

<b>Planning Reference No:</b>	09/0430/C
<b>Application Address:</b>	Land adjacent to 6 Brindley Way, Congleton
<b>Proposal:</b>	2 new dwellings
<b>Applicant:</b>	Mr Paul Kirby
<b>Application Type:</b>	Full Planning
<b>Grid Reference:</b>	387700 362448
<b>Ward:</b>	Congleton Town East
<b>Earliest Determination Date:</b>	28 April 2009
<b>Expiry Date:</b>	27 April 2009
<b>Date Report Prepared:</b>	21 <sup>st</sup> May 2009

#### **SUMMARY RECOMMENDATION:**

Approve with conditions

#### **MAIN ISSUES:**

The key issues that Members should consider in determining this application are;

Impact on the character of the existing street scene

- a) Design & impact on the character of the existing street scene
- b) Impact on neighbour amenity Principle of Development

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

The application was called in for a decision by the Planning Committee by the Congleton East ward members Cllr D. Brown, Cllr P. Mason, and Cllr A. Thwaite.

### **2. PREVIOUS MEETING**

At the meeting of the Planning Committee held on 13<sup>th</sup> May 2009, Members resolved to undertake a Committee site inspection in order to assess the proposed development. This site visit will be undertaken on 29<sup>th</sup> May 2009. Members will be provided with site visit details within an update.

It is noted that plans for the development have been amended since the proposal was presented to Members at the previous meeting. Details of the amended plans are outlined within section 8 of this report.

Additionally it is noted that further representations were received since the preparation of the last committee report. These representations are now included within section 7 of this report.

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

The application site relates to an area of land located on a modern residential estate within the Settlement Zone Line of Congleton. The site has been included within many planning approvals dating from 1987 which have been implemented through the construction of other dwellings. The most recent approval was in August 2008 that permitted two split level dwellings on the site.

The site is immediately adjacent to a Site of Special Scientific Interest (SSSI).

#### **4. DETAILS OF PROPOSAL**

The application seeks full planning permission for the erection of two detached dwellinghouses. The proposal seeks to alter the design, scale, and location of the dwellings approved in August 2008.

#### **5. RELEVANT HISTORY**

<u>Decision</u>	<u>Application number</u>	<u>Description</u>
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08/1381/FUL	- 2 detached dwellings and detached garages including discharge of S.106 Agreement dated 17 March 1992.	Approve 8 October 2008
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08/0631/FUL	- 2 detached dwellings and garages.	Approved 6 August 2008
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23364/3	- Amendment to previously approved layout.	Approved 17.03.1992
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16685/B	- Residential development (Reserved Matters).	Approved 28 October 1987
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16685/1	- Residential Development (Outline).	Approved 30 May 1985
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11427/1	- Residential Development.	Refused 39 July
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#### **6. POLICIES**

##### **Regional Spatial Strategy**

DP1 Spatial Principles

DP 7 Promote Environmental Quality

##### **Local Plan Policy**

PS4 Towns

GR1 New Development

GR2 Design

GR6 Amenity & Health

GR9 Accessibility, servicing and parking provision

H1 Provision of New Housing Development

H2 Provision of New Housing Development

H4 Residential Development in Towns

SPG2 Provision of Private Open Space in Residential Developments

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

##### **Highways**

The Strategic Highways Manager has no objection to the application subject to informatives relating to the formation of the vehicular crossings being attached to any consent.

##### **Environmental Health**

The Environmental Health Division state that an assessment should be undertaken in order to identify and evaluate all potential sources and impacts of land and/or groundwater contamination. Conditions relating to the restriction of hours of construction are recommended and it is highlighted that the burning of materials should be prohibited.

### **Senior Landscape and Tree Officer**

The Senior Landscape and Tree Officer has no objection to the application providing that the development does not impact upon the protected SSSI area and satisfies Natural England's requirements.

### **Natural England**

Natural England highlight that the land adjacent to the application site comprises of the Dane in Shaw Pasture which is a designated Site of Special Scientific Interest (SSSI). As the application does not include any building works within the SSSI and the application is for a change in the design of two dwellings only, Natural England advise that the proposal is unlikely to have a significant impact upon the special features of the SSSI site. In addition, Natural England expects the Local Authority to ensure that the need for an ecological survey is met.

In addition Natural England would expect the owner/developer to respect conditions attached to a previous planning approval 08/1381/FUL in relation to an ecological assessment.

### **British Waterways**

British Waterways has no objection to the proposed development.

## **8. VIEWS OF THE TOWN COUNCIL**

No response was received at the time of report preparation.

## **9. OTHER REPRESENTATIONS**

Objections were received from a total of 15 different properties that raised the following material planning concerns: -

- Proposal would impact upon the privacy and amenity of neighbouring properties;
- Proposal would result in significant visual detriment to the street scene;
- Proposal is not in keeping with surrounding area and would appear incongruous;
- Proposal would set a precedent for other large development on the escarpment;
- Proposal would dominate the skyline;
- Inappropriate boundary treatment;
- Potential highway safety hazard;
- Garden is not appropriate size for family dwelling and is not well designed;
- Inaccuracies and incorrect application form and design and access statement;
- Dwelling is not designed with sustainability in mind;
- Proposal would block public views of an important view;
- Proposal does not take Lifetime Homes standard into account.

The following points were also included within representations however, they should not be taken into account for the determination of this application as they are not material planning considerations: -

- Site historically had permission for a single storey dwelling only;
- The parking of contractors vehicles should be restricted;
- Proposal would result in a loss of views from neighbouring properties;

- Proposals do not take the Lifetime Homes Standards into account;
- Proposals would devalue neighbouring properties.

Additional comments have been received from objectors since the preparation of the last committee report. Additional comments include: -

- Amended plans were only made available electronically and objectors were not notified;
- 100% of residents in the vicinity oppose the development;
- Lady Winterton has expressed an interest with this development;
- The site was protected by a Section 106 Agreement which outlined that only single storey properties would be allowed;
- The impact of the removal of the Section 106 Agreement was not clearly communicated to residents;
- No other 3 storey properties are located on the escarpment;
- Previous appeals have been dismissed in relation to two storey properties and inspectors comments have been ignored within this application;
- The land adjoins the Green Belt, an Area of Special County Value, the Dane in Shaw SSSI, and a Protected Area of Open Space;
- Design is against the common standards of the current properties and contrary to the original outline of the estate plan;
- No other balconies on the estate has a balcony.

## **10. APPLICANT'S SUPPORTING INFORMATION**

A Design and Access Statement accompanies the application that includes information under the following titles: Concept, Design Issues, Amount, Layout, Scale, Appearance, Landscape, and Access.

## **11. OFFICER APPRAISAL**

### **Principle of the Development**

Planning permission was recently granted on the application site for two split-level dwellinghouses. The principle of the development of two dwellinghouses on this plot is therefore considered acceptable.

### **Design and Visual Impact**

The application site is surrounded to the west, south and southeast by a residential estate that comprises a range of bungalows and two storey properties. The application site is located on the fringe of the development adjacent to the Dane in Shaw Valley where dwellinghouses are typically single storey.

#### **Plot 1**

The proposed dwellinghouse would result in a significant development of the site. It is noted that the proposal on the plot is larger than what has previously been approved in this location.

Amended plans have now been received which reduce the pitch of the roof, set the dwellinghouse further into the ground resulting in a reduced overall roof height by approximately 1 metre in height, and also includes the removal of the gable detail within the roof space on the rear elevation. The cumulative effect of such measures is that the dwellinghouse appears as two-storey from all directions and ensures that the property would not be interpreted as a three-storey property when viewed from the Dane in Shaw Valley. It is noted that such amendments are subject to the public consultation process.

Concerns have been raised in relation to the proposals scale, potential over-dominance, and visual impact however, whilst it is acknowledged that the two-storey property would be located within a band of bungalows located on the escarpment, it is not considered that the dwellinghouse would not appear significantly incongruous when viewed from either Brindley Way or the Dane in Shaw Valley as the property would be viewed in the context of the wider area which includes both single and two-storey dwellings.

Other residential properties in the vicinity vary in design and appearance and as such it is not considered that the proposal, which is of a different design to the dwellings on Brindley Way, would cause significant visual detriment to the area. It is noted that should Members be minded to approve the proposal, details of all materials to be used within the proposal would have to be submitted and approved by the Planning Department prior to the commencement of any development.

It is acknowledged that the dwellinghouse would lessen the extent of views currently enjoyed from Brindley Way to the northeast direction however, it is not considered that this restriction would pose a significant detriment to the amenity of this residential area as the proposal would not fill the entire width of the cul-de-sac. It is noted that whilst Policy GR5 states that proposals will not be permitted if they obscure views or lessen the visual impact of significant landmarks or landscape features, this policy is applicable to development within the Open Countryside – not within the Settlement Zone Line.

The overall visual impact of the proposal is on balance considered acceptable and the design, scale, and position of the dwellinghouse is not deemed to be of a significant detrimental level which would sustain a refusal of this application at appeal.

#### Plot 2

The proposed dwellinghouse would be a split-level property that would lie between an existing two-storey property and bungalow. Given this position, and as the dwellinghouse would measure a maximum of 7 metres in height it is considered that the dwellinghouse would be of an acceptable scale and in keeping with the street scene.

The design of the property is also considered acceptable due to the significantly varied appearance of surrounding dwellings.

As with Plot 1, should Members be minded to approve the application all material details would have to be submitted and approved by the Planning Department prior to the commencement of any development.

#### **Neighbouring Amenity**

The distance between existing properties and the proposed two dwellinghouse would exceed recommended distances as set out in SPG 2 – Private Open Space and as such is considered acceptable.

It is noted that concern has been raised in relation to the steps to the northwest elevation of the dwellinghouse on Plot 1 and the potential to overlook the bungalows to the northwest direction. It is acknowledged that anybody standing on such steps would be in an elevated position when compared to the bungalows however, such steps are located approximately 22 metres from the nearest neighbouring boundary – a distance that exceeds the minimum privacy distance between principal windows and as such it is not considered that it would be reasonable or sustainable to refuse the application for such reason.

More concerns were raised in relation to the balcony to the rear of the property on Plot 1 however, due to the position of the dwellinghouse and the depth and the central position of the balcony, it is considered unlikely for any significant overlooking to occur.

In relation to the privacy between the proposed dwellings, it is noted that although there is a distance of 2 metres between the two proposed dwellings, this would not compromise privacy between properties, as there would be no direct facing window. A condition to restrict the insertion of windows without prior permission of the Local Authority would ensure that such privacy was maintained.

Given the surrounding development is predominantly residential it is considered necessary that hours of construction should be restricted in order to protect amenity of adjacent residents.

### **Highways**

Whilst no response has been received from the Highways Engineer, given that no objection was received to the previous application for two dwellings on the site it is not considered that the varied design, scale, and position of the buildings would pose a significant threat to highway safety and as such it is considered that the proposal is acceptable on highways grounds however, members will be provided with Highway Engineer comments in an update.

### **Landscape and SSSI**

The application site is adjacent to a Site of Special Scientific Interest (SSSI) and it is considered by Natural England that as the application does not include any building works within the SSSI, the proposal is unlikely to have a significant impact upon the special features of the SSSI site.

It is noted that Natural England expect the owner/developer to comply with conditions attached to a previous permission in relation to an ecological survey however, as each planning application should stand alone on its own merits, it is considered that would have to be submitted again as part of this condition. Given that Natural England have recently accepted previous ecological information and the site has been included within approved planning permissions that have since been implemented, it is considered that this represents an exceptional circumstance where it will be acceptable to submit ecological information after the determination of the application.

### **Other**

The garden area to both dwellings significantly exceeds the minimum standard for garden sizes as outlined in SPG2 – Private Open Space. It is noted that the garden areas to the dwellings are not just to the rear of the dwellings but also to the side and as such, it is considered that although on a slope and vegetation outside of the applicants ownership is located to the rear, such gardens should be reasonably useable.

The proposal includes details for boundary walls to separate the private garden areas from the rest of the estate and it is noted that such walls would replicate other examples that are in the nearby vicinity. It is noted that the walls are of significant lengths however, it is considered that a landscaping scheme would aid in negating the visual impact of such boundaries.

## **12. CONCLUSIONS**

On balance, it is considered that the design of the proposed buildings are acceptable and do not represent a form of development which would result in significant detriment to the visual amenity of the area or appear incongruous within the street scene. As such subject to the public consultation process the application is recommended for approval.

### **13. RECOMMENDATION**

**Approve with the following conditions: -**

- 1. The development hereby approved shall commence within three years of the date of this permission**
- 2. The development hereby approved shall be carried out in total accordance with the approved plans numbered 3452/03B, 3452/04, and 3452/05B received by the Local Planning Authority on 3<sup>rd</sup> March 2009**
- 3. No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of all external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details**
- 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Classes A-E of Part 1 Schedule 2 of the Order shall be carried out**
- 5. Prior to the commencement of development:**
  - A contaminated land Phase 1 report shall be submitted to, and approved in writing by the Local Planning Authority (LPA).**
  - Should the Phase 1 report recommend that a Phase 2 investigation is required, a Phase 2 investigation shall be carried out and the results submitted to, and approved in writing by the LPA.**
  - If the Phase 2 investigations indicate that remediation is necessary, a Remediation Statement including details of the timescale for the work to be undertaken shall be submitted to, and approved in writing by, the LPA. The remedial scheme in the approved Remediation Statement shall then be carried out in accordance with the submitted details.**
  - Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.**
- 6. The hours of construction of the development hereby permitted shall be restricted to 0800 to 1800 hours on Monday to Friday, 0900 to 1300 hours on Saturday, with no work at any other time including Sundays and Public Holidays.**
- 7. The hours of foundation works or other piling on site shall be restricted to 0830 to 1730 hours on Monday to Friday, 0930 to 1230 hours on Saturday, with no work at any other time including Sundays and Public Holidays.**
- 8. The approved development shall not be occupied until the approved accesses that are required for the development have been constructed in accordance with the approved plans and has been formed and graded to the specification of the Local Planning Authority, which is available from the Highway Authority, and the required visibility splays have been provided, all to satisfaction in writing of the Local Planning Authority.**

**9. Prior to commencement of development a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include proposed finished ground levels or contours, details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.**

**10. The landscaping plan shall be implemented in full accordance with the approved scheme within the first planting season following completion of the development hereby approved, or in accordance with a programme first agreed in writing with the Local Planning Authority. Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.**

**11. Prior to commencement of development a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the occupation of the dwellings hereby approved and shall be carried out in accordance with the approved details and permanently retained unless otherwise first approved in writing by the Local Planning Authority.**

**12. No development shall commence until an ecological assessment of the potential impacts on the Site of Special Scientific Interest as a result of this development has been carried out, submitted to and approved in writing by the Local Planning Authority. The assessment shall be carried out by a suitably qualified person and shall include mitigation measures for the protection of the Site of Special Scientific Interest.**



