

Application No: 12/4082C

Location: TALL ASH FARM TRIANGLE, BUXTON ROAD,
CONGLETON, CHESHIRE, CW12 2DY

Proposal: Construction of three new residential dwellings (Resubmission of
Application Reference 12/0106C)

Applicant: P, J & Ms M Hudson

Expiry Date: 19-Dec-2012

SUMMARY RECOMMENDATION

APPROVE subject to conditions

MAIN ISSUES:

- Principle of the development
- Housing land supply
- The impact of the design and layout
- The impact upon neighbouring amenity
- Highway safety
- The impact upon a Public Right of Way
- The impact upon protected species
- The impact upon trees

REASON FOR REFERRAL

The Cheshire East Council's Scheme of delegation advises that for '*applications involving a significant departure from policy which a Planning Committee is minded to approve*' should be referred to Strategic Planning Board for determination. As this development is for new dwellings in the Open Countryside, it does represent a departure from local plan policy. However, given that the proposal relates to just 3 units and lies adjacent to a large new housing development currently under development, it is not considered to be a **significant** departure. As such, the application has been referred to Southern Planning Committee as a departure from policy only.

At the Southern Planning Committee meeting held on 12th December 2012, members resolved to defer this application for consideration/update on revised plans.

DESCRIPTION OF SITE AND CONTEXT

This application relates to a triangular shaped field on the southern side of Buxton Road (A54), Congleton within the Open Countryside.

DETAILS OF PROPOSAL

Full Planning permission is sought for the erection of 3 detached dwellings.

RELEVANT HISTORY

12/0106C - Construction of Three New Residential Dwellings – Withdrawn 15th February 2012

POLICIES

National Policy

National Planning Policy Framework (NPPF)

Local Plan Policy

PS8 – Open Countryside

GR1 - General Criteria for Development

GR2 – Design

GR4 - Landscaping

GR6 - Amenity and Health

GR9 - Highways & Parking

GR16 – Footpath, Bridleway and Cycleway Networks

GR20 – Public Utilities

H1 & H2 - Provision of New Housing Development

H6 – Residential Development in the Open Countryside and the Green Belt

NR1 – Trees and Woodlands

NR2 – Wildlife and Nature Conservation (Statutory Sites)

Other Material Considerations

Supplementary Planning Guidance (SPG) Note 2: Provision of Private Open Space in New Residential Developments.

The Cheshire East Council Interim Planning Policy on the release of Housing Land (2011).

Cheshire East Strategic Housing Land Availability Assessment (SHLAA) 2010.

Cheshire East 2010 Strategic Housing Market Assessment (SHMA).

CONSULTATIONS (External to Planning)

Strategic Highways Manager – No objections, subject to a condition regarding the prior submission of plans showing the linkage of the proposed new access to the existing kerb line and a condition ensuring that the access to the site is completed prior to the first occupation of the new dwellings.

An informative advising that the applicant needs to enter into a Section 278 Agreement with the Highways department is also suggested.

Environmental Health – No objections subject to a number of conditions including; the prior submission of details of the site compound, hours of construction, pile foundation hours and method statement and a contaminated land informative.

United Utilities – No objection, subject to informatives

Public Rights of Way – No objections, subject to a condition regarding interference with the public right of way.

VIEWS OF THE TOWN COUNCIL:

Congleton Town Council – No objections, subject to highways satisfaction

OTHER REPRESENTATIONS:

3 neighbouring properties have submitted letters of objection. The main concerns are that the;

- Proposal is contrary to the Local Plan 'Open Countryside' policy
- Proposed development site is not sustainable
- Proposal would set a precedent for further piecemeal development
- Proposed development would not respect the character of site or the surrounding properties
- Highway / public safety in terms of the new access proposed

In addition to the above concerns, it has been recommended that certain permitted development rights be removed in order to protect the neighbouring amenity.

SUPPORTING INFORMATION:

Planning Statement
Design and Access Statement
Sustainability Statement
Access arrangements & associated technical note
Environmental Survey
Land contamination questionnaire
Utilities / drainage maps

OFFICER APPRAISAL

Principle of Development

The site is designated as being within the Open Countryside. Policy PS8 (Open Countryside) of the Local Plan states that development will only be permitted in the Open Countryside if it falls within one of a number of categories including;

- Agriculture and Forestry
- Facilities for outdoor sport, recreation & tourism
- Other uses which preserve the openness of the open countryside and maintain or enhance its local character
- New dwellings in accordance with Policy H6
- Controlled infilling in accordance with Policy H6

- Affordable housing in compliance with Policy H14
- Development for employment purposes
- The re-use of rural buildings or;
- The re-use or redevelopment of existing employment sites

The proposed development is for the erection of 3 new detached dwellings and as such, is subject to Policy H6 as per above. Policy H6 of the Local Plan advises that residential development within the open countryside will not be permitted unless it falls within one of the following categories;

- An agricultural workers dwelling
- The replacement of an existing dwelling
- The conversion of a rural building
- The change of use or redevelopment of an existing employment site
- Limited infill for those settlements identified in Policy PS6 or;
- Affordable housing

As the proposal fails to fall into any of these categories, the development is deemed to be contrary to the Local Plan. Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*". Accordingly the previous application for development of this site (12/0106C) was refused.

Since, the determination of this application, the National Planning Policy Framework (NPPF) has been published, which is an important, new, material consideration. Paragraph 49 of the NPPF advises that '*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply to deliverable housing sites.*'

Given that Cheshire East Council cannot currently demonstrate a five-year supply of deliverable housing sites, the relevant policies in the Local Plan cannot be considered up-to-date, and as such the original determination that the application was contrary to Policy H6 and therefore PS8 no longer apply.

Paragraph 14 of the Local Plan advises that for decision making, the presumption in favour of sustainable development means '*Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless...specific policies in this Framework indicate development should be restricted.*'

Paragraph 55 of the NPPF refers in new housing development in the countryside. Paragraph 55 advises that '*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality or rural communities...Local planning authorities should avoid new isolated homes in the countryside...*'

As such, the Framework restricts new housing in the countryside if it is deemed to be isolated. As a result, the acceptability in principle of this application turns on whether the proposed development site is considered to be isolated or unsustainable.

On page 6 of the applicants Sustainability Statement, it has been advised that the North West Development Agency accessibility toolkit has been used which advises the desired distances to local amenities. It is advised that the site lies within the recommended distances for: A Post Office, Cash Point, Primary School, Leisure Facilities, Public House and Bus Stop. It is also advised that a *'...medical centre, pharmacy, public car park and childcare facilities are available in Congleton Town Centre and therefore can be easily reached via the bus route from Buxton Road.'* It is further pointed out that a larger housing scheme further away from these facilities has not long gained approval (08/1317/OUT and 11/0471C). The Sustainability report also details the Social, Environmental and Economic benefits of the proposal, the 3 pillars of sustainability, under the NPPF.

With regards to Social benefits, page 7 of the Sustainability Report advises that the development site is within close proximity to a canal and the countryside which brings aesthetic and leisure benefits. Furthermore, it is advised that the development would sustain local businesses, community facilities and public services.

In terms of Environmental benefits, it is advised on page 8 of the Sustainability Report that due to the location of the site, and its transport links, it would promote the reduction of use of the private car. It is advised that the dwellings themselves *'...promote and encourage energy efficiency by providing well insulated, double-glazed housing...'* Furthermore that *'Where possible, natural resources will be used in the design, prudently sourced and where achievable, materials will be sourced locally, reducing the carbon footprint of transportation...'*

With regards to biodiversity, the applicant proposes to retain the existing trees where possible and provide new trees where retention is not possible.

Economically, it is advised that the increased population the development would bring would boost the 'vitality and viability' of both Buglawton and Congleton.

Although this proposal is located on a site classed as 'Open Countryside', it is contrary to Policy H6 and therefore the overarching Policy PS8 of the Local Plan. However, given that the NPPF places greater emphasis on sustainability above all other matters, which it is considered that this site would be, the development is considered to be acceptable in principle.

Amenity

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties from loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking.

Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

Having regard to this proposal, the residential amenity space provided for the new dwellings would be satisfactory.

The three neighbouring properties to the development site are No.106 Buxton Road, which would be approximately 11.8 metres to the southwest of House No.3, No.93 Buxton Road, which would be approximately 24 metres to the northwest of House No.3 and No.110 Buxton Road which would be approximately 13.8 metres to the east of House No.1.

With regard to the impact upon No.106 Buxton Road, on the side elevation of House No.3, which would be the closest house to this neighbour, there is a ground floor door to a dining room and a first floor bathroom window proposed. Between House No.3 and this neighbour at present is a conifer hedge that is approximately 2 metres tall. On the relevant side elevation of No.106 Buxton Road is small a secondary window to a lounge. Due to the 11.8 metre separation distance, the existing boundary treatment and because the only window that would be impacted on this neighbouring property would be a secondary lounge window, it is not considered that the ground floor door would create any issues for this neighbour in terms of privacy. In order to prevent any overlooking into this neighbour's private amenity space, it is proposed that the first floor bathroom window be obscurely glazed, secured via condition, should the application be approved. With reference to loss of light, because this neighbour is positioned to the northwest of the closest proposed dwelling, it is not considered that any loss of light would be created to this side. In relation to visual intrusion, because the only window on the relevant side elevation of No.106 Buxton Road would be a secondary lounge window, which would be over 11 metres from the development and would be screened by an existing conifer hedge, it is not considered that the proposal would be visually intrusive for this neighbour.

With regards to the impact upon No.93 Buxton Road, because the closest proposed unit to this neighbour would be approximately 24 metres away, it is not considered that any amenity issues would be created to this side.

With regards to the impact upon No.110 Buxton Road, on the side elevation of House No.1, which would be the closest house to this neighbour, there is 1 ground window proposed. This window would serve as a secondary sitting room window.

Between House No.1 and this neighbour at present is a hedge and fence approximately 1.2 metres tall. On the relevant elevation (principal elevation) of No.110 Buxton Road are 7 openings. These include 2 first floor windows, 4 ground floor windows and a door. One first floor window serves a bathroom, whereas the other window is a secondary bedroom window. At ground floor level, there is a workshop window, a utility room window, a W.C window, a front door and a dining room window. It is advised within SPG2 that between a flank elevation and a main window, a gap of 13.8 metres should be achieved. This gap is achieved in this instance; furthermore, the most impacted windows on this neighbouring dwelling, the windows that would directly face the flank elevation of House No.1, currently serve a workshop, a utility room and a bathroom, all of which are not considered to be principal habitable rooms. As such, it is not considered that the development would create any issues for this neighbour in terms of loss of privacy or visual intrusion. With regards to loss of light, because the closest dwelling would be to the west of this neighbour, there is potential for a loss of light to be created to this side towards the end of each day. However, the main habitable windows to the property would be to the southeast of House No.1 and as such, would not be impacted. As a result, it is considered that the proposal would not detrimentally impact this neighbour by reason of loss of light.

There would be no other amenity issues created to any other sides.

In order to protect the amenities of the closest neighbours to the proposal, Environmental Health have proposed a number of conditions including; the prior submission of details of the site compound, hours of construction, pile foundation hours and method statement and a contaminated land informative. Subject to these conditions, it is considered that the development would adhere with Policy GR6 of the Local Plan.

Design and Layout

The proposal is for 3 detached, two-storey, 4-bedroom dwellings which would all front onto Buxton Road.

- House 1 would be positioned approximately 19 metres to the south of Buxton Road and would have a footprint of approximately 93 metres squared and would have a hipped roof approximately 8.1 metres in height.
- House 2 would be positioned approximately 19 metres to the south of Buxton Road, would have a footprint of approximately 103 metres squared and would have a part dual-pitched / part cat slide roof approximately 7.8 metres in height.
- House 3 would be positioned approximately 7 metres to the south of Buxton Road, would have a footprint of approximately 95 metres squared and would have a dual-pitched roof approximately 7.7 metres in height.

With regards to the scale of the surrounding units, No.106 Buxton Road has a footprint of approximately 95 metres squared, No.93 Buxton Road has a footprint of approximately 76 metres squared and No.110 Buxton Road has a footprint of approximately 124 metres squared. Therefore the range of footprint of the surrounding units is from 76 metres squared to 124 metres squared. As all 3 of the proposed units would fall within this footprint range, the scales of the dwellings are deemed to be acceptable.

All 3 units have a height of 8.1 metres or below. Planning history searches show that No.106 Buxton Road to the west of the site has a height of 9.5 metres and No.110 Buxton Road has a height of approximately 7.5-8 metres. No.93 Buxton road, across the road from the site is a two-storey property located in an elevated position and No.97 Buxton Road is a split level bungalow. As such, considering this variation in heights in surrounding properties, the heights of the dwellings proposed are considered to be acceptable.

In relation to materials, the specifics of these have not been detailed and as such, should the application be approved, it is recommended that a condition be added to the decision notice requesting that materials be submitted for subsequent approval.

Subject to suitable materials being secured by condition, the proposed layout and design of the development is considered to be in compliance with Policy GR2.

Highways and Parking

The Strategic Highways Manager originally raised concerns about the proposal. No turning facility was to be provided which would have required visitors and deliveries to reverse back onto the main road to exit the site. There was no safe parking opportunity on Buxton Road

given the level of traffic and the blind summit. In addition, the proposed site plan showed a very tight entry and exit radii which would have been unacceptable for movements off a busy 40pmh road as they would involve vehicles braking almost to stop to enter the site.

As a result of these comments, a revised layout scheme was provided to address these issues. In response to this revised plan, the Strategic Highways Manager has advised that *'I am happy with the layout shown on the updated drawing 792 - FO1A in principle. However, there is a complication in that it the kerb line it is shown tying into is not the existing one, but one that forms part of the S278 agreement for the housing site further east on Buxton Road (11/0471C) approved recently. I am not sure whether this S278 scheme has yet been approved or for that matter could be delivered, as whereas it involves building out the footway along the frontage of application 12/4082C, further east it involves taking land from the frontage of Tall Ash Farm which may not be under the control of the other applicant. The portion of realigned footway between the proposed entrance and that to the farm cannot be provided unless the widening further east is also provided. However, given the existence of a footway along the frontage of application 12/4082C at the moment, there is no reason why it should not proceed by tying into the existing kerb line, provided the applicant provides adequate visibility splays of 2.4m by 90 metres in either direction, which is perfectly possible. This would still be compatible with the widening proposals for 11/0471 should that proceed.*

I would recommend that the applicant be requested to show these sightlines on a revision of drawing 792 - F01A and add a note to it that the kerb radii tie-in on the eastern side is to the existing kerb line. To the west of the site entrance the present mix of verge and footway within the highway boundary should be replaced by a full-width footway, as shown on their drawing.'

As a result of these comments, the Strategic Highways Manager proposes two conditions. One would be that a detailed suite of plans showing the access and junction with Buxton Road have been submitted and approved in writing by the Local Planning Authority. The second would be that the access to the development site must be completed prior to the first occupation of the dwellings. An informative advising the applicant to enter into a Section 278 agreement under the Highways act is also suggested. As such, subject to these conditions, it is now considered that the proposed development adheres with Policy GR9 of the Local Plan.

Landscaping and Trees

The Council's Landscape Officer originally advised that insufficient information had been submitted in order to fully assess the impact of the development upon trees. It was advised that a topographical survey, soil assessment, tree survey, tree categorisation, tree constraints and root protection areas identified to influence design, an Arboricultural Impact Assessment and an Arboricultural Method Statement were required.

In light of this information, the applicants submitted much, but not all of the required data. In response, the Council's Forestry and Landscape Officer advised that *'The additional arboricultural information indicated that the dwelling on plot three would be outside the crown spread of adjacent trees but would encroach into a section of the root protection area of one specimen. The applicant's arboricultural consultant judges this encroachment to be acceptable, subject to tree protection measures. On the basis of the submitted information, subject to a condition requiring adherence to the tree protection measures proposed, I do not*

consider there are arboricultural grounds to refuse the application. I remain of the view that it would be advisable to secure details of proposed levels.'

As such, subject to the conditioning of tree protection and levels, it is considered that the proposal adheres with Policy NR2 of the Local Plan.

Ecology

The Council's Nature Conservation Officer originally advised that insufficient information had been submitted in order to fully assess the ecological impacts of this development. It was advised that an Extended Phase 1 Habitat Survey, a desk based study, a great Crested Newt Survey/assessment, mitigation proposals and proposals for ecological enhancement were required. In light of this information, the applicants submitted the required data.

In response, the Council's Nature Conservation Officer advised that the submitted ecological assessment was acceptable and he does not envisage there being any significant ecological issues associated with the proposed development. The applicant's ecologist does however suggest that bat boxes are incorporated into the development and as such, a condition requiring such features is proposed should the application be approved.

As such, subject to this condition, it is considered that the proposal adheres with Policy NR2 of the Local Plan.

Right of Way

The Council's Public Rights of Way (PROW) Officer originally objected to the application due to a lack of information. This additional information was subsequently submitted and was deemed to be acceptable by this consultee subject to a condition regarding the developer's obligations. It is recommended that this be added as an informative. As such, subject to this informative, it is considered that the development would adhere with Policy GR16 of the Local Plan.

CONCLUSIONS

In conclusion, although the development is contrary to the Congleton Borough Local Plan First Review 2005 Policies PS8 (Open Countryside) and H6 (Residential Development in the Open Countryside and the Green Belt), it adheres with the NPPF.

Whilst the proposal represents a departure from the development plan, there are 'other material considerations' in the form of housing land supply and conformity with the NPPF which would outweigh the proposals non-compliance with relevant local plan policies.

It is considered that the proposed development is of a suitable design, located in a sustainable location which would not have a detrimental impact upon neighbouring amenity, highway safety, public rights of ways or protected species. As such, the proposed development adheres with the following policies within the Congleton Borough Local Plan First Review 2005: GR1 (General Criteria for Development), GR2 (Design), GR4 (Landscaping), GR6 (Amenity and Health), GR9 (Highways & Parking), GR16 (Footpath, Bridleway and Cycleway Networks), GR20 (Public Utilities) and NR2 (Wildlife and Nature Conservation (Statutory Sites)).

RECOMMENDATION:

APPROVE subject to the following conditions

1. Time (Standard)
2. Plans
3. Details of materials to be submitted
4. Hours of construction
5. Hours of piling
6. Piling method statement
7. Prior submission and approval of site compound position
8. Landscaping (details)
9. Landscaping (Implementation)
10. Boundary treatment
11. Obscure glazing (House 3 – First Floor bathroom window on western elevation)
12. Construction management plan
13. Drainage
14. Levels
15. Tree protection adherence
16. Incorporation of bat box features
17. Plans showing access arrangements onto Buxton Road
18. Prior to first occupation development of the new access must be completed.

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