

Application No: 13/0987M

Location: PRIORS HILL CHILDRENS HOME, 26, KENNEDY AVENUE,
MACCLESFIELD, CHESHIRE, SK10 3HQ

Proposal: Erection of 38 affordable dwellings - Includes demolition of existing
buildings on site

Applicant: Joanne Fallon, Affordable Homes Consultancy

Expiry Date: 29-May-2013

Date Report Prepared: 19 June 2013

SUMMARY RECOMMENDATION

Approve, subject to conditions and the completion of a S106 agreement.

MAIN ISSUES

- Principle of the Development (*Windfall Housing Sites*);
- Principle of the Development (*Loss of Open Space*);
- Principle of the Development (*Need for Affordable Housing*);
- Developer Contributions;
- Design, Layout and Visual impact;
- Landscape/Trees;
- Highways;
- Residential Amenity;
- Nature Conservation;
- Environmental Health; and
- Other Material consideration or matters raised by third parties.

REASON FOR REPORT

The proposal is a major development as defined by The Town and Country Planning (Development Management Procedure) Order 2010. Under the Council's constitution such applications are required to be considered by Committee.

Subject to the recommended conditions and Legal agreement, the proposal is considered to be acceptable for the reasons set out in the appraisal section of this report.

DESCRIPTION OF SITE AND CONTEXT

The application site consists of an apartment block that predominantly occupies a corner plot between Kennedy Avenue to the north and Suffolk Close to the west.

The application site comprises a detached two storey building that previously formed the Priors Hill Children's Home, the use has since ceased and the building is currently redundant.

The former school building and associated car parking is positioned on the northern half of the site fronting Kennedy Avenue and falls within a Predominantly Residential Area as outlined in the Macclesfield Borough Local Plan 2004. A field positioned to the rear of the school building is designated as Existing Open Space. It was noted during a site visit that this area of land is enclosed by fencing which limits/prevents public access onto this section of the site.

The application site is bound to the north by a mature Beach hedge, to the east and west by a closed board timber fence and mesh fencing measuring approximately 1.8m in height and to the south by a timber fence. A timber fence and gates provides a physical separation between the school building and the area of open space positioned to the rear.

There are a number of mature trees located along the site boundary; the majority of which are protected by a Tree Preservation Order.

Access to the site is taken from Kennedy Avenue. There are two vehicular access points which are positioned to the east and west of the school building respectively.

The front section of the application site is positioned within a predominantly residential area and the rear section is designated as a site of Existing Open Space.

There is a clear mix in the type, age and design of properties within the immediate area including semi detached and detached two storey dwelling and a number of four storey apartment buildings. The area comprises clusters of developments of similar character however; there is no strict sense of uniformity between properties within the street scene.

Semi-detached two storey dwellings, which were constructed circa 1993, are located opposite the application site to the north. These dwellings form part of a larger housing development comprising 40 dwellings. These properties front Kennedy Avenue, each has a fairly open frontage with vehicular access and parking to the front and side of each dwelling. This is characteristic of other properties fronting Kennedy Avenue.

The Fir Court development is positioned to the east of the application site. This is a two storey development comprising 40 residential units with associated car parking. The vehicular access and car park serving Fir Court is positioned adjacent to the shared site boundary with the application site.

The rear gardens of properties fronting Home Farm Avenue adjoin the application site to the south. Home Farm Avenue forms part of a wider Jones Homes housing development that was constructed circa 1990's and comprises a mix of detached and semi-detached dwellings.

To the west of the application are properties that serve Kent Walk. The rear elevation and rear gardens of these properties face the application site. The application site and these dwellings are separated by the vehicular highway that serves Suffolk Close.

A four storey apartment building is positioned to the north west of the application site and sits on the eastern side of the road junction between Kennedy Avenue and Suffolk Close.

DETAILS OF PROPOSAL

Full Planning Approval is sought for the construction of a residential housing development comprising a total of 38 units.

The application is made by the Affordable Housing Consultancy for development comprising 100% affordable housing of mixed tenure.

The proposal includes detached family dwellings of 2 and 3 bedrooms, and apartments providing 1 and 2 bedrooms. 6 two storey townhouses would be provided on the frontage of the site, directly accessed from Kennedy Avenue, together with a 3 and 4 storey block containing 11 apartments. A new access road, terminating in a cul-de-sac, would be provided from Kennedy Avenue giving pedestrian and vehicular access to a further 21 two storey dwellings behind the frontage development.

All properties would be provided with off street parking spaces, and the houses would have private gardens. Shared amenity space and parking would be provided for the apartments. The apartments and 2 bedroom dwellings would each have one parking space whereas the 3 bedroom dwellings would each have 2 spaces. 6 visitor spaces would also be provided.

RELEVANT HISTORY

There is no site history relevant to the determination of this application.

POLICIES

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plan (January 2004).

North West of England Plan Regional Spatial Strategy to 2021:

Please note that the Secretary of State for Communities and Local Government has revoked the North West Regional Strategy on the 20 May 2013. Therefore this document no longer forms part of the Development Plan.

Local Plan Policy:

The site is located within a predominantly residential area with the rear part of the site allocated as existing open space on the Macclesfield Borough Local Plan. A number of trees on the site are protected by Tree Preservation Orders (TPO's). Therefore, the relevant Macclesfield Local Plan Saved Polices are considered to be: -

- NE11 Nature Conservation;
- BE1 Design Guidance;
- RT1 Open Space;
- H2 Environmental Quality in Housing Developments;
- H5 Windfall Housing Sites;
- T2 Provision of public transport;
- DC1 New Build;
- DC3 Amenity;
- DC6 Circulation and Access;
- DC8 Landscaping;
- DC9 Tree Protection;
- DC35 Materials and Finishes;
- DC36 Road layouts and Circulation;
- DC37 Landscaping; and
- DC38 Space, Light and Privacy.

Other Material Considerations:

National Policy:

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight.

Supplementary Planning Documents:

The following Supplementary Planning Documents (SPDs) have been adopted and are a material consideration in planning decisions (within the identified former Local Authority areas):-

- S106 SPG; and
- Interim Planning Statement on Affordable Housing.

CONSULTATIONS (External to Planning)

HIGHWAYS:

No objection has been raised for the following reasons:

- The site is in a sustainable location due to proximity to local services and public transport networks;
- Proposed 2-bed terraced houses will have one allocated parking space. This is a relaxation of the Council’s parking guideline, but given the location and type of properties proposed is considered acceptable;

- Visitor spaces and informal parking spaces are available within the site confines;
- Kennedy Avenue is traffic-calmed and additional traffic generation will not materially increase overall traffic levels.

ENVIRONMENTAL HEALTH:

No objection subject to conditions relating to hours of operation, dust control, pile driving and contaminated land.

UNITED UTILITIES:

No objection subject to a condition relating to site drainage.

ENVIRONMENT AGENCY:

No objection.

CHESHIRE POLICE:

No objection has been raised however comments have been provided to advise on ways in which the development could be improved in order to design out opportunities for crime.

HOUSING:

Supports the Scheme as there is an urgent demand for Affordable Housing in Macclesfield.

REPRESENTATIONS

The applicant engaged in the Council's formal pre-application procedure where advice was given in the form of a written response. The applicant has borne in mind the advice given by the Council and has demonstrated where amendments could or could not be achieved within the submitted Design and Access Statement.

Prior to submitting the application, a public consultation event was held by the applicant at Macclesfield Leisure Centre on Thursday 29th November 2012. The event was advertised by leafleting within the area and by posters in the Co-Operative supermarket and pharmacy on Kennedy Avenue. 17 residents attended the event and it is commented in the Design and Access Statement that feedback from residents was positive. The key points raised during the event were as follows:

- Parking provision;
- Height of the four storey apartment block; and
- Bedroom tax.

The planning application was advertised by the Council through neighbour notification letters that were sent to all adjoining land owners and by the erection of a site notice. Comments were invited within a 21 day period and the last date for comments expired 17th April 2013.

Representations have been received from no.57 Kennedy Avenue, no.57 Orme Crescent (The Civic Society), no.33 Fir Court, no.55 Kennedy Avenue and no.4 Merrydene Close. Two representations have illustrated support for the proposal with the remaining three raising objection.

The objections/concerns raised are summarised as follows:

- The height of the proposed apartment block;

- Highway safety due to increased traffic generation/parking;
- Loss of light to lounge window serving no.33 Fir Court;
- Disruption during demolition and built process;
- Four storey apartment block will impinge on light and privacy to no.55 Kennedy Avenue; and
- Impact on protected trees that are to be retained.

APPLICANT'S SUPPORTING INFORMATION

Pre-application discussions were undertaken with this applicant and in addition to the plans the following detailed reports were submitted with the application:-

- Design & Access Statement;
- Affordable Housing Statement;
- Tree Survey;
- Ecology Report; and
- Draft Heads of Terms for S106 legal agreement.

OFFICER APPRAISAL

Principle of the Development (Windfall Housing Sites):

The front part of the site (containing the former Children's Home) is identified as being within a predominantly residential area with the rear part of the site identified as existing open space on the Macclesfield Borough Local Plan.

The site (including the open space beyond) is identified within the Strategic Housing Land Availability Assessment 2012 (SHLAA) as part of the Council's 5 year land supply. The site is assessed as being suitable, available, developable and deliverable. Therefore, it has to be acknowledged that this site would come forward for development and that the Council is reliant upon the residential development of this site to contribute to meeting our 5 year housing supply.

The site is identified within the SHLAA as having capacity for provision of 31 dwellings. The development proposed in this application would provide 28 Dwellings, 7 units in addition to those predicted in the SHLAA for this site. As the site is not specifically allocated for residential development it would be considered a windfall site. Policy H5 advises how windfall sites will be assessed. Primarily windfall housing sites should make effective use of land by the re-use of previously developed land.

There is no objection in principle to the erection of new dwellings within a predominantly residential area. It is considered that this development on this site would make effective use of the land with a higher density scheme and make a contribution to the Council's 5 year land supply.

Principle of the Development (Need for Affordable Housing):

The *Strategic Housing Market Assessment 2010* (SHMA) identifies a shortfall in provision of 555 affordable homes per annum in Macclesfield up to 2013/2014. Indeed the current *Annual Monitoring Report 2011* (AMR) shows that the number of affordable houses provided in

Cheshire East in 2010/2011 was 205, down from 334 in the previous year and the lowest since 2006/2007. There is a significant discrepancy between the affordable housing needs identified within the SHMA and the actual level of affordable housing provision.

The proposal would provide 100% affordable housing.

The Council's Interim Policy Statement on Affordable Housing (dated February 2011) sets a minimum requirement of 30% affordable housing provision on windfall sites in settlements of 3000 population or more. It also states that a Registered Social Landlord (RSL) should be involved in all 100% affordable housing schemes.

The Council's Strategic Housing Market Assessment 2010 identified a net requirement for 318 affordable homes each year between 2009/10 and 2013/14 in the Macclesfield & Bollington sub-area. There are currently 946 applicants who have selected either the Upton Priory area or Macclesfield as their first choice

There have only been 131 affordable units built in the Macclesfield & Bollington sub-area from 2009/10 to date. This is less than half the affordable housing requirement identified by the SHMA 2010 for 1 year.

100% affordable housing provision on this site would offset some of the reduced provision elsewhere, as acknowledged in the AMR, and would exceed all policy requirements for the proportion of affordable housing within new developments.

It is Officers understanding that the scheme utilising Homes & Communities Agency grant funding in the delivery of the proposed scheme. This grant will in future, be recycled via the Homes & Communities Agency's "Recycled Capital Grant Fund" to support the provision of further affordable housing development in Macclesfield and Cheshire East.

In accordance with policy H9 and the council's interim policy on affordable housing provision, the applicant has a partner Registered Provider, Peaks and Plains, involved in the scheme to ensure that the dwellings remain affordable in perpetuity.

The scheme would provide a significant benefit in contributing to achieving affordable housing targets

Principle of the Development (*Loss of Open Space*):

Local Plan policy RT1 states that areas of recreational land and open space as shown on the proposals map will be protected from development. Redevelopment of a building footprint that does not harm the integrity of the open space will normally be permitted. The reason for the policy states that existing facilities form an important resource which must be retained for the benefit of the community and also recognises that open spaces are important for their amenity value and can contribute to the character of the townscape.

Paragraph 74 of the NPPF states that existing open space should not be built on unless:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- The development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss.

Clearly in order for planning permission to be granted for the development proposed, a justification would need to be provided for building on the area of existing open space.

It is worthy of note that the site has never provided any public recreational or other open spaces function and members of the public have never had access to it. It has always performed the function of private amenity space for the occupants of Priors Hill.

It has to be accepted that if this application were approved, it would result in the loss of the open space. However, whilst the proposal does not comply with all relevant policies of the Development Plan, it is considered to be acceptable because it will provide much needed affordable housing in a sustainable location.

Developer Contributions:

To mitigate for the loss of the open space on the site the Council would be looking for a commuted sum in order to improve/provide facilities elsewhere within the immediate locality. Additionally in accordance with the Council's SPG on S106 (Planning) Agreements, the proposal triggers the need for both Public Open Space (POS) and Recreation / Outdoor Sports (ROS) provision, in line with the current CEC policy.

In lieu of onsite provision, the commuted sum for POS based on £3000 per dwelling/2 bed apartment and £1500 per 1 bed apartment is £108,000. The commuted sum for ROS is £30,500. However, for 100% affordable housing schemes, the commuted sum for ROS is normally waived. The developers (Affordable Homes Consultancy) have offered £15,000 in lieu of onsite provision. This is due to the viability of the scheme.

A financial appraisal for the scheme has been submitted and this shows a small profit margin for the scheme (less than 2% of scheme value compared with a standard developer's return of between 15%-20% of GDV).

It is considered that an exception could be made in this case and a lower POS contribution agreed as the scheme has been specifically designed in consultation with the Council's Housing Department and with Peaks and Plains Housing Trust to meet a locally identified demand and urgent requirement for affordable housing in Macclesfield. Members should also be aware that the scheme is dependent on Homes & Communities Agency (HCA) grant subsidy as well as revenue subsidy from Peaks & Plains to ensure it is built.

Design, Layout and Visual impact:

It is considered that the scale of the development is in keeping with the massing, rhythm and general character of the existing context. The existing 4 storey flat block adjacent to the site is reflected in the proposed 3 and 4 storey apartment building, which serves to reinforce this prominent corner section of the site. In order to reduce the impact of the proposed apartment building, the partial fourth storey will be recessed. It is also considered that the proposed 2 storey terraced and semi-detached dual pitch houses integrate within the existing residential context. The proposed building line along Kennedy Avenue is to be set back from the site boundary to provide an element of defensible space, privacy and parking.

One of the key improvements to the existing site is that a street scene along Kennedy Avenue will be introduced. Whilst materials will be conditioned, the elevational treatments are likely to consist of red facing brick, timber effect rain screen cladding with either recessed entrances or porch covered entranceways. The red facing brick is in keeping with the surrounding existing residential developments. However, the inclusion of some brick detailing above door and window openings provides an additional detailing to the elevations to reflect the character of the area. Grey concrete interlocking tiles to the main roofs and entrance bay/porch areas are intended to reflect the existing properties.

Landscape/Trees:

Amendments to the scheme have been agreed which have improved the relationship of the layout and design of new builds to existing retained trees. This relationship is not considered to be ideal in some locations and that there has to be some recognition that there is the likelihood that future requests for pruning of retained trees may be expected where shading and reduced daylight to gardens is anticipated. That being said, the layout is considered to be acceptable in relation to the retained trees.

The proposal will require the removal of five TPO trees, two of which are in relatively poor condition. It is recognised that the submitted landscape/tree planting scheme and improvements in layout design have made provision for space for replacement planting which provides adequate if not significant mitigation for the replacement of these trees. Given the replacement planting proposed and the poor condition of two of the trees, the proposal is considered to comply with Policy DC9 of the Local Plan which normally seeks the retention of protected trees.

Discussions have considered at the retention of the Beech hedge, a pleasant and attractive boundary feature located on the Kennedy Avenue frontage. However, due to the design of the scheme and the requirement for off road parking off Kennedy Avenue, retention of the full length of the hedgerow has not been possible, although a section of the hedge fronting the 3 and 4 storey element is to be retained.

Overall a satisfactory landscape scheme is capable of implementation and the proposal complies with policy DC8 of the Local Plan.

Highways:

The Strategic Highways Manager has assessed this application and has confirmed that there are no highway objections to this application.

The direct access from Kennedy Avenue and the internal road layout has been designed to accord with Council guidelines. Kennedy Avenue is traffic calmed and the additional traffic generation from the development of 38 dwelling houses on this site will not materially increase overall traffic levels.

All units will have private off street car parking. Car parking will be 100% for the 1 to 2 bed dwelling and at 200% for the 3 bed dwelling. Additionally, six visitor parking spaces have been provided within the scheme.

A lockable external cycle store will be provided for each house. A lockable external cycle store will be provided in the amenity space of the apartments (100% provision).

Rear garden access is proposed for some of the terraced properties, whilst this is not ideal it has been accepted in this instance. Bin stores have been proposed for the majority of the site (as an alternative to rear garden ginnels) as a means of retaining scheme density and parking levels.

Residential Amenity:

Local Plan policies DC3 and DC38 relate to amenity. DC38 sets out guidelines for space between buildings which developments should aim to meet. Whilst the scheme is a high density scheme that is compact, it is considered that these scheme accords with these guidelines.

As the site is surrounded by existing residential properties, the relationship between these properties and the proposed dwellings has been considered.

The apartment block and terraces facing onto Kennedy Avenue would be separated by 24 metres from the existing houses on the other side of Kennedy Avenue. The end terrace to the front on the site, adjacent Fir Court would be separated by nearly 15 metres, whilst the middle terrace would be 18 metres away. In addition these properties would show an end gable elevation to Fir Court and there are retained trees and landscaping on this boundary. The apartment block and middle terraces would be 25 metres away from the four storey apartment building on the road junction between Kennedy Avenue and Suffolk Close. The two semi detached dwellings on the west boundary of the site would be 15 metres away from the existing apartment block. The dwellings to the rear or south of the site would be position a minimum of 26 metres for the rear of the dwellings that face Home Farm Avenue.

It is considered that the application proposals do not have a detrimental impact on residential amenity to the surrounding properties through overlooking, loss of privacy or overbearing. This is due to the distances proposed, their relationship and existing boundary landscaping.

Nature Conservation:

An ecological survey and assessment was submitted with the application and the survey indicates there are no significant ecological concerns or constraints, with no evidence of roosting bats, nesting birds or other protected faunal species.

The Council's Ecologist has confirmed that there are unlikely to be any significant ecological issues associated with the proposed development. A condition is suggested to safeguard breeding birds during construction and to ensure some additional provision is made for breeding birds and roosting bats following completion of the development.

Environmental Health:

The application site is surrounded by existing residential properties and whilst other legislation exists to restrict the noise impact from construction and demolition activities, this is not adequate to control all construction noise, which may have a detrimental impact on residential amenity in the area. Therefore a condition is suggested to control hours of demolition and construction works in the interest of residential amenity. A condition has also been suggested by the Council's Environmental Health Section in the event that piled foundations are used. A condition to control dust from the construction is suggested to reduce the impacts of dust disturbance from the site on the local environment.

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present on the site. The Site Investigation report submitted in support of the application recommended that a further investigation is required. As stated above, the Council's Contaminated Land officer has no objection to the application subject to the imposition of a condition to require an additional site investigation survey and any subsequent remediation required.

Other Material considerations or matters raised by third parties:

The application site is within Flood Zone 1, so there is little or no risk of flooding. The scheme proposes to drain the surface and foul water on a separate system combining on site prior to connecting into the existing public sewer. United utilities have no objections subject to the imposition of a drainage condition to control the details of the above.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The proposed scheme is a sustainable form of development for which there is a presumption in favour. The provision of 100% affordable housing is a significant benefit of the scheme and should be viewed in the context of wider social sustainability, as well as the development being located in a sustainable location.

At the heart of the National Planning Policy Framework is a **presumption in favour** of sustainable development. Paragraph 14 of NPPF states that decision takers should be approving development proposals that accord with the development plan without delay; and

- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

As such Members should only be considering a refusal of planning permission if the disbenefits of the scheme significantly and demonstrably outweigh the benefits of approval.

Whilst there are shortcomings in the scheme noted in this report, the disbenefits are not considered to be significant and a refusal of permission would not be justified.

Whilst some conflict with local plan policy has been identified, the material considerations in favour of granting planning permission for the affordable housing development are significant

and the application is recommended for approval subject to conditions and the completion of a s106 agreement.

HEADS OF TERMS

- Mechanism to ensure that the proposed dwellings provide affordable housing in perpetuity and are of an appropriate tenure
- Commuted sums of £15,000 to mitigate for the loss of existing open space and for POS in lieu of onsite provision

Community Infrastructure Levy (CIL) Regulations:

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

The mechanism to ensure that the proposed dwellings provide affordable housing in perpetuity and are of an appropriate tenure is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum in lieu for recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide 38 dwellings, the occupiers of which will use local facilities, and there is a necessity to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

Application for Full Planning

RECOMMENDATION: Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A01GR - Removal of permitted development rights
4. A05EX - Details of materials to be submitted
5. A01LS - Landscaping - submission of details
6. A04LS - Landscaping (implementation)
7. A12LS_1 - Landscaping to include details of boundary treatment

8. A01TR - Tree retention
9. A02TR - Tree protection
10. A05TR - Arboricultural method statement
11. A06NC - Protection for breeding birds
12. A04NC - Details of drainage
13. A22GR - Protection from noise during construction (hours of construction)
14. A23GR - Pile Driving
15. Bird and Bat Boxes
16. Bin and Cycle Store in accordance with approved details

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