

Planning Reference No:	08/1236/OUT
Application Address:	Land at Brook Street / Mill Street, Buglawton, Congleton.
Proposal:	Outline application for residential Development, close care /retirement units and care home with access sought for approval at outline stage.
Applicant:	Mottram Ventures Limited.
Application Type:	Outline Planning Permission
Ward:	Congleton
Registration Date:	11 th August 2008
Earliest Determination Date:	12 th September 2008
Expiry Date:	30 th October 2008
Date report Prepared	8 th April 2010
Constraints:	Within the Settlement Zone Line E11 Owner Specific Employment Sites NR4 Wildlife Corridor Flood Zones 1, 2 and 3a

SUMMARY RECOMMENDATION

Grant outline planning permission subject to conditions and S106 Agreement

MAIN ISSUES

Principle of Development
Loss of an Employment Site
Housing Need
Flood Risk
Drainage
Design
Environmental Health Related Issues
Open Space
Highways
Ecology and Trees

1. REASON FOR REPORT

The application proposes major development on a site in excess of 1ha.

2. DESCRIPTION OF SITE AND CONTEXT

The application site is located within the Buglawton, in close proximity to the town centre. The site comprises 3.6ha of largely previously developed land split into two discrete equally sized parcels intersected by Dane-in-Shaw Brook which cuts through the site in an east to west direction before merging with the River Dane that meanders around the northern and western boundary of the site.

The northern parcel, which has been vacant for a significant period, contains an area of unmade ground, hard standing and small collection of older mill buildings which are now in a dilapidated state. The area was last used for general storage and overspill parking in connection with industrial uses on the southern parcel of land; the two parcels being connected by a steel and pre-cast concrete bridge.

The southern parcel contains approximately 6800m² industrial floorspace split between six units varying in size. Two buildings account for the majority of this floorspace however and these are currently let on short-term leases and at low rents of approximately £1sqft. Whilst the buildings and site appear to have been reasonably well maintained, they are showing signs of age having been constructed in the years between 1950 and 1975.

Both parcels contain a large number of trees, the majority of which line the banks of the River Dane and Dane-in-Shaw Brook. However, there are a number of ornamental trees in the southern half of the site adjacent to buildings and along the site boundary to Brook Street.

Pedestrian and vehicular access to the site can be gained from either Brook Street, via an access off Bridge Row, or from a smaller access off Mill Street in the sites northeastern corner.

The surrounding area is characterised by long established industrial uses to the north and east, by residential to the south and Congleton Park to the west although this is separated from the site by the River Dane. Small pockets of existing residential development do however exist on the sites immediate eastern boundary along Bridge and Mill Street.

Due to the sites proximity to both the River Dane and the Dane-in-Shaw Brook the site is identified, to varying degrees, within flood risk zones 1, 2 and 3 and has been known to flood (the last event having occurred in 1998).

3. DETAILS OF PROPOSAL

The application seeks outline planning permission for residential development and a care home. Detailed approval is sought for means of access with a new junction proposed directly onto Brook Street.

The application proposes up to 74 dwellings in the form of apartments, semi-detached and detached houses and a 72-bed carehome with 36 retirement associated close care apartments with associated public open space, landscaped riverside area and children's play equipment.

It is proposed to locate the care home and retirement apartments on the northern parcel, served by an access off Mill Street, and housing on the southern parcel in turn served by the proposed new junction directly onto Brook Street.

Whilst layout, scale and appearance are reserved for future consideration, the applicants indicate that the units would comprise a mix of 2, 2½ and 3-storey units

which is supplemented by an indicative layout plan which is discussed in more detail further into the report.

Two large areas of public open space are proposed cut into platforms approximately 1m below the development footprint. These areas have been designed to provide extra flood capacity during storm events which would serve to protect the site during extreme events. The application proposes to connect these two areas of POS by a footbridge with a further bridge also proposed to connect the site to Congleton Park.

4. RELEVANT HISTORY

No applications relevant to the current proposed scheme.

5. POLICIES

National Policy

PPS1 'Delivering Sustainable Development'
PPS3 'Housing'
PPS4 'Planning for Sustainable Economic Development'
PPS5 'Planning for the Historic Environment'
PPS9 'Planning and Bio-diversity'
PPG13 'Transport'
PPS23 'Planning and Pollution Control'
PPG24 'Planning and Noise'
PPS25 'Development and Flood Risk'

Regional Spatial Strategy

DP1 'Spatial Principles'
DP2 'Promote Sustainable Communities'
DP3 'Promote Sustainable Economic Development'
DP4 'Make the Best Use of Existing Resources and Infrastructure'
DP5 'Manage Travel Demand; Reduce the Need to Travel, and increase accessibility'

DP7 'Promote Environmental Quality'
W1 'Strengthening the Regional Economy'
W3 'Supply of Employment Land'
W4 'Release of Allocated Employment Land'
L4 'Regional Housing Provision'
EM17 'Renewable Energy'

Local Plan Policy

PS4 'Towns'
GR1 'New Development'
GR2 'Design'
GR3 'Design'
GR6 'Amenity and Health'
GR7 'Amenity and Health'
GR8 'Amenity and Health'
GR9 'Accessibility, Servicing and Parking Provision'
GR14 'Cycling Measures'
GR17 'Car Parking'

GR18 'Traffic Measures'
GR22 'Open Space Provision'
E10 'Re-use or Redevelopment of Existing Employment Sites'
E11 'Owner Specific Employment Sites'
H2 'Provision of New Housing Development'
H4 'Residential Development in Towns'
H13 'Affordable and Low Cost Housing'
NR1 'Trees and Woodland'
NR2 'Statutory Sites'
NR3 'Habitats'
NR4 'Non-statutory Sites'
NR5 'Opportunities to Improve and Enhance Nature Conservation'
NR6 'Reclamation of Land'

Other Material Considerations

SPG1 'Public Open Space'
SPG2 'Private Open Space'
SPD6 'Affordable Housing and Mixed Communities'
2006 Congleton Housing Needs Survey
Annual Monitoring Report 2008/09
Cheshire and Warrington Rural Workspace Study (March 2009)
Strategic Housing Land Availability Assessment (Congleton) 2009

6. CONSIDERATIONS (External to Planning)

Highways:

No objection subject to conditions and subject to a S106 Agreement which secures the interim travel plan and financial contributions towards management of the travel plan and to improve local sustainable links including existing footways and bus services.

Environmental Health:

No objection to the proposed development on the grounds of contamination, noise or air quality subject to the imposition of a number of conditions.

Trees and Ecology

Natural England

Commented that the two additional surveys recommended by the applicant's ecology consultants had not been undertaken.

Senior Landscape Officer

No objection but noted that the cut and fill operations would require the removal of trees within the mid-section of the site and that further consideration was required to ensure that trees along the riverside corridor can be protected.

Local Plans and Economic Policy

Three consultation responses have been received from the Local Plans section over the life of the application. The latest, and most up-to-date response received in February this year, expresses reservations about the proposed development for a

number of reasons having particular regard to employment land issues and the fact the site remains in active employment use, that the supply of employment land in [the former borough of Congleton] is skewed [in terms of supply towards Mid-point 18, Middlewich] and has been decreasing in recent years and that the sites loss may be contrary to policy W4 of RSS. It is recommended however that the case officer may consider loss of the site is justified when balanced against a range of other issues including the sites viability.

Consultation responses in the early part of the application from the former Cheshire County Waste and Planning Section objecting to the proposed development on the grounds of loss of employment land and the fact that the applicants have not submitted an operation statement for the proposed care home although it was then suggested that this matter can be addressed by way of a suitably worded condition.

South East Cheshire Enterprise

Object to the proposed development. They see the site as an important industrial area in close proximity to the town centre and residential area.

SECE recognise the current building deficiencies and advise that the site would benefit from redevelopment with a modernised and redeveloped commercial use and not residential before referring to evidence of high levels of out-commuting and low job densities within the former borough.

Greenspace

The consultation response notes that a shortfall exists in the quantity of children and young persons equipment and that a requirement for new equipment exists. The provision of on-site facilities is welcomed and would need to be secured by a S106 Agreement. In addition, the Council would need to adopt the equipment thereby necessitating a maintenance sum of £53,834 which would also need to be secured by the S106 Agreement.

The response identified a surplus of amenity Greenspace within the area and advised that the provision of on-site Greenspace was therefore unnecessary. However, they also noted that the proposed POS formed an important part of the strategy to ensure flood protection for the site.

They advised that further comments would be required if the proposed bridge connecting the site to the park was omitted. This is because it would impact upon the amount of Greenspace available to the development and could therefore require an increased contribution. On that basis, an update will be provided to members at committee.

A further memo was also received from Streetscape expressing concern at the inclusion of an addition footpath link into the park because it was considered that a) sufficient access points already exist and b) that it could cause problems from the perspective of park management.

Archaeology

No objection subject to the imposition of a condition to secure a programme of works prior to the commencement of development.

Education

No requirement for a contribution based on forecasting up to 2013.

Environment Agency

No objection to the development subject to the imposition of 8 conditions. They advise that they are satisfied that the applicants have successfully demonstrated the site can be given an adequate level of protection from fluvial flood risk associated with the River Dane and Dane-in-Shaw Brook. In addition, the detailed plans for cut and fill / site level alterations mean that the applicants are not required to undertake a PPS25 Sequential Test.

United Utilities

United Utilities have not raised any objection to the proposed development but noted that the sewers run across the site which would need to be either diverted or protected by a 6m easement. They advise that if the applicants intend to use Sustainable Urban Drainage Systems to drain the site, further discussions would be needed with UU, the applicants and the Councils drainage engineer.

District Valuation Office (DV)

The Council commissioned the DVO to undertake a detailed assessment of the information viability submitted by the applicants in relation to four possible development scenarios ranging from redevelopment of the site entirely for employment through to a mixed-use scheme comprising residential and employment. Your officers have not provided a summary of his comments here because his advice is referred to in detail within the main section of the report addressing employment land and viability. It must also be considered alongside evidence presented by the applicants.

7. CONGLETON TOWN COUNCIL

No objection to the proposed development.

8. OTHER REPRESENTATIONS

A total of three objections were received covering a range of issues including riverbank erosion and that planning permission for private residential access onto Brook Street had previously been refused. The main concern however was that the proposed development would result in the loss of a cul-de-sac, thereby affecting parking and access for residents, and that access to Bridge Row is very difficult at present. Concern was also expressed in relation to land ownership boundaries.

A small petition was also submitted signed by 6 residents objecting to the loss of the cul-de-sac.

9. APPLICANT'S SUPPORTING INFORMATION

Planning Statement (July 2008)

Design and Access Statement (July 2008)

Economic Statement (July 2008)

Air Quality Assessment (July 2008)

PPG24 Noise Impact Assessment (July 2008)
Transport Statement & Interim Travel Plan (July 2008)
Tree Survey (July 2008)
TEP Ecological Survey (July 2008)
Preliminary Site Investigation Report (July 2008)
Site Waste Management Plan (July 2008)
Micro Hydro Investigation (July 2008)
Flood Risk Assessment and Supporting Cut and Fill Diagrams (July 2008)

Supplementary Information

TEP Updated Ecology Survey (September 2008)
Revised Planning Statement (October 2008)
Revised Economic Statement (October 2008)
Timothy Brown Property Report (October 2008)
King Sturge Marketing Report (October 2008)
Thomas Lister Market Assessment (July 2009)
Building Survey and Budget Cost Plan (July 2009)

10 OFFICER APPRAISAL

Principle of Development

In overall terms, as a site within the settlement zone line for Congleton, your officers are satisfied that the principle of residential development on the site could be acceptable under local plan policy PS4. However, the applicants must address a host of other issues including demonstrating that the scale of development is appropriate in design terms, that loss of employment land would avoid detrimental impact to the local economy and that the site can be adequately protected against flood risk.

Aside from this however, the principle of development would be supported more generally by regional and national policy. The proposals seek to utilise previously developed land, inside the settlement zone and in close proximity to Congleton town centre which offers a good range of shops and services. On that basis, the application would perform well when assessed against policies DP2 and DP4 of RSS which seek to foster sustainable communities and prioritise re-use of previously developed land within settlements.

Whilst the application is speculative, your officers are satisfied the site is '*deliverable*' when assessed against the advice within paragraph 54 of PPS3. The site is suitable for housing, available within in the short term and has a reasonable prospect of housing being delivered within 5-years. Whilst a number of the buildings are occupied, it is understood that this is only on the basis of short-term tenancies and it not therefore anticipated that this would impede redevelopment of the site to the detriment of deliverability. The site is also included within the SHLAA as a site capable of delivering 101 dwellings albeit within the 6-10 year period due to uncertainties over its availability which has clearly now been answered through the submission of this application.

In terms of housing land supply, the applicants argue that the Council cannot demonstrate a five-year land supply, supporting their position with the recent Havannah Mill appeal decision where the inspector concluded an absence of a five

year supply within both Congleton and Macclesfield. However, the most recent advice from the Local Plans section is that the housing market area is based on Cheshire East as a borough and that when assessed in this way, the Council can demonstrate a five-year housing land supply. On that basis, it is not therefore necessary to consider the application favourably in terms of the advice under paragraphs 69 and 71 of PPS3.

Whilst made in outline form, the indicative parameters demonstrate that a good mix of accommodation including family housing, affordable housing and accommodation for the elderly and would be delivered and the scheme would therefore perform well in terms of the aims of PPS1 & PPS3 to deliver diverse, mixed communities.

Loss of Employment Land

The general thrust of policy E10 is to protect the boroughs employment sites and land supply. However, the policy allows for two exceptions where the site is either no longer financially viable or that its redevelopment would offer substantial planning benefit.

This issue has been a fundamental sticking point between the Council and applicants and lengthy discussions between the Council and Local Plans Section, the applicants and, latterly, the District Valuation Office in order to address this matter. Before assessing the proposals against the requirements of policy E10, consideration of the position of the various parties is given below.

Cheshire East Policy Position

The Councils principal concerns are that the proposed development would result in the loss of buildings currently in employment use and, in overall terms, a 3.6ha of employment site in a highly accessible location within Congleton town. It is acknowledged that the buildings are relatively poor quality, achieving low rents and let only on short term tenancies, but it is considered that such accommodation plays an important role in catering for start-up businesses or those which large quantities of cheap floorspace.

In terms of the strategic view, your officers are concerned that the loss of the site would further reduce employment supply across the former Congleton borough but more particularly within Congleton town itself. In this respect, whilst the former borough would appear to have an adequate supply, (92.58ha based on the 2008/09 AMR equating to a 20.5-years supply), much of this figure is made up of the Midpoint 18 B8 allocation which accounts for 53ha, thus skewing the figures, with Congleton town having remaining allocations of only 4.79ha. However, members must note that the Council does not have an accurate up-to-date figure for levels of existing available employment floor space within the borough which could be considerable given that the recent Cheshire and Warrington Rural Workspace Study (dated March 2009) suggested that Congleton has a large supply of commercial land considering Radnor Park and Eaton Bank before noting the existence of 13,70sqm vacant industrial floorspace and 10,176sqm vacant office space.

Finally, there was concern that the applicants had failed to address the issue of viability in terms of refurbishing the buildings, redeveloping the site entirely for B1 / B2 uses or as mixed use residential /B1 scheme although I return to consider this matter in more detail shortly.

Applicant's position

The applicant's advise that the remaining buildings are no longer viable for continued economic use with rental income failing to deliver an acceptable level of return when measured against on-going maintenance costs. They argue their only remaining options, after the current short term tenancies expire, would be to struggle to let the buildings at a rental of 50p to £1 per square foot (purely to avoid having to pay empty rates) or demolish the buildings and clear the site. They consider that redevelopment of the site is acceptable because the buildings are no longer suitable for use and that the scheme offers substantial planning benefits such as removal of poor quality employment space, new employment generation from a care home, improvements to flood risk and removal of HGV movements.

More broadly, the applicant's argue that the borough has more than sufficient employment land supply and large amounts of existing floorspace currently vacant suggesting over-supply, lack of demand or both.

At the Councils request, in order to determine whether the site could be redeveloped viably with new employment space, the applicants also submitted a detailed viability appraisal covering five development scenarios: -

- Option 1 Refurbishment of the existing buildings
- Options 2, 3 & 3a - Redevelopment comprising entirely B1 / B1&B2
- Option 4 - Redevelopment with housing and new office accommodation on the northern half of the site

The report concluded that none of these options were viable producing largely negative or unviable returns ranging from -19% for option 1, -43% for option 3, -41% for option 3a and producing a profit of only 4% on option 4. The applicants showed that the current scheme would deliver a viable profit level of 27.5% and that the scheme is therefore deliverable in terms of PPS3; an important consideration.

Advice of the DVO

In order to assess the information submitted by the applicants, the Council instructed the District Valuation Office to appraise the applicant's assessments. In general terms he noted that the site was a potentially attractive residential site but has poor access for the present employment uses. He also advised that the sites current condition, as well as that of the several large industrial warehouse units, was relatively poor.

Existing buildings

In terms of the existing buildings, the DV has advised that refurbishment of these buildings was neither suitable nor viable. He considered that the buildings would be difficult to re-let in current market conditions and would only continue to deteriorate being of interest only to low-value users which he considers tend to attract non-confirming uses which could be considered undesirable in this location. Critically, he concludes that the site neither suitable nor viable for full redevelopment with employment uses and that left unchanged the existing buildings will further deteriorate. a very important consideration when assessing the proposals against policy E10 because it suggests the buildings have reached the end of their useful economic life and also rules out development scenario options 1-3.

Alternative Development Scenario Option 4 and current scheme

The two areas of disagreement between the DVO and applicants however relate to the viability of a mixed-use scheme comprising B1 office / residential and the profit levels achieved by the current proposed scheme being considered under this application.

In respect of option 4, the mixed-use scheme, whilst the applicants consider that it would only achieve 4.49% profit, the DVO consider it could produce a profit of 17% making it marginally viable as a development. The critical difference in opinions however results from the yield rate applied to value of the development; where the DVO applies 10% yield (10% being a multiplier of 10) the applicant's apply 12% (12% being a multiplier of 8.3) which has the effect of lowering the developments capital value and thus the overall viability. In this respect however, the applicants argue a higher yield is necessary to reflect the higher risk associated with speculative office development in Congleton having regard to the high levels of vacant office accommodation.

It must also be noted that the difference in yields impacts upon the profit levels for the scheme proposed by the application which, subject to the lower yield, increases profitability from 27.5% to just under 50% which the DVO advising would be sufficient to allow virtually all the semi-detached and detached houses to be delivered on an affordable basis (predominantly social rented) whilst still retaining a profit of 20%

For clarification, HCA guidance suggest that an acceptable profit level for Brownfield development would be between 17.5% - 20% whereas the applicants agents have previously suggested that a figure between 20% - 25% would be required in order to secure development funding.

Consideration of Scheme against E10

The matter of whether the applicants have satisfied the requirements of policy E10 is finely balanced and Members will therefore need to carefully consider a number of points.

a) Whether the site is no longer suitable for employment use

In terms of the current buildings, your officers are satisfied that the evidence presented by the applicants has demonstrated that the buildings are reaching the end of their useful economic life. Whilst your officers stand by their view that the buildings play an important role in providing low cost employment space, the units are likely to prove difficult to re-let and require major renovation which has been proven to be unviable. As such, left in their current state, the likelihood is that they will either continue to deteriorate or be demolished by the owners, neither of which is an acceptable proposition.

The assessment of the sites itself also serves to demonstrate that it would highly unlikely to be redeveloped for new employment uses. The viability assessment demonstrates redevelopment of the site solely for B1 office accommodation is unviable and that even when a significant amount of residential development is included to provide cross subsidy, the scheme still only demonstrates marginal viability at 17% even with a 10% yield. Whilst the DVO advises profits could be

increased, this would be at the expense of affordable housing, something your officers consider to be undesirable given the significant levels of housing need with the borough.

The applicants suggest that the carehome itself would be an employment generator, creating more jobs than currently exist on site currently provides, which satisfies the requirements of policy E10. Whilst your officers would not disagree that the carehome would generate new jobs, it is likely the number of jobs created would be less and their nature quite different to those which would result from B1 (or B2) which could help to stem out-commuting. The position in terms of PPS4 however is unclear because it precludes housing developments with the care home falling into use Class C2 (Residential Institutions).

It must also be noted that the site in its present form represents inefficient use of land, with approximately half the site cleared and vacant, and generates in the region of only 30 jobs which equates to an extremely low job density per hectare.

Whilst there are clearly arguments against allowing the loss of employment land more generally, the fact the buildings have reached the end of their useful economic life, and refurbishment or redevelopment has been proven unviable, mean that a reasons for refusal on grounds of employment land supply is likely to be difficult to sustain at appeal particularly when balanced against the delivery of new housing on an accessible, previously developed site which delivers 30% affordable housing during a difficult economic period.

Taking all these factors, and having particular regard to the fact that delivery of new or refurbished employment space is unviable, your officers are satisfied that the requirements of part a) of policy E10 have been addressed.

b) Whether the development offers substantial planning benefits

Your officers have considered the evidence present by the applicants and consider that the points outlined do not fall to be considered as substantial planning benefits. The ability to mitigate flood risk is essential to address PPS25 whilst removal of traffic from Bridge Row is merely coincidental to the redevelopment of the site and ensuring that a safe, attractive access is offered to future residents.

While detailed consideration was being given to the viability evidence, a request was made to applicants to increase the level of affordable housing provision over and above the 30% in order to demonstrate a substantial planning benefit. However, the applicants advised they were not prepared to agree to this partly because they dispute the views of the Council's viability advice in terms of yield and profitability and also because they do not consider it is necessary to meet the requirements of policy E10.

It may be however that members consider the ability to deliver 30% affordable housing in the current economic climate falls to be considered as a substantial planning benefit in its own right. In any case however, given that the assessment demonstrates that the applicants have satisfied the first part of policy E10, there is no requirement for the applicants to also demonstrate that substantial planning benefits exist.

Housing Need

As outlined above, the applicants have confirmed they are willing to provide a contribution of 30% affordable housing. Following discussions with the Housing Officer, it has been agreed that a 50/50 split between social rented and shared ownership (which should include a provision for rent to homebuy). The requirement would also extend to include retirement apartments. The delivery, phasing and occupancy restrictions can all be secured by the S106 Agreement thereby addressing the requirements of policy PPS3, policy H13 of the local plan and associated guidance within SPD6.

In addition, and whilst the applicants have failed to submit any form of operational statement for the retirement and extra care units, the Council has previously accepted that there is a general need exists within the borough for such accommodation and that this would help to contribute to mixed communities under PPS3. The precise details however in terms of the scope and nature of care along with the eligibility criterion can be agreed by way of the S106 Agreement in order to ensure provision meets identified needs.

Flood Risk

Because the site lies directly adjacent to the River Dane and Dane-in Shaw Brook, it has been known to flood; the last event having occurred in October 1998. As a result, the site is categorised to varying degrees within flood zones 1, 2 and 3a (3a being categorised as active floodplain as thus most severe).

The applicants propose a number of methods for tackling flood risk which, for the most part, comprises significant cut and fill operations to alter site levels. Site levels would be cut adjacent to the river thus reducing levels and increasing flood capacity while other areas of the site would be filled to increase their height in order to manage flood risk. Areas with reduced height would then be used to form public open space and provide additional flood capacity to compensate for the areas where fill operations had been undertaken. This is a perfectly acceptable approach although it means that the Greenspace Section will not adopt these areas for management. Other methods involve raised floor levels and footways which would also be designed to channel any overland flow back to the rivers.

Following a detailed assessment of the scheme, the Environment Agency have confirmed that they are satisfied that the applicants have successfully demonstrated an adequate level of protection from fluvial flooding from the River Dane and Dane-in-Shaw for the scheme but that 8 conditions would need to be attached to any permission. On the basis of this advice your officers are satisfied that the applicants have addressed the requirements of PPS25.

Whilst an objection was received expressing concern about the structural integrity of the riverbank and erosion, the Environment Agency, the responsible body for such matters, have raised no concerns about the proposed development in this respect.

Drainage

Whilst no objection has been raised by United Utilities to the proposed development, and no requirement for a financial contribution being identified, this was on the basis that the scheme would not be utilising SUDS (Sustainable Urban Drainage).

However, the application form indicates that the applicants intend to dispose of surface water via a SUDS system.

Your officers would therefore request that members delegate resolution of this matter to secure any necessary financial contribution through the S106 or attached appropriate conditions as appropriate.

Design

Whilst layout, scale and appearance have been reserved for future consideration, your officers consider that the information submitted by the applicants successfully demonstrates that amount of development proposed can be accommodated on the site.

The indicative layout demonstrates that an attractive layout could be delivered focusing on two areas of public open space which, whilst acting also acting flood protection zones, would provide an attractive focal point for the site allowing views across the river and towards Congleton Park.

Whilst the Urban Design Consultant expressed a number of reservations over the indicative layout, many of these issues could be design out at reserved matters stage. The applicants have however agreed to provide two bridges, the first to connect the two parcels of open space across Dane-in-Shaw Brook and the second to connect the site to Congleton Park. In this respect, whilst there seems little appetite for any such connection from the Greenspace section, it is seen as an important feature to enhance pedestrian and cycle connections through the area more generally and your officers would still therefore wish to secure the funding for the bridge as part of the S106 rather than discount it entirely.

It is therefore considered that requirements of PPS1 and PPS3 but also the local plan policies GR1, GR2, GR3, H4 and PS4 would be adequately addressed by the reserved matters application.

Environmental Health Related Issues

Noise

The sites location within a mixed-use area directly adjacent to a main road necessitated submission of a detailed noise assessment. The survey concluded that the dominant noise source was road traffic noise, as opposed to industrial, and that noise levels fell into PPG24 Noise Exposure Category B where planning permission can be granted provided steps are taken to ensure an adequate level of protection against noise. On that basis, Environmental Health have confirmed that they have no objection to the proposed development subject to a condition to ensure a detailed scheme for noise mitigation is submitted to the Council for approval and fully implemented prior to occupation thus satisfying the requirements of policy GR8.

Contamination

The application was accompanied by a Phase 1 Desk Top Study which Environmental Health expressed initial concern over due to a lack of site coverage. However, following further discussions between the Scientific Officer and the applicant's consultants a supplementary note was provided largely addressing any outstanding

issues. On that basis, Environmental Health confirmed they have no objection to the proposed development subject to the imposition of a suitably worded contaminated land condition. It is therefore considered that the proposed development has satisfied requirements of local plan policies GR7 and GR8 as well as PPS23.

Air Quality

Due to the potential for dust emissions during demolition works, Environmental Health have requested a condition be imposed on any permission to secure precise details of a dust mitigation strategy to control emissions which can be secured by a suitably worded condition thereby satisfying the requirements of policies GR7 and GR8 of the local plan.

Provision of Public Open Space

The Greenspaces section have confirmed that the site has access to a sufficient level of amenity Greenspace but that provision of on-site play equipment is required as well as a financial contribution towards maintenance of £53,834 both of which can be secured as part of the S106 Agreement.

Highways

The application has been assessed in terms of its impact on the highway network in terms of safety and capacity. The Strategic Highways Manager (SHM) has advised that the difference in traffic flows between the proposed use when measured against the existing use class is negligible and that much of the proposed traffic generation is mitigated by the removal of potential heavy commercial vehicles. He is satisfied that the proposed access directly onto Brook Street offers significant betterment in terms of traffic generation and turning movement over the existing site access from Bridge Row. The impact of the proposed care home access via Mill Street and King Street is acceptable because traffic generation associated with such a use would have only a small impact on these two roads. This will also benefit existing residents along Bridge Row in terms of removal of HCV and car movements.

The SHM is satisfied that the Interim Travel Plan shows a comprehensive approach to the promotion of sustainable travel for the site and its management by suitable appointed travel plan co-coordinators. The precise details of this will however be need to be agreed through the S106 Agreement as will the necessary financial contribution towards its future management. The SHM has also requested an additional sum to improve local sustainable links including footways and bus services which can also be secured within the S106 Agreement although the precise figure is currently being negotiated with the applicants and will therefore be confirmed during committee.

It should also be noted that whilst objections have been received that Bridge Row would no longer be a cul-de-sac, would be incorporated into the development or opened to vehicular movements is inaccurate.

The requirements of policies GR1, GR9 and GR18 of the adopted local plan are therefore deemed to have been satisfied.

Ecology and Trees

Bats

The applicant's ecological appraisal found that the proposed development has the potential to impact upon the habitat of bats in terms of an old water wheel building located on the site's northern boundary adjacent to the River Dane. Following further emergence surveys, the applicant's ecologists identified that the building was used as a maternity roost by up to 25 Daubenton's Bats.

On the basis of the above, the applicants submitted a mitigation strategy which identified two possible options, the first being retention of the building and the second being demolition and replacement with a new roost structure.

Whilst option one requires removal of much of the adjoining complex, it retains the wheelhouse structure in which the bats roost although additional work would be required to maintain the structural integrity of the building and to ensure satisfactory visual appearance of the remaining structure. The ecologists advise that all works should be carried out in either late September/October or February/March in order to avoid any disturbing roosting bats when they are most vulnerable to disturbance. Therefore subject to imposition of conditions to ensure precise details of the retention strategy, and to restrict/control lighting adjacent to the river bank, your officers are satisfied the scheme would adequately address the requirements of local plan policies NR2 'Statutory Sites' and NR3 'Habitats' as well as PPS9

It is not considered however that the scheme needs to be assessed against the tests within the habitat regulations (demonstrating over-riding public interest, favourable conservation status and existence of suitable alternatives) because the applicants have agreed to adopt the retention approach which is not reasonably likely to cause disruption to the protected species.

Breeding Birds

Whilst the survey found that the development could potentially impact upon breeding birds, your officers are satisfied that these can be protected by the standard breeding bird condition thus addressing the requirements of policies GR2 and NR4 of the adopted local plan.

Conditions would also be attached to secure a detailed landscape and habitat management plan for the site which could serve to enhance bio-diversity within the site and along the bank of the River Dane in accordance with policy NR5

Japanese Knotweed

The ecology report noted an area of the site contains Japanese Knotweed which will need to be treated. Whilst the Environment Agency requested this matter be addressed by a suitably worded condition, it is covered under separate legislation administered by the Agency. It is not therefore considered necessary or relevant to apply this condition.

Trees

The site contains a large number of trees across the entire site but which have been split into two separate population groups of trees along the River Dane (river line trees) and ornamental species.

The report notes that whilst the ornamental trees are attractive and generally have good form, they would be difficult to retain due their proximity to buildings for demolition and requirement to break out hard surfacing more generally across the site. It goes on to advise that river line trees contribute most to the local environment and that these will need to be afforded greatest protection during construction.

Following an assessment of the tree survey, the Senior Landscape Officer agrees with the view that trees lining the river and brook be afforded the greatest consideration as part of the redevelopment of the site but expresses some reservations over the ability to assess the impact of cut and fill operations on protected trees.

However your officers are satisfied that the majority of trees along the river line fall outside the boundary of the cut and fill works thereby ensuring any impact is kept to a minimum. The applicant's agent also confirmed that the cut and fill design undertaken in conjunction with the Arborist in order to minimise the potential impact. As an additional safeguard, many trees also fall within an 8m bank top zone where development is generally restricted.

Your officers are therefore satisfied that, subject to conditions which secure a detailed scheme for tree protection measures, that the impacts from the development can be minimised and requirements of policy NR1 addressed.

11. CONCLUSIONS AND REASONS FOR THE DECISION

The proposed development seeks to utilise a previously developed site within the settlement zone line for Congleton and therefore benefits from a presumption in favour of development under local plan policy PS4. The site is deliverable when assessed against PPS3 and was identified within the 2009 SHLAA and whilst it does not have to be considered favourably in terms of paragraph 71 of PPS3, the proposed development would perform well when assessed in terms of the advice within PPS3 more generally particularly in terms of delivering much needed affordable housing.

Whilst the proposals would result in the loss of a 3.6ha employment site, it has been demonstrated that the site is no longer suitable for economic use because the buildings have realistically reached the end of their useful economic life. Moreover, refurbishment and redevelopment has been proven to be unviable without an element of residential development to cross fund the scheme which come at the price of affordable housing provision.

The applicants have demonstrated general compliance with national, regional and local guidance in a range of areas including design, flood risk, ecology and highway safety and the application is therefore recommended for approval

12. RECOMMENDATION

That the application is approved subject to the following conditions and subject to the prior signing of a S106 Agreement.

S106 Heads of Terms

Provision of 30% affordable housing split equally between social rented and intermediate housing (including either shared ownership, Rent to Home Buy or discount for sale) but of a split to be agreed by Cheshire East Housing Section.

Provision of 30% affordable housing for the proposed close care/retirement apartments

Submission of an operational statement relating to the proposed care home and retirement apartments including nomination rights from Cheshire East waiting list

Green Travel Plan Management Arrangements and necessary financial contribution.

Financial contribution towards off-site highway works to cover footpath and bus stop enhancements

Financial contribution of £53,834 to public open space. Provision of children's play equipment on site at the applicant's expense but with detail to be agreed by Cheshire East. Precise details of management plan for POS to be submitted and agreed.

Applicants to purchase and install bridge to Congleton Park but with details to be agreed by Cheshire East.

Scheme for ecological and landscape enhancements and long-terms management Plans

Possible contribution to Drainage (UU)

Conditions

Time Limits and Parameters

1. Outline application time limit
2. Reserved Matters – Layout, Scale, Appearance and Landscaping
3. Development parameters in accordance with indicative plans
(Care home to north accessed from Mill Street)
(Residential on Southern Parcel accessed from Brook Street)
4. Restriction to no more than 74 dwellings, 72 bed carehome and 36 retirement apartments

Environmental Health

5. Contaminated land condition (including further intrusive Investigation and remediation)
6. Detailed scheme for noise mitigation to be agreed and implemented prior to first occupation
7. Detailed scheme for dust mitigation during demolition and construction
8. Restrictions on hours of construction

9. Restriction on hours of piling activity
10. Restriction on hours of construction vehicle deliveries
11. Precise details for carehome filtration and extraction systems
12. External lighting strategy to be submitted agreed

Ecology and Trees

13. Detailed Tree Protection Scheme to submitted, agreed and fully implemented
14. Protection of Breeding Birds
15. Detailed mitigation strategy for bats based on the TEP Option One retention strategy including wheelhouse structural works.
16. Scheme for watercourse protection during construction

Environment Agency, Flood Risk and Drainage

17. Proposed building floor levels 600mm above freeboard allowance
18. Roads, parking and footways 300mm above freeboard allowance
19. Detailed scheme for compensatory flood storage to be agreed before commencement of development and fully implemented thereafter
20. Surface water regulation to be submitted and agreed
21. Scheme for management of overland flows from surcharging of surface water drains to be submitted and agreed prior to commencement of development
22. 8m buffer strip and wildlife corridor to be retained adjacent to the watercourse
23. Site levels to be strict accordance with Peter Mason Cut and Fill Drawings unless otherwise agreed in writing

Highways

24. New vehicular access to Brook Street to be constructed to base course before other construction works commence and fully implemented before first occupation of any dwellings

Other

25. Site waste management plan
26. Scheme for Archaeological investigation
27. 10% renewable energy increasing to 15% if required by RSS
28. Precise details of all boundary treatments within the site to be agreed to include public open space and riverside areas or footpaths
29. Precise details of internal footbridge connection two areas of POS to be submitted, agreed and fully implemented within an agreed timescale

Location Plan

No Further Copies May Be Made.



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PLANNING
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