicates a new road to be constructed between two existing properties this is shown as 5.0m wide with two 2.0m footways. It is clear that the boundary hedge will need to be removed to accommodate the access.

In regards to traffic impact, there have been numerous residential planning applications approved in the vicinity of this site and the cumulative traffic impact of all the dwellings coming forward is a material consideration. However, it is not considered that a refusal reason for 16 dwellings solely on traffic impact could be justified as a recent refusal on the cumulative traffic impact for a much larger development off Close Lane has been allowed at appeal. This is a material consideration which carries significant weight.

The internal layout submitted is a standard design with a turning facility at the end of the road and this is an acceptable design.

As a result the highway engineer has raised no objections therefore it is not considered that the proposal would pose any significant harm to the existing highway network.

Landscape

This is an outline application for 16 dwellings with access. The application is located on the western edge of Alsager and covers an area of approximately 0.7 hectares. The application site is to the east by Close Lane; there are residential properties along both sides of Close lane adjacent to the proposed site access, beyond these are areas of open countryside. To the south of the site is White Moss Quarry, which has planning approval for residential development. The site itself consists of two fields with hedgerows and hedgerow trees, divided by a central post and wire fence. A group of trees located along the western site boundary are subject to a group TPO order. The topography of the site is relatively flat, varying between 80-85M AOD. There are no landscape designation on the application site. The Landscape and Visual Appraisal refers to the Borough of Crewe and Nantwich Replacement Plan and Policy NE2 – Open Countryside, however, the Local Plan Strategy was adopted in July 2017 and Policy PG6 is the current Open Countryside Policy.

As part of the application a Landscape and Visual Impact Appraisal has been submitted, this refers to the National Characters Areas, as defined in natural England's Character Assessment, as well as the Cheshire Landscape Character Assessment, in this case the application site is located within the Mosslands Character Type and specifically the Oakhanger Character Type M3.

Based on the Proposed Site layout, Drawing No. 1190-PL-03E the landscape and Visual Appraisal indicates that the landscape impacts for the study area the sensitivity is low-medium and that there will be a will be slight adverse landscape effect, and that for the site the sensitivity is low-medium and that the proposals will have a moderate adverse landscape effect. The visual assessment identifies seven receptors and indicates that there will be a moderate-substantial adverse visual impact for residents adjacent to the site to the east (view 1); moderate adverse to residential properties facing the site further to the north (view 2); negligible for users of FP3 to the west (viewpoint 3); moderate – substantial adverse for users of FP 49 to the south (viewpoint 4); substantial adverse for users of FP37 to the north (viewpoint 5); moderate-substantial adverse for users of FP37 further to the north (viewpoint 6) and moderate adverse for users of FP20 to the north west of the site (viewpoint 7).

The councils landscape officer has considered the proposal and would broadly agree with the appraisal that has been submitted, although this is based on the outline Proposed site layout drawing, which can only be considered as being indicative; this indicates that there will be moderate-substantial adverse visual effects on a number of receptors. The appraisal identifies that the site is located within the open countryside, Policy PG 6 – Open Countryside seeks to protect open countryside from urbanising development. Policy PG6 recognises the intrinsic character and beauty of the countryside, which is consistent with one of the core planning principles in paragraph 17 of the Framework. Policy PG 6 only permits development in the Open Countryside for certain essential or limited purposes appropriate to the rural area, and that in this regard identifies that particular attention should be paid to design and landscape character so the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced. Since the submitted appraisal identifies that there will be a slight adverse effect as well as moderate-substantial visual effects on a number of receptors, it is not clear how the proposed development will either preserve or enhance the appearance and distinctiveness of the Cheshire East countryside.

However as permission has already been granted for housing on this site, it is not considered that a refusal on landscape grounds could be sustained.

Trees

The application is supported by a Tree Survey Report. The report indicates that the assessment has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction. The report has been carried out to assess the environmental and amenity values of all trees on or adjacent to the development area and the arboricultural implications of retaining trees with a satisfactory juxtaposition to the new development.

The proposed development site is bounded by trees on all sides except the northern boundary and the area associated with the existing dwelling. Seven of the mature Oaks standing on the western boundary aspect are protected by a 1996 Tree Preservation Order, with the group identified as G22 located on the southern and groups G23, G25 and G26 on the eastern boundary. These groups are mainly formed by early mature Pines Beech and Spruce.

The development proposals identify the loss of three individual trees (T6, T12 & T24) and four groups of trees (G23, G25, G26 & G29) along with a section of hedge (H30).

All three individual trees are considered to be insignificant within the landscape and categorised as low value category C specimens. The three groups which form the eastern boundary to the site are relatively young in terms of age classification, and appear to have received minimal management since planting, forming closely spaced groups. Their removal is required to facilitate both the proposed access road and plots 14 and 15. Two electricity wires presently extend across the site, significant reduction and pruning has compromised the retention of G25 and the southern aspect of G26, ongoing pruning will also be required in respect of the southern aspect of G23 and the northern leading edge of G22 to satisfy safety and line clearance requirements. All three groups of trees are clearly visible from the adjacent public foot path Haslington FP49 to the east and as part of filtered views between and over properties.

The value of all three groups located on the eastern boundary is associated with their collective presence rather than as individual specimens, this has been predicated by the absence of formal management; it would be difficult to retain isolated trees from within the groups where there are no direct construction implications, the loss of mutual protection would reasonable increase the likelihood of failure in relation to

any retained trees. Their value has been down graded to moderate (Cat B BS5837:2012). The Council's arborist concurs with this designation. The loss of G25 is accepted, any value has been removed as a result of historic line clearance pruning, the removal of both G23 and G26 will have an identifiable impact on the amenity of the immediate area, and the wider landscape

The proposed development respects the Root Protection Areas of the retained trees including those protected as part of the 1996 Tree Preservation Order. An acceptable tree protection scheme has been submitted which accords with the requirements of current best practice BS5837:2012.

However the Council's Arborist raised initial concerns that whilst there are no direct implications for retained trees a number of plots establish a poor social proximity and indirect problems are anticipated in relation to light attenuation and shading and an absence of utilisable external space, inevitable leading to pressure for additional works including trees protected by the 1996 TPO. The shade diagrams provided by the applicant's arboriculturalist support this view with plots 12 – 14 in almost full shade for the majority of the day, and other rear gardens impacted significantly.

The outline application as presented with access and layout applied for clearly has direct indirect implications for trees, the majority of which are visible from public vantage points.

As a result of these concerns the site plan has been amended which has resulted in plots 12-14 and the garden areas being re-positioned 3m further north to move the dwellings further away from the shaded areas reduce the part of garden area locating in the shading zone. This amendment has also resulted in the trees being located outside of the garden areas. The applicant has also confirmed that the trees will be retained in the ownership of a management company who will restrict works to the trees.

This has been re-assessed by the Council's Arborist who considers that whilst an element of shading of the garden areas will remain, a condition could be used to secure the management agreement to limit pruning works to ensure protection of the trees.

The arborist has also recommended a specimen landscape scheme to mitigate the loss of trees from the eastern boundary.

Design

The locality contains a mixture of property types ranging from regular 2 storey properties, link-detached/town houses, bungalows and dormer bungalow properties both detached and semi-detached and with mixed design. Whilst the property types have not been confirmed at this stage given the mix of property types it is considered that a mixture of property types could be accommodated in the street scene without causing significant harm to the existing pattern of built form.

The layout plan suggests that the most forward facing dwelling (plot 1) would be set back from the road by 25.5m and would be set behind the existing built line of No.68 & 70 Close Lane by 10m. As a result the property will not be overly prominent in the street scene. The remaining properties would be sited even further back and would also be unobtrusive when viewed from the street frontage.

At this stage the heights and design of the properties has not been detailed as this is a matter to be considered at reserved matters stage. However it is considered that the heights should be no more than 2 storey to respect the existing pattern of built form. The material type in the locality is predominantly

red/orange brick and tiled roofs, therefore it is suggested that a continuation of these would be acceptable and would be addressed at reserved matters stage.

The plot fill and garden areas would also be comparable with other properties in the locality. The site plan suggests that property frontages would range between 6.7m-9m which again would be consistent with the mix of property frontages in the street scene.

As a result it is not considered that the proposal would cause significant harm to the character/appearance of the area.

Ecology

Designated sites

The proposed development is not likely to result in any adverse effects on non-statutory wildlife sites.

The proposed development is not of a type that has been identified by Natural England as being likely to have an adverse impact on statutory designated sites at this location. No further action is therefore required.

Great Crested Newts

The Great Crested Newt survey report submitted in support of the 2016 application was constrained due to a lack of access permission to survey the ponds within White Moss Quarry. No evidence of Great Crested Newts has however been recorded during previous surveys undertaken of the quarry and no evidence of the species was recorded at the four ponds surveyed as part of the latest assessment.

The Councils Ecologist therefore advises that this species is not reasonable likely to be present or affected by the proposed development.

Bats and Trees

The submitted ecological report advises that the boundary trees on site have the potential to support roosting bats. A further survey by a licensed bat worker in 2016 identified only one tree (within group 29) to be removed with LOW potential to support a bat roost. The updated survey has confirmed that the tree continues to offer LOW potential.

Ponds

Ponds are a local priority habitat and hence material consideration. A small shallow pond is present on this site that would be lost as a result of the proposed development. A replacement pond is shown on the submitted layout plan.

It should however be confirmed that the replacement pond is not within the garden of unit 16.

Other protected species (OPS)

No OPS setts are present on site, some evidence of OPS activity was recorded during the submitted survey. The Councils Ecologist advises that the proposed development will have a minor localised impact on this species as a result of the loss of potential foraging habitat, however this is not likely to be significant.

Hedgehog

Hedgehogs are a biodiversity action plan priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so the species may occur on the site of the proposed development. If planning consent is granted The Councils Ecologist recommends that the following condition be attached for a reserved matters application to include proposals for the incorporation of gaps for hedgehogs to be incorporated into any garden or boundary fencing proposed.

Nesting Birds

If planning consent is granted The Councils Ecologist has requested condition requiring a bird surveys should works take place between 1st March and 31st August in any year and the reserved matters application to include feature for breeding birds.

The above conditions are considered both reasonable and necessary and shall be added to any decision notice. As a result it would appear that any impact to ecology can be suitably mitigated by conditions.

Air Quality

Policy SE12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality.

This scheme does not require an air quality impact assessment. However 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 Environmental Health Officer has requested the following conditions in relation to air quality;

- Travel Plan
- Electric Vehicle Infrastructure
- Ultra Low Emission Gas Boilers

Subject to the imposition of these conditions the impact upon air quality from this development is considered to be acceptable.

Flood Risk

The application site is located within Flood Zone 1 (low probability of river/tidal flooding) according to the Environment Agency Flood Maps and the site is less than 1 hectare. As a result there is no need for a Flood Risk Assessment to be provided.

However a Preliminary Flood Risk Assessment (PFRA) has been provided. The FRA concludes that a number of measures are proposed regarding ground contamination.

The United Utilities have been consulted as part of this application and have raised no objection to the proposed development subject to conditions regarding foul and surface water drainage and a drainage strategy. These conditions are considered reasonable and can be added to any decision notice.

The Councils Flood Risk Team has also been consulted and have advised that they have no objection subject to the following conditions:

- 1) Management and maintenance plan of surface water drainage for the site
- 2) Scheme for the management of overland flow from surcharging of the site's surface water drainage system
- 3) Timing/phasing arrangements embodied within the scheme
- 4) Scheme for the provision and implementation of a surface water regulation system
- 5) Ground levels and finished floor levels (FFLs) to be approved

The above conditions are considered both reasonable and necessary and will be added to any decision notice.

Therefore subject to conditions, the proposal would not pose significant concerns from a flood risk/drainage perspective.

Economic

With regard to the economic role of sustainable development, the proposed development will help to provide new housing with indirect economic benefits to Alsager including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

Agricultural Land Quality

Policies SE2, SD1, SD2 advise that development should safeguard natural resources including high quality agricultural land.

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

In this instance no assessment regarding the agricultural land quality has been provided. However the principle of the loss of this land for agricultural purposes was accepted as part of the initial application.

Therefore a refusal on these grounds could not be sustained.

CIL Compliance

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

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

The development would result in increased demand for secondary school places in the area and there is very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution of £32,685 towards secondary education is required. This is considered to be necessary and fair and reasonable in relation to the development.

The proposal would result in a requirement for the provision of 5 affordable units which would be split on a social rented/intermediate basis. This is considered to be necessary and fair and reasonable in relation to the development.

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

PLANNING BALANCE

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

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

The proposal would be contrary to Policy PG6 of the CELPS & PS8 of the Congleton Borough Local Plan as it is not listed as an appropriate form of development in the open countryside and therefore represents a departure from the adopted Local Plan. The proposal would also be contrary to Policies IN1 (Infrastructure) & IN2 (Developer Contributions) of the CELPS as it would not provide the full affordable housing contributions.

The proposal would also be contrary to Policies H3 (Infrastructure and sustainable housing development) & H6 (Affordable housing) of the Alsager Neighbourhood Plan given the shortfall in affordable housing however given the stage of the Neighbourhood Plan (Regulation 14) it is not considered that these policies can be attributed significant weight at this time.

The benefits of the proposal would be the provision of open market housing and the limited economic benefits during construction.

The development would have a neutral impact upon, education, ecology, trees, flooding, living conditions, air quality and contaminated land.

The dis-benefits would be the loss of open countryside and the shortfall in x2 affordable units.

Whilst the extant approval is a material consideration, the Council have to re-evaluate the benefits and dis-benefits of the current proposal. It is therefore worth pointing out that the extant scheme was approved at a time when the Council were not able to demonstrate a 5 year housing land supply and thus the tilted balance of the NPPF was engaged which required the Council to approve development which constituted sustainable development. The extant scheme also sought to provide its full contributions towards

education and affordable housing. As a result on balance it was considered to constitute sustainable development and was approved.

However the circumstances surrounding the current proposal have changed. Firstly the Council now has a 5 year housing land supply and consequently the tilted balance of the NPPF no longer applies. Therefore the Council needs to give significant weight to policies which protect the open countryside and given the Councils proven housing land supply, the development of this open countryside site is not needed to meet its housing land target. The proposal would also see a shortfall in affordable housing provision by 2 units. As a result the proposal would not be policy compliant.

Paragraph 57 of the NPPF advises that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

This does not mean that the Council are disregarding the viability issue but have weighed this in the overall planning balance, which in this instance means that the proposal is no longer considered to constitute sustainable development given that its full impacts will be unmitigated and thus contrary to policy.

Applying the tests within paragraph 11 it is not considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development does not constitute sustainable development and should therefore be refused.

RECOMMENDATION:

REFUSE for the following reasons:

- 1. The proposed development is unsustainable because it is located within the Open Countryside, would result in an adverse impact on appearance and character of the area and would not meet its full affordable housing contribution contrary to Policies PG2 (Settlement Hierarchy), PG6 (Open Countryside), SD1 (Sustainable Development in Cheshire East), SD2 (Sustainable Development Principles), IN1 (Infrastructure), IN2 (Developer Contributions), SE2 (Efficient Use of Land) of the Cheshire East Local Plan Strategy, saved Policy PS8 (Housing in the Open Countryside) of the Congleton Borough Local Plan and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it creates harm to interests of acknowledged importance.

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

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

S106	Amount	Triggers
Affordable Housing	30%	In accordance with phasing p

	(65% Affordable Rent / 35% Intermediate)	
Education	Contribution of £32,685 secondary school provision	100% prior to occupation of dwelling

