

<b>Planning Reference No:</b>	09/0509C
<b>Application Address:</b>	Vale Mill, Priesty Fields, Congleton
<b>Proposal:</b>	Construction of 90 bed nursing home (C2)
<b>Applicant:</b>	Britannia Developments Cheshire Limited
<b>Application Type:</b>	Outline
<b>Ward:</b>	Congleton Town West
<b>Earliest Determination Date:</b>	11 June 2009
<b>Expiry Date:</b>	13 July 2009
<b>Date Report Prepared:</b>	10 August 2009: Updated 8 November 2009

#### **SUMMARY RECOMMENDATION:**

**Approve Subject to Conditions**

#### **MAIN ISSUES:**

**Impact of the street scene, flooding, impact on trees and wildlife, archaeology, access and parking.**

## **1. SUPPLEMENTARY INFORMATION**

This application was initially brought before the Committee for determination on the 26<sup>th</sup> August. In light of comments from the Ecologist, a Phase I Habitat Survey was undertaken to assess for the presence of bats in line with current arrangements for such proposals.

During the time the survey was being undertaken, the ramifications of the judicial review into the Woolley vs Cheshire East decision were being acknowledged by the Council.

Although the application was due to go to committee, it was felt at the time that the judicial review required a greater degree of survey work than was previously expected. The applicants have respected this change in the level of proof requires and have submitted further information on the population of bats as appropriate.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- No satisfactory alternative and
- No detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

- A requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- A licensing system administered by Natural England.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

In this case, it was noted that some evidence of bats was observed in the building but on closer analysis it was recorded that the level of activity was very low. The Council's Ecologist had the following comments to make on the new survey work:

"now feel that a reasonable effort has been made to determine the status of bats at this site."

Two potential roosts have been recorded on site, one in the cellar and one in the roof void of building B1. Based on the evidence recorded during the surveys it appears very unlikely that either of these roosts is of significant conservation importance and may well simply involve the occasional visit by single individual or small numbers of a relatively common bats species. Whilst it was originally suggested by the applicants ecologist that the cellar may support a hibernation roost of Daubenton's bat there does not appear to be any evidence to support this and no fresh evidence appears to have accumulated since the initial survey was undertaken. The loss of these two potential roosts will have an impact on bats, however the impacts is likely to be limited to the possible killing and injuring of any bats present during demolition.

The submitted bat survey contains acceptable outline mitigation proposals including the timing and supervision of the demolition by a licensed bat worker and the incorporation of a replacement roost in the form of a bat loft above one of the replacement buildings. The mitigation is acceptable and is likely to reduce the potential adverse impacts of the proposed scheme to a negligible level.

To ensure that these proposals are enforceable the location and dimensions of the bat loft and the location and number of bat boxes should be annotated on the submitted plans and an appropriate condition that the development should proceed in accordance with the recommendations of the submitted report should be attached to any permission granted."

The in addition to the above, the potential for breeding birds to occur on site has been reappraised. The Council's Ecologist has therefore recommended that two conditions are attached to any permission granted relating to the need for the incorporation of features into the scheme suitable for use by breeding birds including swifts and a detailed survey is required to check for nesting birds. These two conditions are appended to the end of the report.

## **2. REASON FOR REFERRAL**

This application has been referred to the Southern Area Planning Committee by virtue of its scale as a major application.

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

The site is located in a predominantly residential area just to the south the Congleton town centre. The main accesses reached off Priestly Fields to the east, Vale Walk footpath to the north which links through to Swan Street on the western side of the site and to the south, a number of residential properties further along Priestly Fields.

To the west of the site lies the watercourse known as The Howty, which lies in a cutting. The watercourse is partly culverted to the northern end of the site before re-emerging just before the footpath to the northern boundary of the site where it then again passes underground.

The properties in the vicinity of the site are mixed in character with some traditional terraced properties to the west and south with more modern apartment blocks to the east. The properties towards the north are more diverse in character, although predominantly pre-war in terms of construction.

The site slopes down from the front facing Priestly Fields towards a flat area which is currently used for parking before dropping to a cutting for the brook. The site then rises again through a belt of trees before levelling off behind the properties that front Swan Street. The modern properties on the eastern side of Priestly Field are situated on a higher level than those on the application site due to a change in levels in the locality.

At present, the site is occupied by a manufacturing business, which is currently operational. This business benefits from frequent deliveries and collections from commercial vehicles which access the site from Priestly Fields. The existing buildings have a significant presence in the street scene.

## **4. DETAILS OF PROPOSAL**

The proposed development is for Outline planning permission for a 90-bed care home. Due to the changing levels across the site, the frontage facing Priestly Fields will appear to be a two-storey property with additional accommodation in the roof space serviced by dormer windows and roof lights. The falling ground level, at the rear of the site, will facilitate the introduction of a lower ground floor.

In reality, the lower ground floor will have the same footprint as the rest of the property with the rooms facing the street being set slightly lower than the existing ground level and the main access leading in to the first floor. The principal access point will be at the lower ground floor at the rear off the parking courtyard.

The building is to be brick built with a tiled roof and is in a traditional design style with bay windows to the front and chimneys along the ridge line.

The principal pedestrian access to the property will be off Priestly Fields and a vehicular access will be gained close to the position of the existing access point to the northern edge of the site. The secondary access point to the southern end of the site which serves the neighbouring residential properties is also to be retained for third party use and to provide some parking for staff to the same level that currently exists for the industrial use on site.

The applicants have designed the layout of the site in conjunction with the Environment Agency. An 8.0m easement alongside The Howty has been allowed for to allow ongoing maintenance and clearance of the brook if necessary.

## **5. RELEVANT HISTORY**

A previous application (reference number 08/0658OUT) was withdrawn by the applicants after discussion with the previous case officer. This scheme takes on board those comments.

## **6. POLICIES**

### **National Planning Guidance**

PPS1 Delivering Sustainable Development  
PPS25 Development and Flood Risk

### **Regional Spatial Strategy**

DP1 Spatial Principles  
DP2 Promote Sustainable Communities  
DP5 Manage Travel Demand, Reduce the Need to Travel & Increase Accessibility  
DP7 Promote Environmental Quality  
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets  
EM2 Remediating Contaminated Land

### **Congleton Local Plan First Review**

GR1 General Criteria For Development  
GR2 Design  
GR4-5 Landscape  
GR6-8 Amenity and Health  
GR9-10 Accessibility, Servicing and Parking Provision  
GR15 Pedestrian Measures  
GR21 Flood Prevention  
NR1 Trees and Woodlands  
NR3 Wildlife and Nature Conservation - Habitats  
NR4 Non-statutory Sites  
E10 Re-use of Redevelopment of Existing Employment Sites

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

### **Environment Agency**

No objection has been raised to the principle of development, following consultation with the developers at the pre-application stage. A number of conditions have been proposed to protect and enhance the ecological value of the site including the watercourse.

These conditions relate to the implementation of a landscape management plan, the protection and management of a buffer zone alongside The Howty brook and the opening up of the culverted section of The Howty. In addition an informative has been proposed to advise the applicants of their obligations under the Water Resources Act 1991 and Land Drainage Bylaws.

### **Natural England**

In their comments of 8<sup>th</sup> June, Natural England have highlighted the need for detailed wildlife surveys of the site, especially along The Howty especially with regard to bats, water voles, badgers, barn owls and breeding birds.

In respect of this point, the applicants have submitted an ecological assessment undertaken by Ecology Solutions Ltd, to look at the protected species on site and identify appropriate methodologies, where necessary for ensuring there is no detrimental impact on the protected species.

In response to this report, Natural England has acknowledged the findings of the report. Due to the presence of a bat roost on site, they have recommended that further work be undertaken to establish the full extent of their presence on the site. They also advised that if the application were to be approved, a licence would be required from Natural England prior to the commencement of work on site.

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

At the time of preparation of the report, no comments had been received from the town council

## **9. OTHER REPRESENTATIONS:**

### **Development Control Archaeologist**

In response to a desk-based study produced on behalf of the applicant by a professional architectural historian, and submitted in support of the application, the Development Control Archaeologist has commented that the redevelopment of the site will lead to the loss of the historical evidence of the previous uses of the site.

To address this, the officer has recommended that a programme of archaeological mitigation should be carried out if planning permission is granted. This work should consist of the recording of the 19th-century mill building to Level II (as defined in the 2008 English Heritage guidance on building recording) together with a programme of targeted investigation where below-ground evidence for the features noted above may survive. This work can be secured by the following condition:

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

In their comments of 4<sup>th</sup> June, the Senior Landscape and Tree Officer identified the need for a Phase 1 ecological survey together with a bat survey to ascertain the extent of

wildlife on the site and the impact that the development may have. This information was submitted by the applicant in response to these comments in the above-mentioned report

### **Highways**

The Highways officer has considered the application in respect of the immediate access arrangements into and from the site and also the impact on parking in the vicinity of the site. In principle there is no objection to the scheme although additional details have been requested in respect of a staff Travel Plan.

### **Environmental Health**

No objection in principle, although conditions have been suggested in respect of addressing contamination, air quality, noise, odour, lighting and the time of construction.

### **Neighbours**

Six neighbours in the vicinity of the application have commented on the application. These raise concerns about the following

- Insufficient level of car parking
- Impact on the landscape and wildlife
- Potential flooding
- Loss of trees
- Potential to cause instability to the surrounding area
- Fumes from the vehicles in the area and extraction units from the care home
- Impact on neighbouring properties in terms of loss of light.

## **9. OFFICER APPRAISAL**

### **Principle of Development**

Prior to the consideration of the detailed aspects of this application, attention has to be given to the principle of development. The main aspect is whether the form of development is actually 'Use Class C2' development as opposed to generic C3 housing. This is important as C3 housing is subject to a wider range of planning policies in respect of matters such as the provision of public open space, education contributions and the provision of affordable housing.

A number of flatted communal living developments are presented as being 'Use Class C2' developments on the basis that they cater for people over a certain age band, often 55 or 60. These developments however often only provide scant regard to care facilities, primarily on site 24-hour nursing coverage and will offer instead larger self-contained two or three bedroom units.

This development however does provide the necessary facilities including onsite nursing, GP consultation rooms, shared lounges for residents and separate facilities for visitors.

On this basis, it can be concluded that the building will be orientated to the provision of ongoing extra-care to residents in need of such services and is a Class C2 development.

### **Design**

The proposed building when viewed from Priesty Lane will have a strong street frontage with a central entrance door and four projecting bay sections, two on either side above. Along the roof line will be a series of gables. Whilst the property will be taller than the existing building and the neighbouring residential properties, it will be set back from the

street frontage. This will have the effect of diminishing the scale of the building when viewed from the public highway and its impact on the skyline will be comparable to that of the neighbouring properties which sit much closer to the kerb line.

Although the building will appear to be two-storey at the street frontage, the lower ground floor will extend to the full depth of the property. The front rooms will be set slightly lower than the existing ground level although the ground in front is to be opened up to provide appropriate amenity levels. The front door, whilst appearing at street level, will actually lead in to the first floor level

At the rear, the building will appear to be taller because of the fall in the land. This is offset by the fact that the area of land to the rear is open with no immediate overlooking from neighbours. The properties along Swan Street are on an elevated position compared to the site to the extent that even though the proposed building will be approximately twice the height of those properties fronting Swan Street, the ridge level of each building will become parable and the proposed care home will not dominate over the neighbouring properties due to the differences in floor level.

Whilst the building itself is of a significant scale, the presence of the existing building should be taken into account as a material consideration when considering this proposal.

### **Amenity**

Although comment has been made that the proposed development will have a significant impact on the amenity levels of neighbouring residents, it should be borne in mind that the existing building already has a detrimental impact on the neighbour's amenity in respect of noise and disturbance from the industrial processes being undertaken at the premises and the proximity of the building to neighbours.

In essence, the proposed building will occupy a similar footprint of the structure that already exists on site and accordingly there will be little change to the physical character of development on the site. There will however be a change in the activity on site and it is anticipated that this will result in an improvement to existing amenity levels with the cessation of the manufacturing processes that currently exist on site.

In respect of impact on existing privacy levels and overshadowing, the proposed development will not have a significant detrimental impact on exiting properties in the area.

The Environmental Health Officer is of the view that subject to the use of appropriate conditions, any potential harm can be appropriately mitigated against.

### **Highways**

Following consideration, the Highways Officer has commented that this scheme will have benefit in terms of traffic generation over the existing use. There has been some concern expressed by residents about the level and intensity of vehicle movements on site

It should be borne in mind that this proposal was for an extra care residential unit and accordingly, the level of car ownership would be lower than that normally associated with a standard residential establishment. In addition, the site benefits from close access to Congleton town centre which is approximately 300 m.

To ensure the satisfactory operation of the site, a staff Travel Plan has been requested. This work has been undertaken by the applicants and it is understood that this has been resolved. An update will be provided for committee.

## **Wildlife**

The applicants have submitted information in the in respect of the protected species that may be on site. Whilst there is some evidence of bats and water voles, mitigation has been identified.

In principal it is felt that the redevelopment of this site can be undertaken. What is at question is the manner in which the development takes place and the timing of any development.

The applicants ecological study has shown that the cellar and other parts of the site have been inhabited by bats. Although outline mitigation measures have been proposed, the exact extent and nature of usage will need to be clarified through additional survey work prior to the finalisation of the mitigation strategy that will need to be submitted to English Nature in order to secure a licence prior to the commencement of development.

## **Loss of Employment**

Although the site is currently used for employment purposes, the applicants identified that the site is poorly suited to this purpose principally due to the poor access on Priestly Fields, but also the form and configuration of the buildings.

In considering whether there would be a substantial planning benefit from an alternative use of this site consideration is given to the fact that following the completion of the development phase there will an improvement to the general amenity levels of neighbours in the area subject to the conditions set out by the Environmental Health Officer. In addition, The scheme will also improve the local environment by reducing the number of goods vehicles using Priestly Fields for deliveries.

In addition, whilst the proposed new development will be in the residential use class (Use Class C2), it will generate some employment for both full and part-time staff, which will partially offset the loss of existing employment on the site. For these reasons, it is therefore felt that there is no significant objection in policy terms to the proposed development.

## **Flooding and The Howty**

Following consultation between the Environment Agency and the applicant, work has been undertaken to address concerns about the potential for flooding on the site or harm to the watercourse. As indicated, the Environment Agency have suggested a series of conditions in respect of this matter and is subject to these forming part of any decision notice, it is felt that no objection can be raised on this point.

## **Archaeology**

Whilst there will be some loss of the historical usage of the site, this has been considered by the Development Control Archaeologist in light of the report submitted by the



applicants. The proposed use of a condition to ensure a programme of archaeological works is deemed to be appropriate in this instance.

## **10. CONCLUSIONS AND REASONS FOR THE DECISION**

After consideration, it is felt that the design and appearance of the proposed building together with the access arrangements are acceptable subject to the conditions as set out below.

The proposed development is deemed to be in accordance with both local and national planning policies and will not have a detrimental impact on the character of the surrounding area or the Howty brook, which passes through the site. Accordingly, the application is therefore recommended for approval.

## **11. RECOMMENDATION: APPROVE subject to the following conditions**

- 1. Submission of reserved matters**
- 2. Implementation of reserved matters**
- 3. Time limit for submission of reserved matters**
- 4. Development in accordance with submitted plans**
- 5. Samples of materials to be submitted**
- 6. Construction specification / method statement**
- 7. Noise assessment required**
- 8. Air quality assessment**
- 9. A scheme for the acoustic enclosure of fans and other machinery required**
- 10. Odour extraction system required**
- 11. Dust mitigation during construction**
- 12. External lighting to be agreed prior to development**
- 13. Protection from noise during construction (hours of construction)**
- 14. Time constraints on any pile driving**
- 15. Contaminated land desk-top assessment to be submitted**
- 16. Details of drainage**
- 17. Sustainable urban drainage -scheme to be submitted**
- 18. A scheme for the provision and management of a buffer zone alongside the brook**
- 19. A scheme to ensure finished floor levels of the proposed building are set no lower than 92.91m above Ordnance Datum (mAOD) to be submitted.**
- 20. Tree protection**
- 21. Tree pruning / felling specification**
- 22. Protection of breeding birds**
- 23. Details of landscaping to be submitted**
- 24. Implementation of landscaping**
- 25. Landscape and habitat management plan**
- 26. Bat mitigation/enhancement**
- 27. Woodland management plan**
- 28. All parking, access and traffic areas to be completed and marked out prior to first occupation.**
- 29. Cycle storage facilities for care home**
- 30. Implementation of a programme of archaeological work in accordance with a written scheme of investigation**
- 31. Provision of features into the landscaping scheme suitable for use by breeding birds including swifts.**

**32. Prior to the commencement of any works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds.**

## LOCATION PLAN: Cheshire East Council licence no. 100018515

