

Application No: 09/3651C

Location: FORMER SUTHERLAND WORKS, BROMLEY ROAD, CONGLETON, CHESHIRE, CW12 1QB

Proposal: Outline Planning Permission For The Development Of The Site For Residential Purpose, Comprising 63 Dwellings

Applicant: Woodford Land Ltd

Expiry Date: 15-Mar-2010

### **SUMMARY RECOMMENDATION**

Approve subject to conditions and s106 Legal Agreement

### **MAIN ISSUES**

Loss of Employment Land  
Affordable Housing Provision and Viability  
Highways  
Amenity

## **1. REASON FOR REFERRAL**

This report is presented to the Strategic Planning Board following a decision by Members of SPB in March 2010 to defer the application pending further information on the marketing of the site and in order to seek further expert advice on matters relating to financial viability and the proposed affordable housing provision.

However, given both the length of time that has passed since the deferral and the changes to the policy position, a totally new report has been prepared for Members.

## **2. DESCRIPTION OF SITE AND CONTEXT**

The site is located to the east of Congleton town centre and is accessed off both Bromley Road and Brunswick Street, which form two boundaries to the site. The north of the site is bounded by the Biddulph Valley Way and beyond this lies an area of employment land. To the west there is a footpath linking Bromley Road to the walk to the north.

Although access can be taken from the two roads to the south and east, there is a line of residential properties between the majority of the site and the road which have their rear gardens backing on to the boundary of the application site.

Whilst the main area of the site itself is relatively flat, the surrounding land and the entrance to the eastern side of the site is at a different level with the land falling away to the north down a steep wooded embankment before meeting the footpath which forms the northern most boundary. The land to the east is at a higher level and the access road into the site from this point, descends down from Bromley Road into the centre of the site.

The site is currently occupied by an existing factory building providing approximately 7230sq.m floorspace formerly used for the production of cardboard cartons. Despite various marketing exercises, the site has now been vacant for almost four years and is awaiting potential redevelopment.

### **3. DETAILS OF PROPOSAL**

This application seeks permission to redevelop the site with up to 63-units. The application has been made in outline form, with only access being considered at the current time. Appearance, landscaping, layout and scale are reserved for later consideration.

Whilst the application is made in outline, the applicants have provided indicative details of the form and character of development being proposed by of an indicative site layout and site sections showing the changing levels across the site.

In terms of access, it is proposed that all of the properties are accessed from the Bromley Road access to the east with the existing smaller access to Brunswick Street being retained for emergency purposes only. In the main, the development indicates that the site would comprise semi-detached and detached dwellings, although a number of the buildings will be for apartment properties. However, as an outline, it is possible that a different mix of units would come forward at reserved matters stage.

In addition to the development of the properties, a raised bund is proposed along the northern edge of the site to provide an additional degree of protection to the future occupiers from the industrial uses to the north.

### **4. RELEVANT HISTORY**

There are three past approvals for extensions to the factory unit during the 1970s, 1980s and early 1990s. In addition, a more recent application reference 37076/3 was refused in 20 April 2004 for the construction of 73 dwellings on the site.

There were two grounds for this refusal. Firstly, that the development of the houses at that time would exacerbate the over-supply of housing within the Borough and this would be at significant variance with the provisions of Policies H1 and H2 of the Local Plan. Secondly, it was considered that the proposed development would result in the loss of employment land, and the applicant had failed to demonstrate that the site was unsuitable for employment uses, that there was an adequate supply of employment land or premises within Congleton, or there was an overriding planning benefit to be gained from the residential redevelopment of the site. As such the proposal was deemed to be contrary to Policy E10 of the First Review of the Congleton Borough Local Plan.

### **5. POLICIES**

#### **National Policy**

PPS1 'Delivering Sustainable Development' and supporting documents

PPS3 'Housing'

PPS9 'Bio-diversity and Geological Conservation'

PPG13 'Transport'

PPS23 'Planning and Pollution Control'

PPG24 'Planning and Noise'  
PPS25 'Development and Flood Risk'

### **North West of England Plan - Regional Spatial Strategy to 2011**

DP1 Spatial Principles  
DP7 Environmental Quality  
L1 Health, Sport, Recreation, Cultural and Education Service Provision  
L4 Regional Housing Provision  
L5 Affordable Housing  
EM11 Waste Management Principle  
EM18 Decentralised Energy Supply  
Cheshire Replacement Waste Local Plan  
Policy 11 (Development and Waste Recycling)

### **Congleton Borough Council Local Plan First Review 2005**

PS4 Towns  
H1 & H2 Provision of New Housing Development  
H4 Residential Development in Towns  
H13 Affordable and Low Cost Housing  
GR1 New Development  
GR2 & GR3 Design  
GR4 & 5 'Landscaping'  
GR6 & 7 'Amenity and Health'  
GR9 Accessibility, Servicing and Parking Provision (New Development)  
GR17 Car Parking  
GR22 Open Space Provision  
RC1 'Recreation and Community Facilities – General'

### **Other Material Considerations**

- SPG1 Provision of Public Open Space in New Residential Development
- SPG2 Provision of Private Open Space in New Residential Development
- SPD6 'Affordable Housing and Mixed Communities'
- Interim Planning Statement: Affordable Housing
- Interim Planning Statement: Release of Housing Land
- 2010 'Strategic Housing Market Assessment'(SHMA)
- Strategic Housing Land Availability Study (SHLAA)
- Department for Transport: 'Manual for Streets'
- Circular 11/95 'Planning Conditions'
- Circular 05/2005 'Planning Obligations'
- Chief Planning Officer Letters re the abolition of RSS.
- Advice Produced by the Planning Inspectorate for Use by its Inspectors.
- Draft National Planning Policy Framework
- DCLG 'Planning for Growth'

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

### **Environmental Health Officer**

The site investigation report submitted with the application is now over two years old and new guidelines have been released with respect to undertaking site investigations. In addition,

there are a number of areas where it was noted on site that odour was encountered requiring further investigation, particularly around the area of the old substation on the northern boundary. In addition, the old gravel pit area requires investigation to determine the nature of the fill material and the gas protection measures required on-site.

In respect of noise, the principal of use of the bund on the northern boundary is accepted however ongoing maintenance would have to be secured through the legal agreement. This matter, however, could be addressed through the use of appropriate conditions. If the application had been deemed suitable to be approved, conditions on pile driving and protection of noise from construction would also be applicable.

### **Greenspaces – Amenity Greenspace and Children and Young Persons Provision**

The Greenspaces Team have provided comments on the application. They consider that no on-site provision is necessary in this case and that financial contributions towards off-site enhancements are appropriate in this instance to address qualitative deficiencies within the area. These matters are discussed in detail further into the report.

### **Strategic Highways Manager**

The Strategic Highways Manager has undertaken significant pre-application discussions with regard to this site. Traffic generation from the proposed residential use will be a significant reduction when compared to the potential traffic generation from the existing use class and this reduction will provide betterment in terms of reduced impact on the local highway infrastructure. Therefore the Strategic Highways Manager considers that there should be no objection in principle to the proposal for development.

The Officer acknowledges that there are issues with the proposal which need resolution in terms of local infrastructure provision or upgrade, and accordingly they recommend a number of conditions and informatives for inclusion with any planning permission which may be granted. Given the indicated intent in the submitted travel assessment and the travel plan framework, it is clear that the proposed development is intended to rely on local sustainable connectivity, in particular pedestrian, cycle and bus facilities.

The extent of the existing facilities which are in place is detailed in the transport assessment and travel plan framework, and therefore the Strategic Highways Manager considers it reasonable that a capital sum of money is negotiated to secure a number of local improvements to the local sustainable infrastructure. This will include improvements to local footway and surface.

If the scheme would be approved, the improvements sought through the obligations relate to detailed designs for the proposed alterations to the junction with Vaudrey Crescent and Bromley Road, submission of detailed plans for the proposed main junction with Bromley Road, improvements to the pedestrian cycle junction with Brunswick Street, improvements for the proposed alterations to the footway of Bromley Road and improvements to pedestrian crossings in the vicinity of the site.

## **7. VIEWS OF CONGLETON TOWN COUNCIL:**

Recommend approval

## **8. OTHER REPRESENTATIONS:**

### **Neighbour Comments**

Two neighbours have commented on this scheme. The first of these from Brunswick Wharf House expressed concern that the proposal is being brought forward in isolation separate to neighbouring employment sites. It argues that if a larger proposal was submitted, this would enable a common access to be provided to deliver better improvements for the good of the area currently under consideration. The objector also points out that under the Strategic Housing Land Availability Assessment, the site was anticipated to deliver an element of employment land, but this is not part of the proposal.

The objector also notes that there are a number of discrepancies on the plan, including the absence of trees near the applicant's site and a pedestrian right-of-way seems not to have been marked. In summary, the applicant requests that this application be delayed until such time that the whole area can be redeveloped as opposed to taking the site forward on a piecemeal basis.

The second objector has opposed the application on two grounds. The first of these is that the main access road would be adjacent to the property and concern is also raised that the use of the access would exacerbate problems using their existing driveway, which is in an awkward position next to the proposed Bromley Road access point. On the second point, they have requested that any planting adjacent to their site would be of a sufficient nature to deter children playing alongside the property but was not too high to cause future amenity problems through loss of light.

### **Congleton Cycling Campaign**

The group has questioned the applicants suggestion that the journey to Congleton Railways station would be only 1.5 km as this is a difficult route and would mostly be on roads as the passing cycle route does not provide immediate access. It would appear to the group that the applicants study gives lip service to the issue of sustainable transport, and they would wish to see the applicant make provision for some signing and cycle facilities including a direct link to the town centre as part of their obligations.

## **9. APPLICANT'S SUPPORTING INFORMATION:**

Design and Access Statement

Development Viability Report

Desk Study and Site Investigation Report

Ecological Report

Employment Land Appraisal

Flood Risk Assessment

Noise Assessment

Planning Statement

Transport Statement

Tree Survey and Constraints Report

Waste Management Plan

Waste Management Strategy

King Sturge Marketing Summary Report (December 2010)

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The principle of residential development on the site is acceptable having regard to the advice contained within PPS1 and PPS3 in terms of the site previously developed status and location within the Congleton settlement zone. Furthermore the site is identified within the SHLAA as suitable, available and achievable and therefore falls to be considered as a deliverable site in PPS3 terms. The site will therefore make an important contribution to the five-year housing land supply both across the borough and within Congleton itself as well as contributing to the provision of an appropriate mix of housing within the Congleton area having regards to the SHMA.

Members must also note that in the absence of five year housing land supply within the Congleton area, paragraph 71 of PPS3 requires that applications for housing must be considered favourably providing they meet the objectives PPS3 paragraph 69.

In terms of local plan policies, the sites location within the Congleton settlement zone means that there is presumption in favour of development under policy PS4 providing the proposal does not conflict with other policies within the local plan, is in keeping with the towns scale and character, and is appropriate to character of its locality in terms of use, intensity and scale. The scheme is considered to meet the requirements of policy E10 in respect of Employment Land issues, although this is discussed in more detail in the next section of report.

### **Loss of Employment Land**

The application site comprises four factory buildings with the single largest being a brick built, asbestos covered building that occupies a central position within the site. After visiting the site, it is immediately apparent that the building's age, nature, very poor physical condition, constrained nature and poor access entirely support the applicant's case that both the site and existing buildings are unsuitable for continued employment use and simply cannot be re-let despite a comprehensive and sustained marketing campaign.

Similarly it is also the case that the site is not capable of redevelopment for new employment uses given the sites location, competition from other employment sites (such as Radnor Park and Eaton Bank) and more particularly current economic conditions which have substantially suppressed demand for commercial and industrial development. This was also evidenced by a near identical case on land at Mill Street and Brook Street, Congleton (on the opposite site of Bromley Road) where Members of Southern Planning Committee approved redevelopment of the site with a mixed residential scheme and where, following an extensive assessment, new B1 and B2 employment uses were found to be unviable.

Taking into account all these factors it is extremely clear that the site and the buildings it contains are no longer suitable for employment uses and that its redevelopment for residential use will bring back into a beneficial re-use of a now defunct employment site.

In summary, we consider that the requirements of local plan policy E10 have been satisfied and that the site is no longer suitable for continued employment use.

### **Affordable Housing Provision and Viability**

Following the decision by Members to defer the matter pending further consideration of the viability evidence, the Council instructed Savills, Manchester to undertake an independent review and appraisal of the applicant's viability evidence.

The professional advice from Savills to the Council is that the applicant's report is robust and demonstrates that 30% affordable housing is not viable on this site at the present moment in time and that the offer of 13% affordable housing reflects what the scheme could reasonably and fairly deliver. We are also satisfied that the proposed mix, which includes 1-bed apartments along with 2-bed and 3-bed houses, will provide a suitable mix to cater for the varied housing need within the area.

Whilst it is clearly unfortunate that a higher level of affordable housing cannot be delivered in accordance with the requirements of SPD6 and the Interim Housing Policy, policy H13 and the Interim Housing Policy do advise that the Council will consider the economics of provision when assessing affordable housing provision. Furthermore, the guidance contained within 'Planning for Growth' makes it clear that Councils will be expected to consider the impact of planning obligations on the viability of development and that such issues amount to important considerations.

It is recommended however the proposed S106 Agreement incorporates an "overage clause" to allow the Council to secure 50% of any additional sales revenue over and above a threshold value (subject to a maximum amount equivalent of 30% affordable housing provision) to be reinvested back into affordable housing within the area. Clearly this relies upon market conditions improving significantly in the coming years.

### **Amenity**

The main relation this site has with its neighbours is to the residential properties to the south. In the main, many of these properties have extensive rear gardens, and accordingly the dwellings themselves are situated a substantial distance away from the proposed buildings.

Where the neighbouring properties do get closer to the southern boundary of the site, the indicative master plan for the site indicates that there is either extensive landscaping between the two areas or the properties themselves setback in order to minimise impact on the neighbouring properties.

It is felt that at this outline stage, sufficient scope exists within the site to ensure that satisfactory separation distances between existing and proposed dwellings can be ensured at the reserved matters application stage.

Whilst there would be some disturbance during the construction operations which could be controlled through conditions in respect of hours of work, the resultant development will have less harm on the neighbouring occupiers in respect of noise and other sources of pollution e.g. dust compared to the existing factory force and associated activities including deliveries.

### **Landscape**

The indicative scheme shows landscaping to the north and southbound of the site particular with some new planting within the centre of the site, particularly around the access road. In addition to the applicant's own planting, there is existing planting on the slopes rising up from

the northern boundary of the site, and it is felt that in general this matter can be adequately addressed through the reserved matters stage.

### **Ecology**

Following the additional work undertaken in respect of bats on the site, the Council's Ecological Officer is satisfied that the development would not impinge on protected species, and accordingly a licence would not be required from English Nature in this instance.

In addition, applicants have acknowledged that some of the existing trees towards the north of site can be retained as future wildlife habitat and should scheme be acceptable for approval. This could be conditioned if the scheme were to be approved.

### **Highways and Parking**

Following extensive work with the Council's Strategic Highways Manager, it is felt that the matter of access of the vehicles and other road users can be suitably addressed through the use of conditions and a section 106 agreement to secure appropriate offsite works. Given that the scheme will result in the removal of the existing industrial use on the site, the Strategic Highways Manager is of the view that this scheme will bring about betterment within the locality.

### **Contamination**

Whilst some initial concern was expressed that the contaminated land surveys were out of date, further discussions have taken place between the applicant and Environmental Health which have now resolved any outstanding concerns. Furthermore, none of the concerns expressed indicate that the site cannot be remediated to an appropriate standard to allow for residential development or that the redevelopment of the site would result in unacceptable consequences elsewhere adjacent to the site. The scheme is considered to meet the requirements of advice in PPS23 (paragraph 1.36 & 1.37) and that conditions can be attached to secure the submission of the further survey work, gas monitoring and appropriate remediation strategy.

### **Open Space Provision**

In terms of public open space, it was previously agreed that there is no requirement for public open space provision on the site but that there is a qualitative deficiency in the open space accessible to the development. On that basis, the Greenspaces team have identified a number of opportunities to enhance the existing open space at Bromley Farm to address to this qualitative deficiency and to ensure that the proposed development adequately caters for its impacts.

In terms of Children and Young Person Provision, Greenspaces have advised that a financial contribution of £13,735.50 will allow for an appropriate enhancement of existing provision within the area and that an additional sum of £44,775 would be required for future maintenance. At this stage, it is proposed that this sum would be invested into enhancing the existing Cheshire East owned facility at Edinburgh Road, Bromley Farm.

In terms of Amenity Greenspace, whilst accepting there is no need for new open space to be provided within the site, the development can help to address the qualitative deficiency of Amenity Greenspace within the area and in this respect a financial contribution of £7,924.50 plus £17,737.50 for future maintenance would ensure that the scheme adequately addressed



its impacts. It is envisaged that this contribution would be invested into the Biddulph Valley Way disused railway line which lies directly adjacent to the site and would, for example, allow for works to improve surfaces and drainage with a view to increasing use.

Providing these financial contributions are secured by way of S106 Agreement, the proposed development will satisfy the requirements of SPG1 and local plan policies GR1 and GR22.

### **Building Sustainability and Renewable Energy**

Matters relating to sustainability and renewable energy have now been satisfactorily addressed. The applicant has committed to constructing the proposed dwellings to Code for Sustainable Homes Level 3, with an appropriate sum allocated within the financial appraisals to allow for this, with the matter of provision of 10% renewable, decentralised or low-carbon on-site energy provision being capable of resolution by way of condition when the development will be at the detailed design stage.

Subject to conditions to secure this provision therefore, the scheme will satisfy the requirements PPS1 'Delivering Sustainable Development', RSS policies EM17 and EM18 and local plan policies GR1.

## **11. CONCLUSIONS**

The proposed development would bring about the remediation and redevelopment of a derelict, contaminated previously developed site within the Congleton settlement zone.

The scheme would make an important contribution to housing land supply within Congleton and is identified within the SHLAA as a deliverable site. Whilst the scheme cannot deliver a 30% affordable housing contribution, the 13% it can deliver would still make an important contribution to addressing the shortfall in affordable housing provision within the Congleton area and has been found to be a reasonable contribution following rigorous assessment of the development economics.

The proposed development adequately caters for public open space provision, provides betterment in terms of impacts on the local highway network and makes suitable provision to deliver sustainable housing. Whilst further work is required in respect of contamination and the remediation, this is not considered to be a barrier to the grant of permission and can be adequately addressed by way of suitable conditions.

Whilst the detailed design is for reserved matters, the indicative material demonstrates a satisfactory layout could be achieved and amenity of neighbouring residents preserved. Other matters relating to noise, flood risk, ecology and trees have also been adequately addressed.

## **12. RECOMMENDATIONS**

That subject to the prior signing of a S106 Agreement, permission is granted subject to the following conditions:

### **S106 Heads of Terms:**

#### Affordable Housing

1. Provide 8-no (13%) affordable housing comprising four intermediate units and four social rented units.

*Trigger:*

All intermediate housing to be constructed and transferred to an RP before occupation of 50% of the open market housing.

2. Affordable housing overage clause as described within the report

Greenspaces

3. That prior to the commencement of development, financial contributions toward Children and Young Persons Provision (CYPP) and Amenity Greenspace (AG) are made in full to the Council. The financial contributions will comprise:

CYPP - £13,735.50 for enhanced provision and £44,775.00 towards maintenance

AG - £7,924.50 for enhanced provision and £17,737.50 towards maintenance

Acoustic Bund

4. Management regime for the acoustic bund and any on site amenity Greenspace.

*Trigger*

Scheme to be submitted and agreed prior to first occupation of any dwelling.

Proposed Conditions

**General**

1. 3-year Outline / 2-year Reserved Matters Time Limit
2. The Reserved Matters (Layout, Scale, Appearance and Landscaping)
3. Restriction no more than 63-dwellings
4. External Facing Materials to be submitted

**Environmental Health**

5. Hours restriction – demolition and construction  
08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
6. Hours restriction – piling activity  
08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.

7. Standard DCLG Contaminated Land Condition.
8. Scheme for gas monitoring and mitigation (if required).
9. Detailed scheme for acoustic mitigation for the proposed dwellings prior to commencement of development. Unless otherwise agreed, the scheme will include an acoustic bund and fence, acoustic glazing to dwellings.

### **Highways and Drainage**

10. Scheme for off-site highway works to the junction Vaudrey Crescent and Bromley Road
11. Scheme for off-site highway works to secure improvements to cycle access
12. Precise design of Bromley Road access to be submitted and agreed prior to the commencement of development based on Axis drawing number 724-01/GA-02.
13. Access onto Brunswick Street shall be for emergency access only. Submission of a scheme to restrict access for emergency vehicles only.
14. Detailed SUDS, surface water drainage and sewerage scheme
15. Detailed flood storage and attenuation design
16. Scheme for improvements to the local footpath network and pedestrian crossings

### **Landscape and Ecology**

17. Lighting scheme to be submitted
18. Scheme for bat and bird boxes
19. Protection of breeding birds
20. Management plan for on-site landscaping and adjacent wildlife corridor
21. Implementation and five-year maintenance of landscaping scheme
22. Precise details of boundary treatments

### **Sustainable Development**

23. Homes to be constructed to 'Code for Sustainable Homes' Level 3.
24. 10% renewable, decentralised or low carbon on-site energy provision.
25. Construction site environmental management plan including precise details of construction access, siting of portakabins, staff parking and wheel wash facilities.



