

# Strategic Planning Board

## Agenda

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<b>Date:</b>	<b>Wednesday, 3rd March, 2010</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>The Capesthorne Room - Town Hall, Macclesfield SK10 1DX</b>

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To receive any apologies for absence.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have made a pre-determination in respect of any item on the agenda.

3. **Minutes of the Previous Meeting** (Pages 1 - 6)

To approve the minutes as a correct record.

4. **Public Speaking**

A total period of 5 minutes is allocated for the planning application for Ward Councillors who are not members of the Strategic Planning Board.

A period of 3 minutes is allocated for the planning application for the following individuals/groups:

- Members who are not members of the Strategic Planning Board and are not the Ward Member
- The relevant Town/Parish Council
- Local Representative Group/Civic Society
- Objectors
- Applicants/Supporters

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For any apologies or requests for further information, or to arrange to speak at the meeting

**Contact:** Sarah Baxter  
**Tel:** 01270 686462  
**E-Mail:** Sarah.Baxter@cheshireeast.gov.uk

5. **P09/3535C-Proposed housing development consisting of 43no. 1, 2, 3, & 4 bedroom dwellings, Land Southwest of, Old Mill Road, Sandbach, Cheshire for Morris Homes Ltd** (Pages 7 - 22)

To consider the above application.

6. **P09/3651C-Outline Planning Permission for the Development of the Site for Residential Purposes Comprising 63 Dwellings, Former Sutherland Works, Bromley Road, Congleton, Cheshire for Woodford Ltd** (Pages 23 - 38)

To consider the above application.

7. **Reporting on Planning Obligations and Lawful Development Certificates** (Pages 39 - 46)

To consider the above report.

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 10th February, 2010 at The Capesthorpe Room - Town  
Hall, Macclesfield SK10 1DX

### **PRESENT**

Councillor H Gaddum (Chairman)  
Councillor J Hammond (Vice-Chairman)

Councillors Rachel Bailey, A Arnold, D Hough, J Macrae, B Moran,  
G M Walton, S Wilkinson and J Wray

### **OFFICERS PRESENT**

Mr S Fleet (Principal Planning Officer), Mrs N Folan (Planning Solicitor), Mr R House (Local Development Framework Manager), Ms P Lowe (Development Control Manager) and Miss H Parish (Principal Planning Officer)

### 169 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D Brown, P Edwards, Mrs M Hollins and C Thorley.

### 170 **DECLARATIONS OF INTEREST**

(During this item Councillor D Hough arrived to the meeting).

Councillor J Hammond declared a personal interest in application 09/4074N-Proposed Manufacturing Building on the Former B Block Site, Including Ancillary Infrastructure Comprising Site Access Road, Security Gatehouse, Car Parking and an Internal Firing Range, BAE Systems, Land Systems Munitions, Radway Green, Alsager, Near Crewe for Mr K Mellis, Bae Systems Properties Ltd by virtue of the fact that he was a member of Haslington Parish Council which had been a consultee on the application and in accordance with the Code of Conduct he remained in the meeting during consideration of the application.

Councillor J Hammond declared a personal interest in application 09/2291W-South Eastern Extension of Existing Silica Sand Quarry, Arclid Quarry, Near Sandbach, Cheshire for Archibald Bathgate Group Limited by virtue of the fact that he was a member of the Cheshire Wildlife Trust which had been a consultee on the application and in accordance with the Code of Conduct he remained in the meeting during consideration of the application.

### 171 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED

That the minutes be approved as a correct record and signed by the Chairman subject to the inclusion of Councillors B Moran, G M Walton and J Wray in the list of those present and subject to the inclusion of the word 'cycleway route' after the word 'footpath' in the last paragraph of Minute No.163.

172        **PUBLIC SPEAKING**

RESOLVED

That the public speaking procedure be noted.

173        **09/4074N-PROPOSED MANUFACTURING BUILDING ON THE FORMER B BLOCK SITE, INCLUDING ANCILLARY INFRASTRUCTURE COMPRISING SITE ACCESS ROAD, SECURITY GATEHOUSE, CAR PARKING AND AN INTERNAL FIRING RANGE, BAE SYSTEMS, LAND SYSTEMS MUNITIONS, RADWAY GREEN, ALSAGER, NEAR CREWE FOR MR K MELLIS, BAE SYSTEMS PROPERTIES LTD**

(During consideration of the application Councillor J Wray arrived to the meeting).

Consideration was given to the above application.

RESOLVED

That the application be approved subject to the following conditions:-

- 1.Time Limits: Reserved Matters
- 2.Development in accordance with approved plans
- 3.Travel Plan to be submitted and implemented
- 4.Development to be undertaken in accordance with submitted site management scheme
- 5.Management scheme to be submitted for the wild grass land area
- 6.Unless agreed in writing with the Local Planning Authority, no felling of the trees to the north of the rille range as defined in the Design & Access Statement
- 7.Noise attenuation scheme for the proposals relating to the indoor firing range
8. Construction management plan – to include routing for construction traffic

In addition it was agreed that that an informative be added to the decision notice to include the following wording:-

The applicants are advised that goods vehicles arriving to and leaving the BAE facility subject to this application, should be directed to the main highway network principally the A5078 south of the site entrance. The A5077 Butterson Lane leading to Crewe should only be used in exceptional circumstances due to the narrow width of the road and its unsuitability for frequent use by goods vehicles.

174      **P09/3535C-PROPOSED      HOUSING      DEVELOPMENT  
CONSISTING OF 43NO. 1, 2, 3, & 4 BEDROOM DWELLINGS, LAND  
SOUTHWEST OF OLD MILL ROAD, SANDBACH, CHESHIRE FOR  
MORRIS HOMES LTD**

Councillor B Moran declared that he had been copied into a number of emails and letters from both Sandbach Town Council and the agent for the applicant, the content of which he had noted. The first was an email sent by the agent to Sandbach Town Council on 8 February 2010. The second was an email from the agent to Sandbach Town Council sent on 9 February 2010. The third was an email sent from Sandbach Town Council to the agent attaching the Town Council's Planning Committee minutes sent on 9 February 2010. The fourth was a letter from Sandbach Town Council to the Head of Planning and Policy dated 9 February 2010).

Consideration was given to the above application.

(Mr Goodwin, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be deferred for further information on the financial analysis of the site, including a housing needs analysis, as well as the views of Sandbach Town Council.

(The recommendation from the Officer was originally one of approval. This recommendation was then altered to one of refusal, however after further information was submitted by the agent of the applicant the recommendation reverted back to one of approval).

175      **09/2291W-SOUTH EASTERN EXTENSION OF EXISTING SILICA  
SAND QUARRY, ARCLID QUARRY, NEAR SANDBACH, CHESHIRE  
FOR ARCHIBALD BATHGATE GROUP LIMITED**

Consideration was given to the above application.

**RESOLVED**

That the application be approved subject to referral of the application to the Government Office for North West, subject to the Secretary of State deciding not to 'call-in' the application under the Departure from the Development Plan procedures, subject to the following:-

- (1) A planning obligation under Section 106 of the Town & Country Planning Act 1990 be entered into with the applicant to provide for;
- (a) The provision of a 15 year aftercare and management scheme from the date of the completion of restoration of the South Eastern Extension
  - (b) Annual monitoring and reporting of protected and Cheshire BAP species during the 15 year aftercare and management plan period
  - (c) Footpath maintenance and management during the 15 year aftercare and management plan period

And subject to the following conditions:-

1. All relevant conditions of 8/07/0222/CPO
2. Standard
3. Written notice for commencement of development
4. Written notice for commence of extraction in each phase
5. Written notice for completion of extraction in each phase
6. Written notice for completion of restoration in each phase
7. Approved plans
8. Duration of consent until 31.12.2035
9. Sand only to be transported to North Arclid via underground pipeline
10. Protection of breeding birds
11. Submit updated bat surveys throughout the life of the project prior to commencement of work in Phases S2, S3, S4, E2 and E3.
12. Submission of an aquatic invertebrate survey of the ponds to be lost prior to the implementation of the GCN mitigation.
13. Detailed Management/habitat creation plan including proposals for monitoring and on-going survey work
14. Design for replacement ponds.
15. Recommendations in the ES regarding nature conservation mitigation
16. Plant gaps in boundary hedges

17. Submission approval and implementation of detailed phasing plans
18. Northern Screening Mound constructed around the northern perimeter of the eastern block shall be removed in the final phase of the development
19. Stockpile heights for topsoils, subsoils and screening bunds and seeded to prevent erosion.
20. Scheme of soil handling, restoration and aftercare to safeguard soil quality implemented in accordance with Appendix 2 of Chapter 10 of the Environmental Statement.
21. No soils/overburden to be removed off site.
22. Remove PD rights
23. Any plant/machinery coloured dark green 12B29 as specified in colour code BS4800
24. Hours of operation – as existing
25. Noise; best available techniques and noise attenuation on plant/machinery
26. Revise the existing noise monitoring scheme submitted for written approval
27. Noise limits
28. Dust management/mitigation scheme
29. Best available techniques for dust mitigation
30. Programme of archaeological works
31. Watching brief during topsoil stripping
32. Restoration and aftercare scheme submitted for approval 12 months post approval and implemented in full accordance with the scheme
33. Water pollution control
34. Revise existing Water Management Plan to include SEE area and mitigation to maintain normal flow of Arclid Brook as detailed in Section 3 of the existing WMP and subsequent continued submission and implementation of annual report throughout the life of the site
35. Implementation of recommendations with respect to monitoring and mitigation contained within section 5 of the Hydro-geological Impact Assessment and within the Water Management Plan.
36. Comprehensive Tree Protection Plan including details of stand-offs

- 37. Arboricultural method statement including remedial works for existing trees
- 38. Detailed restoration Masterplan and replacement landscaping scheme including advanced and progressive planting areas and additional planting in the area to the north of the application site, to be implemented in the first available planting season and thereafter retained
- 39. Revised final phasing plan
- 40. Revised restoration cross sections to account for changes to restoration Masterplan
- 41. Submission of details of measures taken to establish a Residents Liaison Committee.

176      **APPEAL SUMMARIES**

Consideration was given to the above report.

RESOLVED

That the appeals be noted.

177      **PLANNING POLICY STATEMENT 4 PLANNING FOR SUSTAINABLE ECONOMIC GROWTH (PPS4)**

(During consideration of the item Councillor J Wray left the meeting and returned).

Consideration was given to the above report.

RESOLVED

That the report be noted.

178      **MANAGEMENT OF S106 PLANNING AGREEMENTS**

This item was withdrawn prior to the meeting.

The meeting commenced at 2.00 pm and concluded at 4.10 pm

Councillor H Gaddum (Chairman)



<b>Planning Reference No:</b>	P09/3535C
<b>Application Address:</b>	Land Southwest Of, Old Mill Road, Sandbach, Cheshire
<b>Proposal:</b>	Proposed housing development consisting of 43no. 1, 2, 3, & 4 bedroom dwellings
<b>Applicant:</b>	Morris Homes Ltd
<b>Application Type:</b>	Full
<b>Grid Reference:</b>	375745 360498
<b>Ward:</b>	Sandbach East and Rode
<b>Earliest Determination Date:</b>	20 January 2010
<b>Expiry Dated:</b>	24 February 2010
<b>Date of Officer's Site Visit:</b>	29 December 2009
<b>Date Report Prepared:</b>	7 January 2010 – Updated 27 January 2010 & 22 February 2010
<b>Constraints:</b>	

#### **SUMMARY RECOMMENDATION:**

- **APPROVE** subject to signing and completion of a S106 agreement and imposition of conditions.

#### **MAIN ISSUES:**

- **The acceptability of the development in principle**
- **Layout, design and street scene**
- **Impact on neighbour amenity**
- **Provision of affordable housing**
- **Open space provision**
- **Renewable energy**

### **BACKGROUND AND STRUCTURE OF REPORT**

This application has been deferred from previous meetings for a site visit and updated information. It was deferred at the last meeting to enable an amended report to be presented to members which brought together all the submitted information regarding the viability of the site and levels of affordable housing provision.

This report therefore seeks to draw together the past reports and updates into a unified officers report to committee. The initial report has been used as a basis for this agenda item but has been updated in a key number of areas:

In section 3; Details of the Proposal, this has been amended to reflect the increased offer to three affordable units by the applicants. In respect of section 6; Consultations, comments from the Environmental Health, Nature Conservation, Affordable Housing and Landscape officers have

been provided and the comments from the Town Council have been provided in section 7. In section 10, the paragraphs on affordable housing have been updated to reflect current advice and give weight to the various material considerations.

The Conclusions and Recommendation as set out in sections 11 and 12 have also been amended.

### **1. REASON FOR REFERRAL**

This application has been referred to the Strategic Planning Committee due to the significance of the application in terms of its location on one of the principle junctions in Sandbach and the scale of development proposed.

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

The site is located on the edge of Sandbach town centre and is adjacent to the Old Mill Roundabout which joins the A534 Crewe Road to the A533 to Middlewich.

The site is bounded to the north by the existing Homebase store from which it shares an access of the main A533. The boundary between the two sites is defined by a close boarded fence with railings and a wall some 2.0m in height. To the west is an existing football pitch with associated pavilion. This site has recently received planning consent to be redeveloped into an extra care facility (ref 09/3400C).

To the east lies the Old Mill Road Roundabout and to the south there is a ribbon of vegetation and planting that follows the line of the A534 forming a soft boundary to this part of the site in contrast to the more defined boundaries to the north and west

The site itself is relatively level but does slope on the eastern side leading to the by-pass. There is also a slight drop down outside of the boundary of the site to the Homebase site which sits at a lower ground level than the site.

The site is in close proximity to the town centre being a relatively short walk past Waitrose which lies to the north of the A533.

The site has been remediated as part of the work undertaken in line with an earlier permission granted on the site and its current character is one of intermittent vegetation resulting in an untidy appearance. The site is also bounded on the north and east by hoardings protecting the area from intrusion.

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

This application is for the development of 43 dwellings at an average density of nearly 33 d.p.h. comprising of a mix of detached and semi-detached houses with the remainder made up of apartments. In total, the split will be 31 houses and 12 apartments. The majority of the development will be open market housing but 3 dwellings or 7.0% of the total will be for affordable housing.

Although most of the development will be two storey, some of the units will be three storey in nature.

It is proposed that the scheme will be accessed off the roundabout leading to Homebase.

Although the site benefits from consent granted in 2007 (see below) the applicants have submitted this scheme to introduce a different mix of property types on the site to more closely reflect the requirements of the current housing market which has shifted away from apartments to more traditional forms of accommodation.

#### **4. RELEVANT HISTORY**

There are two main applications in respect of this site.

Application 37691/3 was approved on 26 September 2007 for the development of 70 private dwellings and associated works. This was for a scheme predominantly comprising of apartment but linked to a section 106 agreement to provide a financial contribution in respect of public open space and to secure 25% of the dwellings i.e. 18 units for shared ownership tenure. This was to comprise 17 apartments and 1 mews flat.

The second application, 05/0265/FUL approved on 25 October 2007 was for the development of the Homebase store and the access roundabout off Old Mill Road. This scheme was followed in 2008 with approval on 29 May of application 08/0595/FUL for the addition of a garden centre on the side of the store.

#### **5. POLICIES**

##### **National Policy**

PPS 1: Delivering Sustainable Development

PPS3 Housing

PPG 13: Transport

##### **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'

SPG1 Provision of Public Open Space in New Residential Development

SPG2 Provision of Private Open Space in New Residential Development

SPD6 Open Space Provision

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

**Environmental Health**

No objection in principle to the development although conditions recommended in respect of hours of work, piling operations and control of contamination on the site. In addition, supplementary reports in respect of noise and air pollution would be required if the scheme was approved.

**Senior Landscape & Tree Officer**

The officer considers that the layout may give rise to some future conflict due to shading of dwellings and gardens of proposed plots to the south which would back onto heavily vegetated areas beyond. This situation will affect the private amenity of these plots. In addition, the proposals will require the remove of some existing vegetation within the site edged red. However, such clearance would have been required to implement the previous approval. Nonetheless, in the event the application is deemed acceptable, conditions are suggested as per the existing approval in respect of:

- Submission of a detailed scheme of landscape proposals
- Submission of proposals for the management and protection of the wildlife corridor
- Tree protection measures
- Boundary treatment

### **Highways**

The Strategic Highways Manager has assessed this application and has read the attached Traffic Statement from Singleton Clamp & Partners. The Strategic Highways Manager has confirmed that he agrees with the figures contained therein and that the proposed change in unit type for the development is acceptable.

### **Housing Officer**

The Housing Officer has stated that there is a strong need for affordable housing in the Sandbach area based on the Strategic Housing Market Assessment carried out by arc4 for the Council. These findings are consistent with the Housing Needs Survey from 2004 and the update from 2006, both of which showed a substantial need for affordable housing in Sandbach. From the 2006 update there was a shortfall of 236 2-bedroom houses and 122 3-bed houses.

## **7. VIEWS OF THE PARISH / TOWN COUNCIL:**

The Town Council had no objection, however members were concerned about the low level of affordable housing.

## **8. OTHER REPRESENTATIONS:**

### **United Utilities**

No objection subject to the site being drained on a separate system with only foul drainage connected to the foul sewer.

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

### **Planning Statement**

The applicants have supported the application with a planning statement from Nathaniel Lichfield & Partners that seeks to justify the development and looks closely at policies appertaining to the scheme proposed and the relevant planning history of this site and the adjoining Homebase site.

The Statement also looks at the main planning issues and details why the scheme is considered by the applicants to be in compliance with the Local Plan and other policy guidance.

### **Transport Assessment**

A transport assessment undertaken by Singleton Clamp & Partners was prepared by the applicants and submitted with the application. This study shows the change in levels of impact between the permitted scheme and that currently proposed would be insignificant.

Accordingly, it is the consultants view that the development would not have a material impact on the operation of the local highway network.

### **Wildlife Surveys**

The applicant has recommissioned an Extended Phase 1 Habitat survey from Trevor Bridge Associates in respect of protected species that may be present on the site. This is an update to the original survey they undertook in 2004.

The survey found that no protected species had become established on the site since the time of the original survey.

#### **Design and Access Statement**

The applicants have produced a Design and Access statement by Nathaniel Lichfield & Partners which examines the viability of the proposal and the character of the surrounding area. The report also looks at the earlier proposal in terms of its relationship to the surrounding area and the potential for improvements in the form of development proposed for the site.

#### **Financial Statement**

The applicants have considered the viability of the development in light of the current housing market and submitted supporting information in respect of their offer of 5% provision of affordable housing on the site.

#### **Sustainability Statement**

The applicant has submitted a statement detailing the specific measures that will be taken to incorporate sustainability measures into the dwellings and to promote waste management measures.

#### **Sustainable Drainage Statement**

A report by REFA Consulting has been submitted detailing how attenuation measures will be employed on both this site and the adjoining Homebase store to reduce flow rates from the site in line with the guidance in PPS25.

#### **Site Contamination Report**

Following the remediation of the site for the previous approval Opus Joynes Pyke have submitted evidence to show that the site is now clear of contamination.

#### **Air Quality Assessment**

A report from the Waterman Group accompanies the application and shows that current pollutant levels around the site are well below the current air quality strategy standards and as such would be unlikely to give rise to health concerns.

#### **Additional Material**

A draft Heads of Terms for a Section 106 agreement has been offered by the applicant. This details provision for public open space in line with the previous approval for 70 dwellings on site but reduced pro-rata to reflect the reduced number of dwellings on site. The agreement also details the framework for the provision of 2 dwellings (5% of the total

site) for affordable housing to be managed through an RSL. (Note, this agreement does not reflect the increased offered in affordable housing to 3 units.)

### Additional Comments from the Applicant

Following deferral of the previous report the applicant has submitted a series of bullet points in support of their application.

- The current affordable housing policy (H13) of the adopted local plan, the most recent SPD on affordable housing and the content of PPS3 that refers to affordable housing, all state that economics of provision, economic viability and other factors unique to a site can and must be taken into account when determining the level of affordable housing for a development. Hence if an LPA is satisfied with the information provided in an application then these policies allow for a reduction in the affordable housing provision.
- Because the current policies referred to allow for the circumstances of an individual development to be taken into account and those circumstances are unique to an individual site then there is no danger in setting a precedent by allowing a reduced element of affordable housing
- The affordable housing policies referred to also state that, how a development can contribute towards allowing a mix of housing which is appropriate to the local need is a factor which must be considered. The new development form of 43 houses, (75% of which are 2 and 3 bedroom starter houses) is a direct response to the local need and replaces the 70 apartments already approved for which there is almost no local need.
- More recent planning consents and inspectors decisions which have determined applications for housing and local plan policies show that economic viability, weighted up with deliverability when a developer has no recourse back to the original land owner and has properly taken into account policy provisions when they purchased a site, have been a material consideration in granting the consents with a negotiated affordable housing element. Hence our application stands up to the test of scrutiny in recent inspectors decisions.
- The financial viability submitted with our application has been carried out by a reputable independent valuer and its form is in accordance with the Government Guidance and HCA Tool Kit. It is an open book document and includes full disclosure of costs incurred to date and projected development costs. The format and the concluded residual values also accords with the adopted national guidance for Scotland, and other individual LPA's throughout the UK

- The financial viability submitted confirms; there is no recourse back to the original land owner or open market to reduce the land cost; the site is bought and paid for by Morris Homes; the price paid was reasonable and took into account of all the councils policies at that time and the associated costs incurred and projected are proven to be real
- The recently submitted supplemental information to our financial viability shows that the development costs have risen by 100k as has the current residential land value, yet these costs have not been put into the viability as it would produce a larger negative value.
- The financial viability shows a negative residual value of –£215k with no affordable housing. Despite this we have now offered 7% of the dwellings as 2 bedroom rented houses with an RSL.
- The financial viability for the approved 70 unit apartment scheme shows a negative residual value of –£415k and it therefore non viable.
- The new development proposals provide a repairing solution to the short falls of the design of the approved scheme.

## **10. OFFICER APPRAISAL**

### **Principle of Development**

As the site already benefits from an extant approval for the development of 70 dwellings, it is recognised the principle of residential development on this site has already been established. What is at question therefore is the detail surrounding the scheme.

### **Layout, Design and Street Scene**

In appraising the current scheme, consideration has to be given to the extant approval which is an important material consideration.

The original scheme was a product of its time reflecting the move towards higher density development driven by apartments and flats. Whilst there are places within Cheshire East where such scheme would not only be acceptable but preferable to complement the character of the surrounding development.

The new scheme seeks to address these issues which are facilitated through the greater use of more traditional dwelling types as opposed to apartments. The layout now faces the street scene more effectively and where possible the majority of the parking is relegated to small courtyards leaving only a few cars on the frontage to ensure a degree of vitality remains about the area.



In considering each plot, it is felt that only unit 28 on the western side of the site represents a weakness to the layout with the boundary fence to the rear garden being a prominent feature. This could readily be resolved through the submission of an amended drawing showing the building re-orientated 90o clockwise to face the main road similar to its neighbours to the south. Whilst this means the neighbours to the north would face a gable elevation, this is felt preferable to the current arrangement on balance. This matter can be effectively addressed through the use of a condition.

The buildings themselves are traditional brick and tile properties and the developers have sought to provide a range of differing house types to ensure a degree of variety within the scheme which is brought together as a cohesive development through the use of a complementary range of materials.

### **Amenity**

Given the location of the development in respect of other developments, it is recognised that the scheme will not have an impact on existing properties in the area. It is noted however that consent has recently been given for the development of a new extra care facility on the land to the west. Given the distances involved however, it is felt that the two developments will not result in detriment to residential amenity levels and the scheme is therefore felt to be acceptable in this respect.

### **Landscape**

The site as it currently stands is clear of any significant landscaping features given the extent of remediation work that has been undertaken on the site.

A detailed landscaping scheme has been provided and this will bring some planting to the front of the dwellings helping to soften the character of the site.

### **Ecology**

In light of the habitat survey, it is noted that there are no protected species on the site. Accordingly, there are no objections to the development on these grounds.

### **Highways and Parking**

This matter has been considered by the Strategic Highways Manager. As the scheme is essentially similar to the earlier approval utilising the access past Homebase but comprising of a reduced number of dwellings, no objections are raised.

Like the earlier scheme, this proposal incorporates two access points leading to the land to the south which may come forward for development at a later date.

### **Contamination**

Extensive clearance work have been undertaken by the applicant following the granting of approval of the earlier scheme in 2007 and this has been verified through the supporting documents by Opus Joynes Pyke. As a result, it is felt that in principle there are no objections to this development proceeding.

In respect of the issues of noise and air quality assessments, the development is situated some distance away from the A534. Whilst some noise and disturbance may be generated by the adjoining Home Base store it is felt that this could be overcome through the use of appropriate conditions.

### **Open Space Provision**

Policy GR22 requires the provision of Public Open Space. Policy GR22 requires that this public open space is of 'an extent, quality, design and location in accordance with the Borough Council's currently adopted standards and having regard to existing levels of provision'. It goes on to state that the 'Council may accept a commuted payment in lieu of on site provision, providing the alternative is near to and easily accessible from the housing site'.

Through the draft Heads of Terms for a Section 106 agreement, the applicants have offered to provide a financial contribution of £32,000 in lieu of provision. This is in line with the agreement reached in respect of the earlier approval subject to being discounted pro-rata in line with the reduction in the number of dwellings on the site.

Discussions have been held with the Streetscape officer on the issue of maintenance of the space and in this instance it has been accepted that in order to secure the delivery of a third socially rented unit, maintenance can be dealt with through a private management company rather than a lump sum payment to the Council.

### **Affordable Housing**

The earlier approved scheme provided for 25% of the 70 units to be delivered as shared equity dwellings.

Since that time however, the market has changed and the demand for shared equity properties has changed. In addition, the applicants are arguing that the scheme is not as financially viable as previously considered. As a result, they have reduced the provision to only 7% and supported this with a viability assessment and cited case law through recent appeal decision to support this stance.

One of these decisions is the recent Bath Vale case in Congleton where the applicant successfully proved that they could only afford a 5% provision on the site.

In considering the policy requirements as set out in the Congleton Local Plan, the applicants commissioned DTZ to produce a viability

assessment to look at what level of affordable housing and public open space could be offered. Whilst the site is currently vacant, the applicants have incurred considerable cost in respect of the decontamination the site to its current state where development could be undertaken.

They have taken the view that consideration needs to be given to the historical purchase price of £1.2m against which the residual value of the site can be considered. On this analysis, the site with two affordable units would generate a loss of £215,319.

Officers have sought the view of the District Valuer on this matter and they have taken the view that the appraisal should not be taken against historic land values but against a current market value as a cleared and decontaminated site. Given the significant change in land values since the site was purchased in 2006 and today, there is the possibility that the appraisal might result in a positive output compared to the £215,319 deficit shown by the applicants (note, profit at 18% or £1.2m has already been factored into the appraisal). If this were the case, it would allow a greater degree of compliance with the affordable housing policy than the 7% currently offered.

The District Valuer has also highlighted a number of points of detail that could be re-examined. These include changes in anticipated sale prices through sensitivity testing, additional information on the actual decontamination costs and a revised profit margin on the affordable housing units down from 18% to a figure in the region of 8%.

At the heart of this application are two fundamentally different approaches to the nature of base line information that is entered into the appraisal. Appeal decisions have in the past supported both lines of argument resulting in a degree of ambiguity that is unhelpful to all parties concerned. Both DTZ for the applicants, and the District Valuer, feel they have appeal decisions in support of their views and are willing to defend them if necessary.

Whilst the applicants have submitted some appeal evidence to substantiate their views they also acknowledge in their supporting papers that the appraisal toolkit used by the London Boroughs states that the existing use value or alternative value should be used in an appraisal. The applicants then go on to counter this through the references to appeal decisions. This gives support to both views but a similar appeal at Micham Surrey determined in March 2009 (Appeal Ref. APP/T5702/A/08/2087666) was allowed on the grounds that the Inspector felt that significant weight should be applied to need to regenerate the site.

Consideration is then given to the views of the Housing Officer. They have stated that there is a strong need for affordable housing in the Sandbach area based on the Strategic Housing Market Assessment carried out by arc4 for the Council. These findings are consistent with

the Housing Needs Survey from 2004 and the update from 2006, both of which showed a substantial need for affordable housing in Sandbach. From the 2006 update there was a shortfall of 236 2-bedroom houses and 122 3-bed houses.

Decisions from the Planning Inspectorate advocate approval on the grounds of delivering housing in a subdued property market whilst the need for affordable accommodation in the locality would suggest that preferential weight will be given to the affordable housing policies in the Local Plan.

Policy H13 of the Local Plan deals in part with the issue of viability. The policy states

‘...The scale and nature of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities and other planning objectives. ...’

The key aspect here is that of economics of provision. The policy does allow for variance from the normal level of provision if it can be adequately shown by the applicant that the delivery of the full 30% provision cannot be delivered in this instance.

### **Renewable Energy**

Although the applicant has not met the requirements of the Region Spatial Strategy in showing that the development will provide 10% of its energy requirements through renewable energy sources, they have set out a series of building standards to provide for sustainable development.

These are felt to be appropriate measures and, given the difficulty the applicants are facing in providing an adequate level of affordable housing due to the limited viability of the development, are deemed to be acceptable. This can be secured through condition requiring the development to be undertaken in accordance with the submitted details in the applicants Sustainability Assessment if the scheme is approved.

### **Other Matters**

On the matter of drainage, it is felt that this scheme will represent an improvement over the approved scheme improving attenuation and minimising the risk of local flooding. It is recognised that the site has a low probability of flooding and on this basis no objection is raised to this aspect of the scheme

## **11. CONCLUSIONS**

As indicated earlier, the principle of development on this site is accepted as the application site is on a brownfield and benefits from an extant approval for a larger residential scheme. In design terms, the proposal

represents an improvement over the approved scheme in terms of the design and character of the development being proposed.

The balance of decision however in this case is on the viability of the scheme and its compliance with affordable housing policies.

At present, there is an offer of three social rented units which Plus Dane Housing has indicated they would be willing to take on. This falls short of the 13 units expected through the policy which would be a mix of social rented and equity share units.

The site though is in a very prominent location and particularly due to the hoarding around the site is visible to most people passing through the town.

If prominent weight is given to the affordable housing policies, and the scheme refused, the applicants have indicated that they would not revert to the approved scheme for 70 units as this provide apartments which would be difficult to sell in the current market and offer equity share affordable units, a tenure type not currently preferred by potential occupiers or RLS's due to funding difficulties. As a result, they would rather mothball the site than build out the extant consent in full in the short to medium term.

This scenario would have two disbenefits for the Council, firstly it would leave a stagnated site in Sandbach visible to all for a protracted period and secondly, no housing either open market or affordable would be provided. It would however set a message to other developers of the significant weight given to affordable housing policies over and above other material considerations leading developers to possibly be more cautious about entering into schemes where reduced obligations were being offered particularly in respect of affordable housing.

If the scheme were to be approved, the site would be likely to be developed out resulting in additional activity in the town and the delivery of 3 affordable units in the immediate term to address, albeit in a small way, some of the demand for affordable housing. This in turn may promote additional interest in Sandbach from housing developers who in turn will seek to provide additional market and affordable housing in the town at a more rapid rate than is currently the case.

It should be noted that reference has been made by the applicants that a divergence from the required level of 30% affordable housing in this instance would not in their view set a precedent for developers to seek a provision of below 10% to occur on other sites. This is correct in that Policy H13 does allow for viability to be taken into account in considering other applications. What this application will show however is the manner in which the Authority determines such applications and the degree of weight it attributes to differing policy demands e.g. delivery

of affordable housing compared to regeneration of sites and delivery of housing.

Having given consideration to these two factors, it is your officers opinion that the scheme in its current form, including the delivery of 3 affordable units and associated public open space, is acceptable.

This recommendation though is given on the basis that the developers make a material start within 12 months of any approval and, more importantly, the scheme will be subject to an uplift or overage clause through the s106 agreement to ensure that should some of the units remain unsold after 12 months of the approval date, the developers revisit the original appraisal and examine the viability of the scheme in light of known build costs and changes in the housing market. The review should continue on an annual basis until all the properties are sold or the developers provide a sufficient number of affordable units to meet the requirements of Policy H13 of the Local Plan.

Where it is shown that the development could support additional affordable housing units, these should in the first instance, be provided within the remaining undeveloped element of the site where feasible or if this is not possible, require the provision of a commuted sum payment to the Council.

## **12. RECOMMENDATIONS**

**Subject to the completion of a S106 agreement in respect of the Heads of Terms as set out below, that authority be given to the Head of Planning and Policy to grant approval subject to the imposition of the following conditions:**

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

1. Contribution of £32,000 towards public open space and the requirement for a management company to secure ongoing maintenance of the facilities.
2. Delivery of 3 social rented dwellings towards affordable housing
3. Material commencement of development within one year.
4. Review of viability after 12 months of approval (uplift/ overage payment)

### **Conditions**

#### **General**

1. 3 year time limit
2. Development in accordance with submitted plans
3. Submission of material samples

#### **Environmental Health**

4. Hours restriction - construction.
5. Hours restriction - piling activity.
6. Contaminated land remediation
7. Submission of noise survey

8. Submission of air quality survey

Highways and Drainage

9. Details of junctions to be submitted prior to the commencement of development
10. Drainage - surface water and sewerage to include SUDS.
11. Design of flood storage and mitigation.
12. Detailed junction design to be submitted and agreed.
13. Parking area to be completed and marked out prior to first occupation

Ecology and Trees

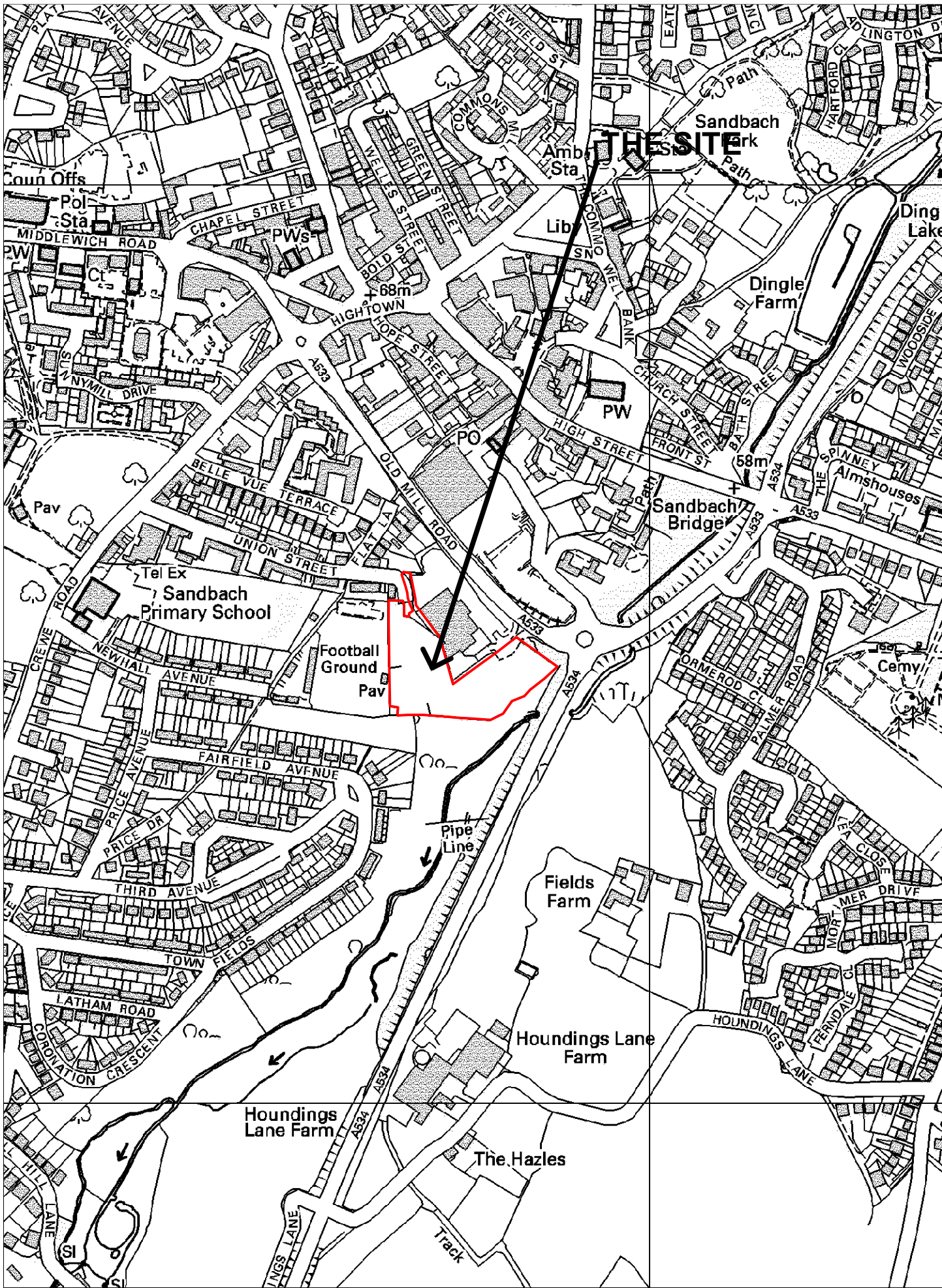
14. Breeding bird protection.

Sustainable Development

15. Waste management plan.
16. Development in accordance with submitted Morris Homes Sustainability Statement dated November 2009

Other Matters

17. Amended plans to be submitted in respect of the siting of plot no. 28
18. Landscaping in accordance with submitted details
19. Landscaping to be maintained for 5 years
20. Details of boundary treatments to be submitted
21. Submission of site management plan to include details on deliveries, staff parking, wheel washing





<b>Planning Reference No:</b>	P09/3651C
<b>Application Address:</b>	Former Sutherland Works, Bromley Road, Congleton, Cheshire
<b>Proposal:</b>	Outline Planning Permission for the Development of the Site for Residential Purposes Comprising 63 Dwellings
<b>Applicant:</b>	Woodford Ltd.
<b>Application Type:</b>	Outline
<b>Grid Reference:</b>	386711 363334
<b>Ward:</b>	Congleton Town East
<b>Earliest Determination Date:</b>	28 January 2010
<b>Expiry Dated:</b>	15 March 2010
<b>Date of Officer's Site Visit:</b>	10 March 2010
<b>Date Report Prepared:</b>	19 February 2010
<b>Constraints:</b>	

**SUMMARY RECOMMENDATION:**

- REFUSE.

**MAIN ISSUES:**

- The acceptability of the development in principle
- Contaminated land
- Impact on neighbour amenity
- Provision of affordable housing
- Open space provision
- Renewable energy

**1. REASON FOR REFERRAL**

This application has been referred to the Strategic Planning Board due to the scale of development being proposed, and the material planning considerations, particularly affordable housing.

**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 which has been vacant for approximately two years and was formerly used for the production of cardboard cartons. The site is now unoccupied and awaiting potential redevelopment.

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

This application is in outline form, with only access being considered at the current time. Appearance, landscaping, layout and scale are reserved for later consideration.

Despite this, the applicants have provided indicative details of the form and character of development being proposed including a proposed site layout and site sections showing the changing levels across the site.

It is intended that all of the properties are accessed from the Bromley Road access to the east with the smaller access onto Brunswick Street being retained for emergency purposes only. In the main, the development is to comprise of semi-detached and detached dwellings, although a number of the buildings will be for apartment properties.

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.

More recently, the site has been included in the Councils Strategic Housing Land Availability Assessment document in respect of possible sites that may be considered for residential development during the forthcoming coming development plan period.

## **5. POLICIES**

### **National Policy**

PPS 1: Delivering Sustainable Development

PPS3 Housing

PPG 13: Transport

### **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'

SPG1 Provision of Public Open Space in New Residential Development

SPG2 Provision of Private Open Space in New Residential Development

SPD6 Open Space Provision

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

### **Nature Conservation Officer**

Initially recommended refusal on the basis of the date of the wildlife surveys which was beyond 12 months from the date of the application, however, additional work has now been undertaken and the revised survey is deemed acceptable.

Accordingly, subject to conditions and protection of nesting birds during the breeding season and ensuring that the reserved matters application includes proposals that ecological enhancements will be undertaken then no objection is raised.

### **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.

### **Open Space and Streetscapes**

Comments awaited.

### **Strategic Highways Manager.**

The Strategic Highways Manager has undertaken significant pre-application discussions with regard to this site. In their view, the 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 the reduction in traffic generation will provide betterment in terms of reduced traffic 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.

#### **Housing officer**

Comments are awaited.

#### **Senior Landscaping Tree Officer**

Comments are awaited

### **7. VIEWS OF THE PARISH / 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 is 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 applicants 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 side 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**

The Design and Access Statement by the Street Design Partnership has been submitted. This statement sets out the key principles for the development of the site and provides a framework for a delivery of a high quality residential scheme, which it is argued is entirely appropriate to the surrounding area.

The statement considers the location of the site and the surrounding area, together with the existing buildings on site and seeks to deliver a scheme which reflects the constraints of the surrounding area as delivering an appropriate development. The layout has been based on good design principles including the creation of a sense of space within the development to enhance its character and appearance rather than just being a density driven proposal which seeks to maximise the number of dwellings on the site.

### **Development Viability Report**

A report by King Sturge has been submitted in support of the application. This report seeks to show that the provision of affordable housing on the site would not be possible in this instance as this would only result in a positive yield for the development of £598,000. The provision of the 63 houses without any affordable housing however, would yield a positive land value of £1.5 million and this is felt to be appropriate by the applicants.

The appraisal has been undertaken in accordance with the HCA guide lines and considers the development against the issues of addressing abnormal site development costs, the development costs for the properties themselves and associated acquisition costs, legal fees and agents fees and finance costs whilst also allowing an element of profit.

### **Desk Study and Site Investigation Report**

This area of work was undertaken by Woodford Remediation Ltd on behalf of the applicant and the study is based on an intrusive investigation survey initially carried out by WSP in 2002 and carry forward by Woodford Remediation. The survey work was undertaken in May and September 2007 and included 13 trial pits and five window sample boreholes which were fitted with gas and groundwater monitoring installations. Soil and groundwater samples were taken for chemical analysis.

Made ground was encountered across the site. No evidence of mine workings has been documented or encountered within the vicinity of the site. The report goes on to propose a hard layer and importation of clean soils for the future residential properties with gas and vapour protection to protect against potential landfill gas migration pathways. The potential risks to controlled water from groundwater are considered to be low.

A preliminary gas assessment in accordance with recognised guidance principles has been undertaken. In respect of foundation designs it is deemed that pad or strip foundations would be suitable within the areas of made ground of less than 1.5 m deep and piled foundations where made ground is of a deeper depth.

### **Ecological Report**

An ecological survey has been undertaken on behalf of the applicants by the TEP. This has identified that there are no statutory protected sites within 1 km of the site. Although there is a wildlife corridor and an area of green belt to the north of the site, these are located off site and any development would not affect these areas. Following additional survey work, it was noted that there were no bats in the area and the buildings would not be suitable for roosting purposes.

Habitats within the site were very limited for protected species, although it is recommended that the mature trees and scrub be retained along the edge of the site has protected habitat. The applicant's agent acknowledges the work to trees should be undertaken outside of the breeding season.

#### **Employment Land Appraisal.**

On behalf of the applicants, King Sturge have undertaken an employment land appraisal to consider the suitability of the site for future employment uses. In their assessment, they are of the opinion that the site is not suitable for employment purposes, particularly B1 use, as it is some distance away from main highway infrastructure routes and the M6 motorway.

In addition, the buildings themselves are felt not to be suitable for subdivision to smaller premises, which might facilitate greater reuse. The study goes on to look at demand for B1 office use within Congleton, and the agent notes that there are a number of schemes within Congleton, which are currently not fully let for office use and accordingly it is felt that demand for this site would also be limited if it was developed for an office scheme.

#### **Flood Risk Assessment**

Wardale Armstrong have undertaken an assessment for the applicants in respect of PPS 25 requirements. It has been assessed that the site lies within Flood Risk Zone 1 on both the Environment Agency's flood mapping and within the Council's own strategic flood risk assessment. There are no local site-specific risks would adversely affect the above categorisation. Similarly, there are considered to be no significant increases of flooding of the site as a result of the development. Therefore, it is considered that the site is suitable for the type of development being proposed.

#### **Noise Assessment.**

Hepworth Acoustics have undertaken a noise impact assessment, and in their analysis, they acknowledge that part of the site is exposed to noise from the nearby industrial commercial premises, and also from distant road traffic. Although there was no significant noise or activity at the nearby industrial commercial premises to the north at night, it was recognized that operations on the site commenced at around 6 a.m. Based on the advice in British Standard 4142, it was recognised that although the noise level was relatively modest, it would be likely that complaints would be generated in the future from occupants. Therefore, the noise must be taken into account in the layout and design and an adequate noise mitigation measures implemented.



### **Planning Statement**

King Sturge have submitted a planning statement in support of the proposal. This acknowledges that the proposal is in outline form only and is on brownfield land. The report seeks to show that the development is entirely consistent with the aims and objectives of the development plan, and also national guidance. The report concludes that the development would not result in any unacceptable impacts on matters of traffic, noise, ecological, flood risk or ground contamination and would also make an important contribution to meeting the Council's requirement to provide 80% of new housing on brownfield sites as required in the RSS.

### **Transport Statement**

Axis have undertaken a transport statement on behalf of the applicants. Their report seeks to show that the development is accessible by all modes of travel in particular, public transport, cycling and walking by virtue of the sites sustainable location and the physical infrastructure that will be put in place such as dedicated accesses for pedestrians and cyclists, together with a travel plan which will be used to influence travel behaviour.

The impacts of residual trips from the proposed development have also been assessed and it is evident that these would not have a significant impact on the operational performance and safety of the local highway network.

It is concluded therefore that there are no overriding reasons and the Local Planning Authority and Local Highway Authority from recognising that the scheme is acceptable with regard to the local highway network.

### **Tree Survey and Constraints Report.**

TEP has been instructed to undertake a survey and whilst it is acknowledged that there are a number of trees on the site, many of these are either in a low or moderate retention category. The report acknowledges that a number of trees along the northern boundary, have a significant collective value within the landscape, and they provide an effective and established screen. The report also acknowledges that no trees or groups of trees were found to have been desirable to bats and owls.

The mitigation for the loss of trees will be provided in the form of replacement tree planting to be agreed with the Council.

### **Waste Management Plan**

King Sturge have undertaken to prepare a waste management plan. This addresses minimisation of development related waste and also

management and disposal of waste from the finished residential properties. The report also includes measures on sustainable development, and it is concluded that the scheme will comply with the waste hierarchy principles set out in PPS 10 and the former County Waste Management Strategy.

## **10. OFFICER APPRAISAL**

### **Principle of Development**

As this site has previously been developed for employment use and lies within the settlement boundary for Congleton, the site is deemed to be brownfield land and accordingly the principle of development is accepted. This however is subject to conformity with a number of policies within the adopted Local Plan and national planning guidance.

### **Layout Design and Street Scene**

Although the application is outlined with only access for consideration at the current time, it is felt that the proposed layout on the indicative master plan scheme represents an appropriate design solution to the site given the environmental constraints, particularly that of noise, which impinges on the site.

The applicant has sought to make use of the contours of the site and through the design and access work, has taken into account the relationship with the neighbouring properties. In principle therefore, it is felt that the scheme is suitable and would be acceptable subject to the details in a reserved matters application.

### **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 to 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 and 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**

The Environmental Health Officer has indicated that the initial survey work was over two years old and accordingly additional surveys are required, particularly given that there are some areas where concern is raised, particularly around the area of the old substation on the northern boundary.

In addition, additional details on how the landscaping bund, which is intended to abate, the noise from the employment sites nearby should be provided so that this can be adequately enforced at a later date.

These are substantive matters which need to be addressed in detail prior to the determination of the application and in the absence of agreement

from the Environmental Health Officer at this time, it is felt that approval of the scheme should not be forthcoming

### **Open Space Provision**

The applicants have allowed a contribution towards public open space provision within their analysis. The indicative master plan for the site, however, does not show any significant areas of amenity space within the development area itself, although it is suggested that the main arterial routes through the site should be developed in accordance with 'Manuals For Streets' design principles, which would allow informal pedestrian use of the space in addition to providing vehicular access.

Whilst the Biddulph Valley Way to the north can provide some informal recreation provision and there are some areas of open space near to the site, the general topography of the area makes these spaces less than suitable. Accordingly it is felt that a greater degree of provision should be indicated despite the scheme being outline only.

### **Employment Land**

The applicants have undertaken an employment land appraisal under the guidance of Policy E10 of the Local Plan. The main constraint identified with the site is the poor access off Brook Street and towards the M6 motorway. Whilst Brunswick Street and Bromley Road are not seen as principal distributor roads, it is felt the relatively simple dismissal of these routes does not reflect the variety of modes of travel, including the use of small vans and light commercial vehicles that could be used to access the site.

Whilst Congleton itself is not immediately adjacent to the M6, unlike Sandbach or Holmes Chapel for example, it is relatively close to the national highway network compared to other towns within Cheshire for example, Macclesfield and in this instance, it is felt that the distance from the motorway is not a substantive disincentives in itself to employment use of the site.

The applicants have principally looked at the site from the point of view of use class B1 offices and whilst there appears to be limited to demand for this form of occupation at present, no evidence has been submitted to show why the units could not be used for other B1 employment use or B8 storage purposes.

The applicants have indicated in the appraisal that they have sought to market the site, however, no particulars have been supplied of the marketing exercise or feedback on prospective occupiers.

Finally, whilst the applicants have indicated that the premises would be unsuitable for the subdivision through a short statement in the report, it is not clear what form of subdivision has been considered whether this is

for one or two large units or a series of smaller workshop units, which may form part of a comprehensive redevelopment of the site or provide a small element of employment within the wider residential scheme.

On this basis, therefore it is felt that the requirements of policy E10 have not fully been addressed at the present time.

### **Affordable Housing**

As Members will be aware, this is an important consideration for the Council and has been subject to much debate in recent months about the suitability of viability assessments.

Whilst the applicants appear to have undertaken a robust assessment in line with the HCA guidance, there are a number of questions that remain to be answered. It is noted that prices have been submitted in respect of some abnormal costs for the development including infrastructure costs, contamination and demolition, together with an unspecified 'Other Costs' element. None of these figures have been detailed and collectively, these four sections come to a total in excess of nearly £900,000.

Most notably, however is the issue of value surplus identified as an output from the residual valuation on the site and the two figures derived for a scheme incorporating 19 affordable housing units and a wholly open market-based scheme. Both scenarios deliver value surpluses and whilst the scheme incorporating 19 units of affordable housing split equally between intermediate rent and affordable rent only generates £598,000, the open market scheme generates £1.5 million.

No supporting evidence is given to substantiate why the lower figure is unacceptable in this instance though, and officers have given consideration to which figures baseline figures should be used within the appraisal. Based on current guidance, the starting point for consideration of viability appraisals is existing land use value, as opposed to purchase price. Historical records from the District Valuer would indicate that in July 2009, a hectare of industrial land was valued in the region of £365,000, down from £400,000 at a similar point in 2007. Given that the total site area is approximately 1.9 ha., this would indicate that an industrial value for the site would be somewhere in the region of £700,000.

This would appear to be more in line with the figure derived from the scheme incorporating affordable housing as opposed to the open market scheme, which is nearly £800,000 greater.

On this basis, therefore it is considered that the applicants have failed to give due consideration to the requirement for appropriate obligations under the policies within the local plan, in particular policy, H13 for affordable housing.

The applicants have indicated in their submitted application that they would be prepared to negotiate on the degree of affordable housing submitted. However, given the timescales surrounding the application and the disparity between the anticipated provision and that submitted, it is felt that the degree of negotiation that would be necessary to satisfy the policy requirements would be substantial and beyond the scope of this current application.

On this basis, therefore it is felt that the application fails to meet the requirements of policy, H13 of the Local Plan and accordingly cannot be supported.

### **Renewable Energy**

The applicant has not shown how they intend to meet the requirements of the Region Spatial Strategy to provide 10% of its energy requirements through renewable energy sources other than some generalise comments on seeking to use materials where possible from sustainable sources and possibly meet Code Level 3 for sustainable housing.

Whilst it is difficult for developers to meet the requirements of the RSS, the limited comments put forward are a long way short of expectation and the detail submitted by other developers. On this basis the scheme does not meet policy requirements either in full or in part and cannot be supported.

## **11. CONCLUSIONS**

The comprehensive failure to provide any affordable housing on the site without suitable justification leaves the development far away from the requirements of Policy H13. It is accepted that a return of only £598,000 is not as desirable as £1.5m but this site, like all others, needs to be considered against policy requirements. In this instance, it seems that the analysis has been undertaken but the results not acted upon.

Similar challenges lie in respect to the issues of provision of anticipated on site play space and the consideration of the employment land policies.

In respect of employment land, it is recognised that the Regional Strategy highlights an excess in some areas of employment land but if this is allowed to fall on a piece meal basis with only limited evidence, then the implications for this part of Congleton to the south of the River Dane may be significant especially if arguments such as the distance from the M6 are used which may apply to all sites in the town.

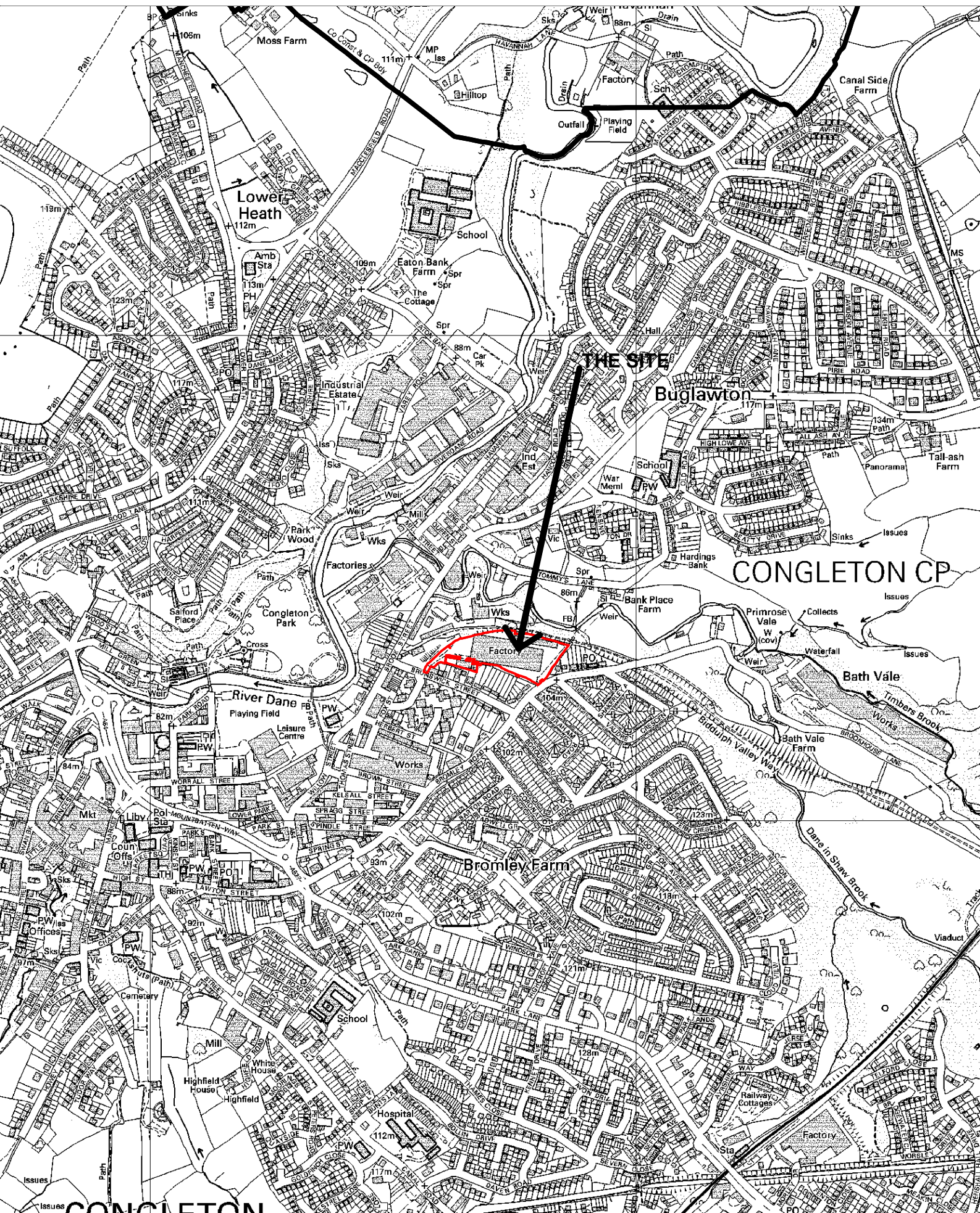
Having appraised the application, it is therefore felt that there are a number of deficiencies that are still outstanding and on this basis a recommendation of refusal is made.

## **12. RECOMMENDATIONS**

### **REFUSE for the following reasons:**

1. The applicant has failed to provide adequate affordable housing or supporting evidence to substantiate a departure from the policy to show why the required level of affordable housing on the site is not provided in line with Policy H13 of the adopted Congleton Local Plan First Review 2005.
2. The applicant has not provided sufficient public open space within the development site to meet anticipated levels of demand from future occupiers of the proposed dwellings in line with the requirements of Policy GR22 of the adopted Congleton Local Plan First Review 2005.
3. The applicant has failed to provide sufficient evidence to show how the development can provide a minimum of 10% of the predicted energy requirements of the development from decentralised and renewable or low carbon sources, not have they provided justification to show why such provision would not be feasible or viable in accordance with the requirements of Policy EM18 of the Regional Spatial Strategy 2008.
4. The applicant has failed to provide adequate supporting information in respect of existing contamination within the site and the subsequent risks or appropriate mitigation measures to ensure there is no harm to end occupiers of the site in line with the requirements of Policy GR7 of the adopted Congleton Local Plan First Review 2005.









## **STRATEGIC PLANNING BOARD**

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**Date of meeting:** 3 March 2010  
**Report of:** Julie Openshaw – Legal Team Manager (Places  
Regulatory and Compliance  
Philippa Lowe – Development Manager  
**Title:** Reporting on Planning Obligations and Lawful  
Development Certificates.

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### **1.0 Purpose of Report**

- 1.1 To provide an update on work being carried out jointly between Development Management and Legal Services on improving performance in relation to Planning Obligations and Lawful Development Certificates. Table 1 details the programme of improvement work and current status. Table 2 provides example of proposed format for reporting progress and completion of work.

### **2.0 Background**

- 2.1 At the meeting of the Strategic Planning Board on 23 December 2009, the overall Performance Management Framework for the Development Management service, which set out the mechanism for reporting on performance together with specific reports regarding Enforcement and Appeals, was approved by members.
- 2.2 This report deals with the most appropriate feedback to Members on elements of the service with an input from Legal Services in particular in relation to Section 106 Agreements and Unilateral Undertakings, but also with reference to work undertaken on Lawful Development Certificates.

### **3.0 Current Position**

- 3.1 Members will be aware of the ongoing projects which form part of the transformation of the Development Management Service and the associated review of working practices and procedures from the legacy authorities.
- 3.2 The Performance Management Framework report of 23 December 2009, referred to work which was being carried out to establish a full data set of outstanding Obligations awaiting completion. That exercise

established that at that time there were approximately 78 currently outstanding Section 106 Agreements.

- 3.3 Maintenance of the list is work in progress, and the list will be refined and updated on a regular basis as cases move through the process. Each case has also been allocated a priority, and these figures will also be regularly reviewed and if necessary amended.
- 3.4 In order to improve efficiency in the processing of applications including lawful development certificates and those requiring S106 planning obligations, an Improvement Plan has been commenced and a summary is set out in Table 1. This will contribute towards compliance with target deadlines and establish best practice for future work.

#### **4.0 “Finally Disposed of”**

- 4.1 As well as monitoring and prioritising current applications, there is an expectation that planning applications in general should be determined in a timely fashion, as no purpose is served by applications remaining “live” on the register when there is no prospect of the development proceeding, or of the planning obligation being entered into to secure those matters which are considered necessary to mitigate the impact of the development or other outstanding issues resolved.
- 4.2 There may be a number of reasons why a development does not proceed, not all of which are in the applicant’s control, nor indeed within the control of the planning authority. However, having matters outstanding on the register for a protracted period of time can also lead to uncertainty.
- 4.3 The General Development Procedure Order 1995, as amended, provides detail about how planning applications are to be processed, and time periods for decisions on both major and non-major applications.
- 4.4 Under Article 25 of the Order, the Statutory Register which the planning authority must maintain is divided into two parts. Part I deals with current applications, and Part II covers historic applications. Part I covers applications which are “not finally disposed of” (Article 25(3)). Article 25 (11) sets out criteria for determining whether an application is “finally disposed of”. Of several options, only sub-paragraph (a) is relevant for current purposes, and this states: “(a) it has been decided by the authority (or the appropriate period allowed under Article 20(2) of this Order has expired without their giving a decision) and the period of six months specified in Article 23 of this Order has expired without any appeal having been made to the Secretary of State.”
- 4.5 Article 20(2) provides that the time period for decision (or longer period as may have been agreed in writing between the applicant and the local planning authority) is thirteen weeks from receipt for major development applications, and eight weeks for non-major applications,

while Article 23 deals with the period for lodging of an appeal. (In this sense, decision is taken to refer to the provision of a decision notice, not a resolution to do so, subject to a planning obligation being entered into). At the end of such periods where no decision or appeal has been made, an application can thus be transferred from Part I to Part II of the Register as “finally disposed of”.

- 4.6 Work is ongoing to identify cases in which this period has now expired and no appeal has been lodged with the Secretary of State. The function of determining applications as “finally disposed of” is delegated to the Head of Policy and Planning. Reports will be brought to the Strategic Planning Board or if necessary the Committee which made the original determination, listing cases where this course of action is proposed, to give members the opportunity to make observations before the determinations are made.

## **5.0 Proposal**

- 5.1 It is proposed to report performance in tabular format (see Table 2 for examples) on a quarterly basis to Strategic Planning Board and to liaise with and provide updates to the Portfolio Holder and Executive Steering Group for Transformation Project.

## **6.0 Recommendation**

- 6.1 That members receive this report and programme of work set out in Table 1 and also confirm the proposed future reporting procedures as set out in Table 2.

### ***For further information:***

*Portfolio Holder:* Jamie Macrae  
*Officers:* Julie Openshaw /Philippa Lowe  
*Tel No:* 01270 685846 / 01270 537480  
*Email:* [julie.openshaw@cheshireeast.gov.uk](mailto:julie.openshaw@cheshireeast.gov.uk) /  
[philippa.lowe@cheshireeast.gov.uk](mailto:philippa.lowe@cheshireeast.gov.uk)

## PERFORMANCE IMPROVEMENT PLAN FOR CASE MANAGEMENT

<b>TABLE 1</b>
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<b>ACTION</b>	<b>RESPONSIBILITY</b>	<b>DEADLINE</b>
<b>1. PRE-APPLICATION STAGE:</b>		
▪ Identify and agree Heads of Terms	Planning (with advice from Legal as requested)	September 2010
▪ Produce set of Standard Clauses / templates for Agreements for publication and inclusion on website	Legal	September 2010
▪ Produce guidance for developers to be included on website regarding information and details required from developers including: Contact details and where possible Solicitors to be instructed; evidence of title; RSL where applicable; other parties; any deadlines for developers e.g. funding deadlines; undertaking as to payment of the Council's fees and charges	Legal (with input from Planning)	September 2010
<b>2. VALIDATION STAGE:</b>		
▪ Ensure consistent approach	Planning	On-going
▪ Review existing local list	Planning	September 2010
▪ Establish potential for use of Planning Performance Agreements for Major Applications requiring a Section 106 Agreement	Legal and Planning	April 2010
<b>3. APPLICATION STAGE:</b>		
▪ Planning system to record need for Section 106 Agreement	Planning	September 2010
▪ Full Instructions to Legal, in standard format, forwarded as soon as Planning is in possession of this information	Planning	September 2010
▪ Standard Instructions template sheet to be agreed for use in all future cases – to include priority to be given to the matter, with	Legal to confirm final draft, Planning to agree	September 2010

reasons and having regard to available resources and any factors outside the Council's control		
▪ Legal services consulted on submitted draft Heads of Terms	Planning	September 2010
▪ Negotiate any further revisions to Heads of Terms	Planning (with Legal advice if requested)	September 2010
▪ Draft version of S106 Agreement and set of conditions prepared	Agreement - Legal Conditions - Planning	September 2010
▪ Consideration to be given to Board/Committee report to have standard template wording resolution	Planning (with Legal advice)	September 2010
<b>4. MANAGEMENT OF ON-GOING SECTION 106 AGREEMENTS:</b>		
▪ Review priorities for all existing cases on list and advise Legal Team Leader of any revisions to current categories	Planning	April 2010
▪ Re-order list to show most urgent cases first	Planning	Completed on 5 February 2010
▪ Check cases suitable for "finally disposed of" letter to go to developers	Planning and Legal	31 March 2010
▪ Create standard initial letter to developers for future new applications outlining possible "finally disposed of" procedure where agreements are not completed within specified time	Legal to draft letter, Planning to agree	31 March 2010
<b>5. PERFORMANCE MANAGEMENT:</b>		
▪ Quarterly reporting on performance to Strategic Planning Board on new cases and completed Agreements	Planning and Legal	Relevant committee dates
▪ Database to be maintained, prioritised and potential cases to be 'finally disposed of' to be identified	Planning and Legal	Ongoing
▪ Regular liaison with and updates to Portfolio Holder and Executive Steering Group for Transformation Project on S106 database and Unilateral Undertakings	Planning	To be arranged as agreed

<b>6. CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT (CLEUD) AND CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT (CLOPUD).</b>		
▪ Produce guidance note on consideration and processing of Certificates	Legal	31 March 2010
▪ Review consultation process and letters including protocol for involving Legal Services	Planning and Legal	31 March 2010
▪ Prepare standard delegated report	Planning (Legal to advise if requested)	31 March 2010
▪ Report performance on quarterly basis to Strategic Planning Board	Planning	Quarterly

## PROGRESS INFORMATION FOR CHESHIRE EAST DEVELOPMENT MANAGEMENT SERVICE

### 1. Section 106 Agreements.

#### 1a) New Instructions to Legal Services for S106 Agreements

Planning ref	Address	Development	Date of Application	Date of Instructions Quarter 4 (Jan – Mar 2010)
09/3016C	Mossley House, Congleton	Demolition of Mossley House and redevelopment inc care home.		18/02/2010
09/1685M	Mobberley Riding School	App to discharge sec 52 agreement		Dec 09/Jan10
09/3549M	Mere Golf Club	Variation of condition 08/1263P		12/01/2010
<b>Totals by quarter</b>				

#### 1b) Completed S106 Agreements

Planning ref	Address	Development	Date of Decision Notice	Date of Completion Quarter 4 (Jan – Mar 2010)
09/1160M	Land at Brook Street, Knutsford	S106 Aldi, Knutsford	29/01/2010	
P08/0869	Hankelow Hall, Hankelow	Four detached dwellings	05/02/2010	
P09/0007	Hankelow Hall, Hankelow	Detached dwelling	05/02/2010	
<b>Totals by quarter</b>				

<b>TABLE 2</b> Cont.
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## 2. Certificate of Lawfulness of Existing Use or Development (CLEUD) and Certificate of Lawfulness of Proposed Use or Development (CLOPUD).

### 2a) Instructions to Legal Services to advise on CLEUD or CLOPUD

Planning ref	Address	Development	Date Application Registered	Date of Instructions	Quarter 4 (Jan – Mar 2010)

### 2b) Advice received from Legal Services on CLEUD or CLOPUD

Planning ref	Address	Development	Date advice provided	Date of Decision Notice	Quarter 4 (Jan – Mar 2010)