

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

SUMMARY RECOMMENDATION:

- **REFUSE.**

MAIN ISSUES:

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

1. REASON FOR REFERRAL

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

2. DESCRIPTION OF SITE AND CONTEXT

The site is located to the east of Congleton town centre and is accessed off both Bromley Road and Brunswick Street, which form two boundaries to the site. The north of the site is bounded by the Biddulph Valley Way and beyond this lies an area of employment land. To the west there is a footpath linking Bromley Road to the walk to the north.

Although access can be taken from the two roads to the south and east, there is a line of residential properties between the majority of the site

and the road which have their rear gardens backing on to the boundary of the application site.

Whilst the main area of the site itself is relatively flat, the surrounding land and the entrance to the eastern side of the site is at a different level with the land falling away to the north down a steep wooded embankment before meeting the footpath which forms the northern most boundary. The land to the east is at a higher level and the access road into the site from this point, descends down from Bromley Road into the centre of the site.

The site is currently occupied by an existing factory building which has been vacant for approximately two years and was formerly used for the production of cardboard cartons. The site is now unoccupied and awaiting potential redevelopment.

3. DETAILS OF PROPOSAL

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

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

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

In addition to the development of the properties, a raised bund is proposed along the northern edge of the site to provide an additional degree of protection to the future occupiers from the industrial uses to the north.

4. RELEVANT HISTORY

There are three past approvals for extensions to the factory unit during the 1970s, 1980s and early 1990s. In addition, a more recent application reference 37076/3 was refused in 20 April 2004 for the construction of 73 dwellings on the site.

There were two grounds for this refusal. Firstly, that the development of the houses at that time would exacerbate the over supply of housing within the Borough and this would be at significant variance with the provisions of Policies H1 and H2 of the Local Plan. Secondly, it was considered that the proposed development would result in the loss of employment land, and the applicant had failed to demonstrate that the

site was unsuitable for employment uses, that there was an adequate supply of employment land or premises within Congleton, or there was an overriding planning benefit to be gained from the residential redevelopment of the site. As such the proposal was deemed to be contrary to Policy E10 of the First Review of the Congleton Borough Local Plan.

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

5. POLICIES

National Policy

PPS 1: Delivering Sustainable Development

PPS3 Housing

PPG 13: Transport

North West of England Plan - Regional Spatial Strategy to 2011

DP1 Spatial Principles

DP7 Environmental Quality

L1 Health, Sport, Recreation, Cultural and Education Service Provision

L4 Regional Housing Provision

L5 Affordable Housing

EM11 Waste Management Principle

EM18 Decentralised Energy Supply

Cheshire Replacement Waste Local Plan

Policy 11 (Development and Waste Recycling)

Congleton Borough Council Local Plan First Review 2005

PS4 Towns

H1 & H2 Provision of New Housing Development

H4 Residential Development in Towns

H13 Affordable and Low Cost Housing

GR1 New Development

GR2 & GR3 Design

GR4 & 5 'Landscaping'

GR6 & 7 'Amenity and Health'

GR9 Accessibility, Servicing and Parking Provision (New Development)

GR17 Car Parking

GR22 Open Space Provision

RC1 'Recreation and Community Facilities – General'

SPG1 Provision of Public Open Space in New Residential Development

SPG2 Provision of Private Open Space in New Residential Development

SPD6 Open Space Provision

6. CONSULTATIONS (External to Planning)

Nature Conservation Officer

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

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

Environmental Health Officer

The site investigation report submitted with the application is now over two years old and new guidelines have been released with respect to undertaking site investigations. In addition, there are a number of areas where it was noted on site that odour was encountered requiring further investigation, particularly around the area of the old substation on the northern boundary. In addition, the old gravel pit area requires investigation to determine the nature of the fill material and the gas protection measures required on-site.

In respect of noise, the principal of use of the bund on the northern boundary is accepted, however ongoing maintenance would have to be secured through the legal agreement. This matter, however, could be addressed through the use of appropriate conditions. If the application had been deemed suitable to be approved, conditions on pile driving and protection of noise from construction would also be applicable.

Open Space and Streetscapes

Comments awaited.

Strategic Highways Manager.

The Strategic Highways Manager has undertaken significant pre-application discussions with regard to this site. In their view, the traffic generation from the proposed residential use will be a significant reduction when compared to the potential traffic generation from the existing use class and the reduction in traffic generation will provide betterment in terms of reduced traffic impact on the local highway infrastructure. Therefore the Strategic Highways Manager considers that there should be no objection in principle to the proposal for development.

The Officer acknowledges that there are issues with the proposal which need resolution in terms of local infrastructure provision or upgrade, and

accordingly they recommend a number of conditions and informatives for inclusion with any planning permission which may be granted. Given the indicated intent in the submitted travel assessment and the travel plan framework, it is clear that the proposed development is intended to rely on local sustainable connectivity, in particular pedestrian, cycle and bus facilities

The extent of the existing facilities which are in place is detailed in the transport assessment and travel plan framework, and therefore the Strategic Highways Manager considers it reasonable that a capital sum of money is negotiated to secure a number of local improvements to the local sustainable infrastructure. This will include improvements to local footway and surface.

If the scheme would be approved, the improvements sought through the obligations relate to detailed designs for the proposed alterations to the junction with Vaudrey Crescent and Bromley Road, submission of detailed plans for the proposed main junction with Bromley Road, improvements to the pedestrian cycle junction with Brunswick Street, improvements for the proposed alterations to the footway of Bromley Road and improvements to pedestrian crossings in the vicinity of the site.

Housing officer

Comments are awaited.

Senior Landscaping Tree Officer

Comments are awaited

7. VIEWS OF THE PARISH / TOWN COUNCIL:

Recommend approval

8. OTHER REPRESENTATIONS:

Neighbour Comments

Two neighbours have commented on this scheme. The first of these from Brunswick Wharf House expressed concern that the proposal is being brought forward in isolation separate to neighbouring employment sites. It is argues that if a larger proposal was submitted, this would enable a common access to be provided to deliver better improvements for the good of the area currently under consideration. The objector also points out that under the Strategic Housing Land Availability Assessment, the site was anticipated to deliver an element of employment land, but this is not part of the proposal.

The objector also notes that there are a number of discrepancies on the plan, including the absence of trees near the applicants site and a pedestrian right-of-way seems not to have been marked. In summary, the applicant requests that this application be delayed until such time that the whole area can be redeveloped as opposed to taking the side forward on a piecemeal basis.

The second objector has opposed the application on two grounds. The first of these is that the main access road would be adjacent to the property and concern is also raised that the use of the access would exacerbate problems using their existing driveway, which is in an awkward position next to the proposed Bromley Road access point. On the second point, they have requested that any planting adjacent to their site would be of a sufficient nature to deter children playing alongside the property but was not too high to cause future amenity problems through loss of light.

Congleton Cycling Campaign

The group has questioned the applicants suggestion that the journey to Congleton Railways station would be only 1.5 km as this is a difficult route and would mostly be on roads as the passing cycle route does not provide immediate access. It would appear to the group that the applicants study gives lip service to the issue of sustainable transport, and they would wish to see the applicant make provision for some signing and cycle facilities including a direct link to the town centre as part of their obligations.

9. APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement

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

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

Development Viability Report

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

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

Desk Study and Site Investigation Report

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

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

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

Ecological Report

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

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

Employment Land Appraisal.

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

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

Flood Risk Assessment

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

Noise Assessment.

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

Planning Statement

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

Transport Statement

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

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

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

Tree Survey and Constraints Report.

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

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

Waste Management Plan

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

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

10. OFFICER APPRAISAL

Principle of Development

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

Layout Design and Street Scene

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

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

Amenity

The main relation this site has with its neighbours is to the residential properties to the south. In the main, many of these properties have extensive rear gardens, and accordingly the dwellings themselves are situated a substantial distance away from the proposed buildings. Where the neighbouring properties get closer to the southern boundary of the site, the indicative master plan for the site indicates that there is either extensive landscaping between the two areas or the properties themselves setback in order to minimise impact on the neighbouring properties.

It is felt that at this outline stage, sufficient scope exists within the site to ensure that satisfactory separation distances between existing and proposed dwellings can be ensured at the reserved matters application stage.

Whilst there would be some disturbance during the construction operations which could be controlled through conditions in respect of hours of work, the resultant development will have less harm on the

neighbouring occupiers in respect of noise and other sources of pollution e.g. dust compared to the existing factory force and associated activities including deliveries.

Landscape

The indicative scheme shows landscaping to the north and southbound of the site particular with some new planting within the centre of the site, particularly around the access road. In addition to the applicant's own planting, there is existing planting on the slopes rising up from the northern boundary of the site, and it is felt that in general this matter can be adequately addressed through the reserved matters stage.

Ecology

Following the additional work undertaken in respect of bats on the site, the Council's Ecological Officer is satisfied that the development would not impinge on protected species, and accordingly a licence would not be required from English Nature in this instance.

In addition, applicants have acknowledged that some of the existing trees towards the north of site can be retained and retained as future wildlife habitat and should scheme be acceptable for approval. This could be conditioned if the scheme were to be approved.

Highways and Parking

Following extensive work with the Council's Strategic Highways Manager, it is felt that the matter of access of the vehicles and other road users can be suitably addressed through the use of conditions and a section 106 agreement to secure appropriate offsite works.

Given that the scheme will result in the removal of the existing industrial use on the site, the Strategic Highways Manager is of the view that this scheme will bring about betterment within the locality.

Contamination

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

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

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

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

Open Space Provision

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

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

Employment Land

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

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

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

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

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

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

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

Affordable Housing

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

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

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

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

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

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

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

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

Renewable Energy

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

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

11. CONCLUSIONS

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

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

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

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

12. RECOMMENDATIONS

REFUSE for the following reasons:

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

