

Application No: 13/2501C

Location: Land off A34 Newcastle Road, Congleton, Cheshire,

Proposal: Erection of up to 9no. residential dwellings (Outline) with all matters reserved except for access

Applicant: Astbury Mere Development Ltd

Expiry Date: 21-Aug-2013

#### **SUMMARY RECOMMENDATION**

**Approve with Conditions and completion of a Section 106 Agreement to provide**

#### **MAIN ISSUES**

**Principal of the Development**

**Planning Policy and Housing Land Supply**

**Landscape and Trees**

**Impact on Protected Open Space**

**Highway Implications**

**Amenity**

**Design**

**Ecology**

**Open Space**

#### **REASON FOR REFERRAL**

This application is referred to the Southern Planning Committee as it has been called in by Councillor David Topping for the following reasons:

- *Astbury Mere is a designated protected open space (RC2) which affords protection against development.*
- *This is an area of special importance and beauty to the Congleton community and further development is totally unacceptable in this green area.*
- *Permission for housing development should be consistent with the local planning of sustainable development and compliment investment in sufficient homes, jobs and other essential services. The Borough has a 5 year plan for sufficient housing as evidenced in the recently published SHLAA.*
- *This application falls outside the settlement zone identified within the SHLAA.*
- *There is an access issue that needs to be looked at carefully. This is recognised within the application. The link road to the A34 is unsuitable to support the proposed development.*

#### **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises an approximately 0.4-hectare parcel of land adjacent to Astbury Mere, 0.32 hectares of the site is considered to be developable. There is an existing

access road from the A34 Newcastle Road, which currently serves the existing water sports centre and restaurant. The site is within the settlement zone line of Congleton and is also part of a protected area of open space and recreation. To the west and south of the site a new development of 52 Dwellings has recently been completed. There is a church to the west of the site and a care home to the south.

### **DETAILS OF PROPOSAL**

The application is for outline planning permission for the erection of 9 dwellings. Access is to be determined at this stage with appearance, landscaping, layout and scale to be determined at reserved matters stage. The access would be taken from the existing access road to Astbury Mere.

An **indicative** layout plan has been submitted with the application, which shows 9 detached dwellings set within the plot and existing and proposed landscaping.

### **RELEVANT HISTORY**

10/4762C	2011	Approval for extension of time to 07/1059/FUL
07/1059/FUL	2007	Approval for restaurant/play barn
06/1182/OUT	2007	Outline approval for restaurant

### **POLICIES**

#### **National Policy**

National Planning Policy Framework

#### **Local Plan policy**

PS3 – Settlement Hierarchy  
PS4 - Towns  
GR1- New Development  
GR2 – Design  
GR3 - Residential Development  
GR4 – Landscaping  
GR5 – Landscaping  
GR9 - Accessibility, servicing and provision of parking  
GR14 - Cycling Measures  
GR15 - Pedestrian Measures  
GR16 - Footpaths Bridleway and Cycleway Networks  
GR17 - Car parking  
GR18 - Traffic Generation  
NR1 - Trees and Woodland  
NR3 – Habitats  
NR4 - Non-statutory sites  
NR5 – Habitats  
H1 – Housing Development  
H2 - Provision of New Housing Development  
H4 - Housing

**Other Considerations**

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Congleton Town Strategy

**CONSULTATIONS (External to Planning)****Environment Agency:**

None received at the time of report writing.

**United Utilities:**

No objection.

**Strategic Highways Manager:**

This site has an extant permission for a restaurant with play barn. This consented development would generate a significant amount of traffic.

The development proposal which is the subject of this application is for 9 residential units which would generate a very low traffic flow with only 6 potential trips in the morning peak hour. This is a negligible amount of traffic and would not have a material impact on the public highway network.

The effect of this would be to significantly reduce the traffic impact that would be sustained if the extant permission was developed. This represents significant betterment.

Proposed parking provision is in line with the emerging draft parking standards of the Authority and is accepted.

In negotiation the Strategic Highways Manager has secured an improvement to the junction of the Astbury Mere access with the A34 and this will include kerbing, surfacing and junction marking within the public highway. This will be the subject of a recommended condition.

The Strategic Highways Manager has no objection to this development proposal and recommends that the following condition and informative be attached to any permission which may be granted for this development proposal:

*Condition:- Prior to first occupation the developer will provide detailed design plans for the junction upgrade with the A34 and provide the upgrade to the satisfaction of the Local Planning Authority. This will form the off-site highway works and be the subject of a Section 278 agreement.*

*Informative:- Prior to first development the developer will enter into and sign a Section 278 agreement under the Highways Act 1980. The detailed design plan for this junction improvement will inform the agreement.*

**Environmental Health:**

Recommend that conditions are imposed relating to the hours of construction, piling and contaminated land.

**Public Open Space:**

With reference to the plans for 9 houses the following Streetscape comments and observations are made.

*Amenity Greenspace*

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. In accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development there should be 216m<sup>2</sup> of useable Public Open Space excluding incidental open space such as linear highway verges.

Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be:

Maintenance:	£2,554.20
--------------	-----------

*Children and Young Persons Provision*

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

It is acknowledged that it may not be viable for the developer to provide an on site play area for a relatively small development and there are no Council owned play areas within the vicinity of the proposed development which may benefit from financial contributions for off site enhancements

**Public Rights of Way:**

As acknowledged in the application documents, Astbury Mere is an important leisure resource for residents of Congleton and further afield. Pedestrian access to the Mere is available from the west from the Newcastle Road via a Public Right of Way, namely Congleton Public Footpath No. 10, as recorded on the Definitive Map and Statement, and the access track referred to in the application documents. This route offers an off-road option for pedestrians traveling between residential areas, the Mere and on towards the town centre.

At present there is no pavement provision along this access track which carries traffic accessing the watersports centre and restaurant, and would also to the proposed development. This safety concern was raised through responses to the community consultation undertaken ahead of the application. It is requested, therefore, that the developer be tasked through condition to provide a pavement facility alongside the relevant

part of the access track, in order that pedestrians can travel between the Mere and the Newcastle Road with segregation from the increased vehicular traffic arising from the development. Through provision arising from other developments, part of this route is planned to be improved to make it more accessible, and this proposed development offers the opportunity to complete the provision of a pedestrian facility in anticipation of increased traffic flows.

### **Forestry Commission:**

Felling licence reference 010/65/11-12 (Land at Astbury Mere) is still valid on this land. It is a conditional licence for the felling of 28 poplar trees, conditions as follows:

The following conditions apply to the licenced felling in Cpt 1. Restocking of alternative area adjacent to and around the boundary marked in red on the accompanying plan.

1. Before 30th June 2014 the land marked on the attached map must be: a. cleared as necessary. b. Planted with 28 trees of which 7 Oak, 7 Silver Birch, 7 Rowan, 7 Wild cherry to achieve not less than 28 plants in total evenly distributed over the site.
2. For a period of 10 years from the planting: a. The plants must be protected against damage and be adequately weeded. b. Any failure or losses should be replaced as necessary to provide a stocking of not less than 28 plants in total evenly distributed over the site. c. Any areas must be weed free and must be maintained in accordance with the rules and practice of good forestry.

### **VIEWS OF THE TOWN COUNCIL**

Congleton Town Council objects to the application on the grounds that it fails to meet the criteria set out in Policy RC2, the land provides a buffer zone to the park and it is unsympathetic to the character of the locality.

### **OTHER REPRESENTATIONS**

At the time of report writing, 16 letters of objection have been received raising the following points:

- Increase in traffic
- Dangerous junction with the A34
- Intrusion into the recreational area of the Mere
- A flawed consultation process undertaken by the developer
- Conflict with the felling licence imposed by the Forestry Commission
- Previous refusals for applications at the Mere
- A housing development would create 'a blot on the landscape'
- Inappropriate development on a nature reserve/greenspace
- Non-compliance with policies in the adopted local plan, the emerging local plan and the NPPF
- Visual intrusion
- Loss of a buffer between the country park and the new housing at Marsh Farm
- The site is not in a sustainable location
- Inappropriate density

A letter of objection to the proposal has also been received from the local MP, Fiona Bruce. She expresses concerns about the visual impact of the proposed development, the establishment of a precedent for development on this part of the Mere and the loss of a green recreational space.

Two other letters have been received, one from the neighbouring restaurant and one from the angling society that use the Mere. The restaurant owner supports the application. The Angling Society has concerns about access for refuse vehicle and surface water run-off, but also state that the Mere would benefit from 'passive surveillance' from the proposed dwellings.

These representations are available to view on the application file.

## **OFFICER APPRAISAL**

### **Principal of Development**

The site lies in the Settlement Zone Line of Congleton as designated in the Congleton Borough Local Plan First Review, where there is a presumption in favour of development. It is also designated as a Protected Area of Open Space where Policy RC2 of the adopted local plan applies. This policy states the following:

*Proposals which involve the development for an alternative use of any of those areas of open space or recreational facilities identified on the proposals map or those areas or facilities which may subsequently be created, will only be permitted where all of the following criteria are satisfied:*

- i) the proposed development would not result in a local deficiency in the quantity, range and accessibility of recreational facilities or amenity open space or, alternatively, the provision of an equivalent or improved and suitably located replacement facility is proposed within a time period acceptable to the local planning authority;*
- ii) the open space or recreational facility has no significant local value either as part of an existing network of open areas, as a buffer zone between incompatible uses (including noise alleviation zones), as an important visual amenity or significant visual break in an otherwise developed area, or in relation to an existing or proposed linear amenity area such as a canal corridor, disused railway line or wildlife corridor;*
- iii) the proposal is in accordance with other policies of the local plan, particularly those relating to nature conservation, landscape and agricultural land.*

*Development associated with the current use of the site, or extensions to existing buildings within designated areas of public open space will be permitted where it will allow for improved facilities on the site and will not result in any shortfall in open space provision and where the proposed use conforms to other relevant policies of the local plan.*

It should be noted that there is an extant consent for a restaurant/play barn on the site and whilst this was considered to be a compatible use with the functions of the Mere, the impact of that development in terms of scale and massing would be more significant than the proposed residential development.

The site is not part of the land available for public access and is currently in an unsightly condition. As such it is considered that whilst it is designated as Protected Open Space, it

does not provide any significant benefit to the Astbury Mere Country Park and as it is in private ownership, that situation is unlikely to change. As such it is considered that the proposed residential development would be acceptable in principle.

Members should note that on 23<sup>rd</sup> March 2011 the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15<sup>th</sup> June 2011 this was supplemented by a statement highlighting a 'presumption in favour of sustainable development' which has now been published in the National Planning Policy Framework (NPPF) in March 2012.

Collectively these statements and the National Planning Policy Framework mark a shift in emphasis of the planning system towards a more positive approach to development. As the minister says:

*"The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy"*

### **Housing Land Supply**

The Planning Statement maintains that the Council cannot demonstrate a 5 year housing land supply.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the emerging Strategic Housing Land Availability Assessment (SHLAA) February 2013. The SHLAA has put forward a figure of 7.15 years housing land supply. Given that the site is within the Settlement Zone Line of Congleton and the Council can demonstrate in excess of a 5 year housing land supply, the Council disputes this contention.

### **Landscape and Trees**

Tree cover is restricted to the site boundaries and comprises mainly self set Sycamore and Ash to the west. There is an off-site plantation of early mature mixed deciduous and coniferous trees to the north associated with the adjacent Astbury Mere Country Park. There are lengths of hedgerow to the western and southern boundaries.

The submission is supported by an Arboricultural statement which includes a tree survey and layout appraisal. The survey covers 3 individual trees, 5 groups of trees and three lengths of hedgerow. The on-site trees are mainly identified as grade C with one Grade B group and one grade U tree. The offsite group is afforded a Grade B.

The Arboricultural Statement indicates there is a requirement for replacement planting of twenty-eight new trees (7 Oak, 7 Silver birch, 7 Rowan and 7 Wild cherry) on the site pursuant to a Forestry Commission Felling Licence granted in 2011. (The licence related to the felling of 28 Poplar trees on the north and west site boundaries). In paragraph 8.2 of the Arboricultural Statement indicates that the felling licence issued by the Forestry Commission can be complied with and that a landscaping scheme, including the requirements of the licence should be submitted at reserved matters stage.

As an outline application with all matters reserved except access, the indicative layout provided must be afforded limited weight. Nonetheless, the arboricultural layout appraisal indicates that it should be possible to accommodate the development with only the removal of low grade trees. In principle, it is accepted that the proposal does not raise significant forestry concerns in respect of existing trees. The Forestry Commission has been consulted on the application and has not raised any objection subject to the re-planting being secured. The Felling Licence requires the replacement planting to be evenly distributed over the site and the landscaping condition should include this requirement. This may involve amendments to the **indicative** layout to accommodate the replacement trees within the site, but it is considered that the requirements of the licence can be complied with.

In the event of approval, conditions would be required to secure at reserved matters stage: an arboricultural impact assessment, arboricultural method statement, schedule of tree works, tree and hedge protection, details of proposed levels and a comprehensive landscape scheme, to include replacement planting in accordance with Forestry Commission requirements.

### **Highways Implications**

Access to the site would be taken from the existing access road to Astbury Mere and many of the objections to the proposal relate to highway safety. The Strategic Highways Manager (SHM) is satisfied that the development would generate a very low traffic flow that would be significantly less than the approved restaurant/play barn. Parking provision for the proposed development is considered to be acceptable.

Discussions have been held with the developer and should the application be approved, the SHM has secured an improvement to the junction of the Astbury Mere access and the A34, which will include kerbing, surfacing and junction marking within the public highway. This is considered to be a positive benefit to the area.

The proposal is therefore considered to be in compliance with Policy GR9 of the adopted local plan.

### **Amenity**

In terms of the surrounding residential properties, these are mainly to the west and south of the site. Although the application is in outline form only, the indicative layout shows that adequate separation distances would be provided to these properties. The proposed dwellings would be of a density that is consistent with the surrounding area and would not be out of character in this locality.

The Environmental Health Officer has requested conditions in relation to noise during construction, pile driving and contaminated land. These conditions would be attached to the planning permission should members approve the application.

The proposal is therefore considered to be in compliance with Policy GR6 of the adopted local plan.

### **Design**



The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

Whilst the application is in outline form with access as the only matter to be agreed at this stage, the design and access statement has indicated that the development would comprise 9 detached dwellings. There is a variety of styles and sizes of dwelling types in the locality, therefore the indicative designs would not be out of character with the surrounding development. As such it is considered that the indicative proposals would be acceptable.

### **Ecology**

This application is supported by an acceptable ecological survey report prepared by a suitably qualified and experienced ecological consultant. In the light of the reports findings, it is considered that there are no significant ecological constraints on the proposed development. However, as badgers have been recorded as being active adjacent to the site it is recommended that a condition be attached to any outline consent granted requiring future reserved matters applications to be supported by an updated badger survey. This is a precaution in case a sett is established on site between the grant of outline consent and the detailed design stage.

It is also recommended that conditions be attached to safeguard breeding birds:

### **Public Open Space**

At the time of report writing, the Open Space Development has requested that contributions are required for maintenance Amenity Greenspace. They are as follows.

Maintenance: £2,554.20

This should be secured with a Section 106 Legal Agreement.

### **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) fairly and reasonably related in scale and kind to the development.

The requirement for open space provision is considered to be in compliance with the CIL Regulations 2010.

The request for improvements to pavement provision by Public Rights of Way is not considered to be necessary, directly related to the development or fairly and reasonably related in scale and kind to the development. As such it is not in compliance with the CIL Regulations 2010 and should not be required to be provided.

## **CONCLUSIONS**

## **RECOMMENDATION**

**Approve subject to conditions and the completion of a Section 106 Agreement securing monies for maintenance of amenity greenspace.**

- 1. Commencement**
- 2. Submission of reserved matters (all matters other than access)**
- 3. Plans**
- 4. Breeding Bird Protection**
- 5. Updated protected species survey and method statement prior to commencement**
- 6. Submission of a scheme to limit the surface water run-off generated by the proposed development,**
- 7. Reserved matters to make provision for containing any such flooding within the site, to ensure that existing and new buildings are not affected and that safe access and egress is provided.**
- 8. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil**
- 9. Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to: Monday – Friday 08:30 – 17:30 hrs Saturday 09:30 – 13:00 hrs Sunday and Public Holidays Nil**
- 10. Submission of Construction Management Plan**
- 11. Reserved Matters to include details of bin storage.**
- 12. Submission of a landscaping scheme to include the requirements for restocking in compliance with the Forestry Commission Felling Licence.**
- 13. Implementation of landscaping scheme.**
- 14. Arboricultural Impact Assessment, Arboricultural Method Statement and Tree and Hedge Protection Plan to form part of the reserved matters**
- 15. Reserved matters to incorporate existing and proposed levels**
- 16. Submission of a Phase I contaminated land survey**

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Planning and Place Shaping Manager in consultation with the Chair (or in his absence the Vice Chair of Southern Planning Committee) to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

