

Application No: 18/4449C

Location: Land off Black Firs Lane, Congleton, CW12 4QD

Proposal: Re- plan of 119 plots and associated works. Original Plan approval 16/5156C. This was 170 now 203

Applicant: Ms Lightfoot, Barratt & David Wilson Homes North West

Expiry Date: 04-Dec-2018

SUMMARY

This application proposes a re-plan of the southern area of this allocated site, which has planning permission for 170 dwellings. The revised proposals would increase numbers by 33, to 203. There are no in principle, policy or land supply objections to the proposals.

The applicant has agreed to meet the Education contribution and will provide the affordable housing in line with the Council's policies so these matters are addressed.

Whilst a new access onto Chelford Road is proposed, Highways have raised no objections subject to initiating a speed reduction on the road, and Members may recall the access was approved in the original outline approval granted in 2014.

The application is neutral with regards to flood risk/drainage, amenity, ecology and subject to receipt of an Arboricultural Impact Assessment trees. Comments on open space and play provision are awaited but it is not considered that any significant issues will need to be reported.

Matters of contaminated land, noise and air quality can all be addressed by conditions.

This leaves the issue of urban design. There are a number of concerns with the submitted scheme which requires revisions to ensure compliance with the Design Guide. A positive response has been received from the applicant and it is expected that revisions will be received to address the concerns. This matter will need to be reported in any update report, which will confirm the recommendation. However on the basis that these matters can be addressed the application is Minded to Approve subject to referral to Jodrell Bank to see if they feel the application should be referred to the Secretary of State.

RECOMMENDATION

MINDED TO APPROVE subject to receipt of revised plans, referral to Jodrell Bank and Section 106 Legal Agreement

SITE DESCRIPTION

The application site comprises the southern part of a larger site which is currently being developed for housing by David Wilson Homes. Development of the northern part of the site is well advanced. The greater (original) site amounts to some 10 hectares in area, and is roughly triangular in shape. This application relates to the bottom (southern) part of the site, nearest to Holmes Chapel Road, amounting to approximately 3 hectares. The site is located within an area of ribbon development along Chelford Road, Black Firs Lane and Holmes Chapel Road. Opposite the site along Chelford Road there are a mix of detached houses and bungalows. Black Firs Lane marks the western edge of the Congleton Settlement. Adjoining the south-west part of the site is former farmstead of Green Tree Farm and to its south Goodwin's Pool, which is used by Congleton Anglers Society for fishing. A number of new houses have been built off Chelford Road adjacent to the site on the south western boundary.

The frontages of the larger site have wide grass verges, with many trees of differing levels of maturity, quality and height. The western side of Chelford Road is characterised by an existing ribbon of development, part of the southern boundary has ribbon development facing onto Holmes Chapel road and there is a section of ribbon development along southern part of the eastern, Black Firs Lane boundary. Ribbon development also extends further up the eastern side of Black Firs Lane.

The site was originally a series of agricultural fields, with a number of trees especially in this southern area.

Black Firs nature reserve (SBI) sits along the southern part of the site and an area of woodland outside the site boundary on the junction of Holmes Chapel Road and Chelford Road.

2. DETAILS OF PROPOSAL

This application seeks full planning permission for a "re-plan" of the southern part of the site, to increase the number of units on the site as a whole from 170 (as approved) to 203, an increase in 33 units, or a re-plan of 119 units. This is achieved by increasing the numbers of units in areas where houses have already been proposed. The road network, areas of open space, ecological mitigation and SUDS remain unchanged. The changes are summarised below:

No of Bedrooms	Approved	Proposed
2 Beds	2	
3 Beds	8	32
4 Beds	84	92
5 Beds	25	18
<i>Rent:</i>		
Bungalow 1 Bed	4	2
Apartment 1 Bed	4	
Bungalow 2 Bed		4
Apartment 2 Bed		4
2 Beds	5	

3 Beds		5
Intermediate:		
2 Beds	21	16
3 Beds	17	30
Totals	170	203

In addition to the layout changes, the proposal is to create a new access onto Chelford Road, as originally approved at the outline stage. The extant consent being implemented has two access points off Black Firs.

3. RELEVANT PLANNING HISTORY

13/2746C - Erection of up to 180 dwellings, public open space, green infrastructure and associated works Land between Black Firs Lane, Chelford Road & Holmes Chapel Road, Somerford, Congleton, Cheshire APPROVED August 2014

16/5156C - Residential Development for 170 houses & associated works. LAND OFF BLACK FIRS LANE, SOMERFORD, CONGLETON, CHESHIRE APPROVED May 2017

4. PLANNING POLICIES

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

Local Plan Policy Cheshire East Local Plan Strategy

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
SE10 - Jodrell Bank
IN1 – Infrastructure
IN2 – Developer Contributions
NR5 - Maximising opportunities to enhance nature conservation

LPS 26 – Back Lane/Radnor Park, Congleton

Saved Policies Congleton Borough Local Plan

PS8 Open Countryside
NR4 Non-statutory sites
GR5 Landscaping
GR9 Accessibility, servicing and provision of parking
GR14 Cycling Measures
GR15 Pedestrian Measures
GR17 Car parking
GR18 Traffic Generation
PS10 Jodrell Bank
NR1 Trees and Woodland
NR3 habitats
NR5 Habitats
H6 Residential Development in the Open countryside
H13 affordable Housing and low cost housing
Hulme Walfield and Somerford Booths Neighbourhood Plan
(Made February 2018)
HOU1 - New Housing development
HOU5 - Housing design
INF1 – Infrastructure

Somerford Neighbourhood Plan 2018

This made plan has the following relevant policies:

Policy H1: New Housing
Policy D1: Design
Policy D2: Building Design
Policy N2: Trees and Hedgerows
Policy T1: Sustainable Transport, Safety and Accessibility

Other Material Considerations

National Planning Policy Guidance

CONSULTATIONS:

Natural England: No objections are raised.

Jodrell Bank: Comments are awaited, however they objected to the previous application as the impact from the additional potential contribution to the existing level of interference from that direction will be moderate. They asked that Cheshire East take this into consideration in reaching its decision.

Environmental Health: Detailed comments have been received, but no objections are raised. Conditions relating to Noise insulation, Travel plans, Travel Information Packs, Electric Vehicle Infrastructure, Phase II Ground Investigation and contaminated land are recommended.

Education: The development is expected to generate 6 primary children, 5 secondary children and 0 SEN children, and that owing to the shortfall in the provision in both primary and secondary education a contribution of £146,791 is required. If this is not secured then Children's Services raise an objection to this application.

Flood Risk Officer: Comments are awaited. No objections were raised to the previous application subject to conditions relating to drainage strategy/design and implementation are recommended. Run off rates shall mimic existing greenfield run-off rates.

Housing: Following clarification of the affordable mix which meets the policy on tenure mix, and confirmation the development is providing 1 bed bungalows they have no objection subject to the provision being secured via a Section 106.

Strategic Highways Manager: No objections are raised, but recommend the speed limit locally is reduced and that a Section 106 contribution is required to secure this.

Public Rights of Way: Comments are awaited, however commenting on the previous application they stated that the proposed development does not appear to affect any Public Rights of Way, but that there were opportunities to provide green linkages to Congleton, essentially to the east, as part of the North Congleton Masterplan proposals and advice in the NPPF.

Public Open Space (Amenity Greenspace) and Children's Play Space: Comments are awaited from ANSA. However, commenting on the outline approval, there was considered to be a deficiency in provision locally. On site provision for both open space and play space was required be to an adoptable standard with an associated commuted sum payment for future maintenance should this be adopted by the Council. The amount of open space indicated on the submitted outline plans was considered to be an over-provision.

VIEWS OF THE PARISH / TOWN COUNCIL

Somerford Parish Council: Object to the application for the following reasons:

"Background and Neighbourhood Plan

- Somerford is a small parish with virtually no man-made community facilities.
- In the 2001 Census its population was recorded as 343 and by 2011 this had risen to 430. At that time there were approximately 140 dwellings, giving an average occupancy of 3 to 1.
- A total of some 1200 houses have been approved in the Parish in recent years. Using the 2011 Census average of 3 to 1, this suggests a population for Somerford in the region of 3,500.
- The Somerford Neighbourhood Plan was approved following a public referendum held on the 15th February 2018. That plan sets out various policy objectives covering Housing and Design and in particular the following targets: Policy H1 – New Housing:
New housing development should:
 - maintain the rural character and setting of Somerford; and
 - be supported by adequate infrastructure, or provide any necessary infrastructure improvements as part of the development.This application does neither.

Policy H2 - Development of small infill sites, the redevelopment of existing sites and the refurbishment or replacement of existing buildings and conversions will be supported, providing that:

- the character and appearance of the immediate neighbourhood is maintained including, where appropriate, the spacing and set back of buildings;
- infill development of 3 dwellings or less should relate to the size of the site so as to avoid overdevelopment;
- conversions and replacement dwellings or redevelopments of existing sites should respect the character of the surrounding area; and
- applications are supported by a visual impact assessment.

This application satisfies none of these objectives.

Policy D1 – Design:

This application does not meet any of the Design policy objectives set out in the Neighbourhood Plan

It would appear that the applicant is either unaware of or has ignored the provisions and objectives of the Somerford Neighbour Plan.

Housing numbers

- The original planning application for this site was registered on the 28th August 2013 and numbered 13/2746C and was for 180 dwellings.
- The Somerford Parish Council was one of many objectors to that application.
- The Planning Authority granted the application on the 19th August 2014 but reduced the number of dwellings permitted from 180 to 170, condition 33 providing as follows: Notwithstanding the details shown on the approved plans, application forms, and other supporting documents, this permission shall not confer approval for any more than 170 dwellings to be built within the site. The reason for this condition was stated to be: In the interests of achieving a high quality design and layout and to comply with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.
- The current applicant submitted their application for 170 dwellings on the 20th October 2016 and this was granted, for 170 dwellings, on the 12th May 2017.
- The current application does not seek to justify the increase in the number of dwellings from 170 to 203 on any grounds and it would seem that the only justification is one of commercial expediency.
- In particular it is submitted that the application, if granted, would be contrary to achieving a high quality design and layout and would not comply with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.

Access and loss of trees

- The application seeks to create a fourth access point to the site. Again there is no stated justification for this additional access.
- The applicant's tree survey states that the creation of this further access would involve the loss of additional trees as follows: 4 roadside trees will also require removal to allow for access points into the development. This will have an impact both from the loss of moderate value trees and visually.

If it is that the application is to be considered for grant, then the Somerford Parish Council would ask that the following factors be considered and, where appropriate, be incorporated into the conditions:

1. It is considered essential that the speed limit along Chelford Road, from at least its junction with Holmes Chapel Road, be reduced from its present 60 mph to 40 mph to bring it into line with the limits currently applied on both the adjacent section of Holmes Chapel Road and Blackfirs Lane;

2. It is considered unnecessary and undesirable for the area to be provided with full-height lampposts and any provision for street-lighting, if considered essential, should be both low in intensity and height. In this respect the Neighbourhood Plan provides the following:

We will encourage the following approach to the provision of street lighting and signage:

- Street lighting should be minimal if at all and should not disturb dark skies;
- any light sources should point downwards so it has minimal impact on the environment, minimal effect on local wildlife and minimise light pollution;
- individual timer controls shall be installed for each light source, and
- all lighting should comply with BS5489---1: 2013."

3. The Parish Council would welcome conditions which provide for absolute minimum removal of existing hedges and incursion onto the grass verge together with a requirement to plant at least two trees for each one lost from the verge area.

4. The Parish Council would ask that consideration be given to a requirement to make financial contribution for the improvement/repair of the pavement along Chelford Road from its junction with Holmes Chapel Road to its termination outside No. 35 Chelford Road. This is to ensure that pedestrian connectivity is maintained and enhanced. The current pavement has a high usage rate and this will inevitably increase as the application site is populated. The surface is in a very poor state of repair and the kerb edge is in many places little raised above the road surface, thus encouraging vehicles to intrude onto the pavement and inhibit pedestrian passage."

REPRESENTATIONS

Two letters of objection have been received. One on the grounds that the numbers should be restricted to 170 as currently approved, and the other picking up this matter and considers that the numbers were restricted to allow for high standards of design to be achieved. Concern was also expressed about the impacts of the increased numbers on ecology and school provision.

APPRAISAL:

PRINCIPLE OF THE DEVELOPMENT

Full Planning permission has been granted for the development of this allocated Local Plan Strategy site (LPS26) for 170 dwellings, therefore the principle of building housing is clearly established. The allocation in the Local Plan, which includes a number of sites west of the River Dane is for "the delivery of around 750 new homes". At this stage the number of homes in this allocation is unknown as whilst there are approvals for all of the sites, the majority are in outline and as such the absolute numbers is not yet known. In addition the 750 figure is not a target, or a limit, merely an indication based on average densities of what could be achieved in this allocation. As such there are no 'in-principle', or housing land supply reasons to object to the application and as such the application needs to be determined on its site specific merits.

With regards to the Neighbourhood Plan, the proposals are for a re-plan of an existing approved site and as such many of the criteria of Policy H1 are not relevant, and it is not considered the proposals conflicts with the remaining matters of character and infrastructure provision. Policy H2 referred to by the Parish only relates to small infill sites, development of existing

sites/conversions and as such is not relevant to this strategic allocation. Policy D1 looks at the design detail of the development and this is further explored below.

AFFORDABLE HOUSING

This is a proposed re plan of 119 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 36 dwellings to be provided as affordable dwellings.

The CELP states in Policy SC5 justification paragraph 12.44, 'The Housing Development Study shows that there is the objectively-assessed need for affordable housing for a minimum of 7,100 dwellings over the plan period, which equates to an average of 355 dwellings per year.' This is for the whole borough of Cheshire East.

The current number of those on the Cheshire Homechoice waiting list with Congleton as their first choice is 674. This can be broken down to 311x 1 bedroom, 217x 2 bedroom, 101x 3 bedroom, 25x 4 bedroom and 20x 5 bedroom dwellings.

The SHMA 2013 shows the majority of the house type demand annually up to and including 2018 in Congleton is for 27x 1 bedroom, 10x 3 bedroom and 46x 3 bedroom dwellings. There is also a need for 37x 1 Older Persons dwellings. These can be via flats, cottage style flats, bungalows and lifetime standard homes.

Therefore a mix of 1, 2, 3 and 4 bedroom dwellings and older person provision on this site would be acceptable.

There was initially some confusion over the proposed mix as part of the site has now been built out. However the applicant's agent explains:

"This application has to be looked at as part of the wider scheme. The original approval was for 170 units, of which 30% were affordable (51), split 25% rented (13) and 75% intermediate (38). The split was agreed at the time of the original outline consent. We carried this split forward to our full application for the whole site, and are simply carrying it forward again to the re-plan on the basis that circumstances have not changed in this regard since that agreement was reached.

The re-plan application covers 119 units, but the new total for the entire site is 203 units, of which 30% are affordable (61), split 25% rented (15) and 75% intermediate (46). The complication has arisen because there were already more affordable units proportionally in the southern section of the site, which is now subject of the re-plan."

In relation to specific provision the applicant's agent writes:

"In relation to the mix of units, the original consent did not contain any 4 bed affordable units. It contained 4 x 1 bed bungalows and 4 x 1 bed apartments as part of the mix.

In total, we are now proposing 2 x 1 bed bungalows, 4 x 1 bed apartments and 4 x 2 bed bungalows as part of the entire scheme."

As the application is a Full Application an Affordable Housing Statement will have to be produced and agreed with the council that confirms the following:

- (a) the Agreed Mix;
- (b) the timing, location and distribution of the Affordable Housing within the Site, ensuring that the Affordable Housing is pepper-potted throughout the Site and not segregated from the Open Market Housing;
- (c) details of how the proposed design and construction of the Affordable Housing will ensure that the Affordable Housing is materially indistinguishable (in terms of outward design and appearance) from the Open Market Housing of similar size within the Development;

The Cheshire East Plan (CELP) and the Councils Interim Planning Statement: Affordable Housing (IPS) requires that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration and also that the affordable housing should be provided no later than occupation of 50% of the open market dwellings

Housing prefer that the affordable housing meets the HCA's housing quality indicator (HQI) standards.

Our preference is that the affordable housing is secured by way of a S106 agreement, which: -

- requires them to transfer any rented affordable units to a Registered Provider
- provide details of when the affordable housing is required
- includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy.
- includes the requirement for an affordable housing scheme to be submitted prior to commencement of the development that includes full details of the affordable housing on site.

Following confirmation from the applicant on the above points Housing raise no objections to the application.

EDUCATION

The Local Plan is expected to deliver 36,000 houses in Cheshire East; which is expected to create an additional 6,840 primary aged children and 5,400 secondary aged children. 422 children within this forecast are expected to have a special educational need.

The development of the additional 33 dwellings is expected to generate:

- 6 primary children (33 x 0.19)
- 5 secondary children (33 x 0.15)
- 0 SEN children (33 x 0.51 x 0.023%)

The development is expected to impact on both primary school and secondary school places in the immediate locality. Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased

capacity at primary schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that a shortfall of primary and secondary school places still remains.

To alleviate forecast pressures, the following contributions would be required:

$6 \times £11,919 \times 0.91 = £65,078$ (primary)

$5 \times £17,959 \times 0.91 = £81,713$ (secondary)

Total education contribution: £146,791

Without a secured contribution of £146,791, Children's Services raise an objection to this application.

This objection is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without the mitigation, 6 primary children and 5 secondary children would not have a school place in Congleton. The objection would be withdrawn if the financial mitigation measure is agreed.

Whilst the applicant initially questioned this request, following discussions they have subsequently agreed to the required contribution.

OPEN SPACE

The comments of ANSA are awaited, but it needs to be highlighted that the application proposes the re planning of existing approved housing areas, and does not impact on the approved areas of open space and play provision. Members may also recall that the approved scheme did provide more POS than was required by policy, mainly because of the need to retain areas containing numerous trees and ponds.

The addition of an extra 33 units will of course increase the need for the area of open space and play provision on the site, and for this reason the comments from ANSA are important and will need to be reported to Members in the update report.

HIGHWAY SAFETY & TRAFFIC GENERATION

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

A re-plan of a number of plots within the development is proposed, this has increased the number of units in total on the site by 33.

The revised proposal also includes for a new access onto Chelford Road this will have the effect of distributing the development traffic differently than was previously approved.

In regard to the traffic impact from the additional units, the original Transport Assessment (TA) and this assessed the development of 200 units and the increase by 3 units will have no impact.

The Chelford Road access is a priority junction design and has provided visibility for a 40mph design speed. It is proposed to reduce the speed limit to 40 mph on Chelford Road from the current de-restricted speed limit. The reduction in speed limit will need to conform with the current CEC speed management strategy policy.

In summary, there are no objections to the proposals. The reduction in speed limit will need to be implemented by CEC and a S106 contribution for this work is required from the applicant.

DRAINAGE AND FLOODING

The applicant submitted a detailed Flood Risk Assessment (FRA) with the outline application, and a further assessment with this application.

The site is in Flood Zone 1 as defined in Table 3 in the Technical Guidance to the NPPF. This is the lowest probability flood zone.

Surface water runoff from the site is currently managed through a series of land drains and a pond in the south western corner of the site. Ultimately surface water is discharged from the site into the angling pond and from there outfalls to the Loach Brook.

The Flood Risk Team raised no objections to the previous applications, subject to conditions relating to drainage strategy/design and implementation, however there is now proposed to be an increase in the number of units on the site and as such the comments of the flood risk team are important and will need to be reported in any update report.

The Environment Agency and United Utilities accepted the findings at the outline stage and on that basis this proposal is not considered to be likely to result in any detrimental impact upon the site or its surroundings.

AMENITY

It is generally considered that in new residential developments, a distance of 21m between principal windows and 13m between a principal window and a flank elevation is required to maintain an adequate standard of privacy and amenity between residential properties. A minimum private amenity space of 65sq.m is usually considered to be appropriate for new family housing.

Due to the separation distances involved there are no concerns about relationships to existing properties on Black Firs and Holmes Chapel Road, and whilst Members will recall there were issues in relation to new build properties on Chelford Road the proposals do not change these relationships agreed at that time. There are no re plan changes directly behind these properties, and where there is one change to the rear, it does not change the approved separation distance. Internally the layout is considered acceptable.

It is therefore concluded that the proposed development would be acceptable in amenity terms.

FORESTRY

There are currently two Tree Preservation Orders (TPO) that afford protection to trees immediately adjacent to the application site. There are currently no TPOs protecting any trees within the application site.

The Congleton Borough Council (Black Firs Lane, Congleton) TPO 1980 affords protection to a Woodland (scheduled as W1 of the Order) located to the north of 21 Black Firs Lane and described within the Order as deciduous woodland comprising of mainly Birch. An Area of trees described within the Order as several Sycamore, Birch and Rowan (A4 of the Order) is located offsite to the south between 144 Holmes Chapel Road and 1 Black Firs Lane is unaffected by the proposal.

A second TPO cited as the Congleton Borough Council (Holmes Chapel Road/Chelford Road, Somerford) TPO 1993 affords protection to a woodland (W1 of the Order) located offsite at the corner of Holmes Chapel Road and Chelford Road. Again, this woodland is unaffected by the proposal

Detailed comments were made at the time of the previous applications, where the impact on trees and hedgerows was fully examined, and deemed to be acceptable. This revised proposal does not impact on any of the areas of trees to be retained within the site, which are largely in the areas of POS or roadside verges. The only areas where there could be additional impacts are where more properties are proposed adjacent to boundary trees, particularly on the southern and eastern boundaries, and where the new access is proposed off Chelford Road.

The Council's Tree Officer initially raised objections in relation to the proximity of some re-plan plots to trees along the southern and eastern boundaries. The applicant has subsequently amended the plans to address these concerns which the Officer has confirmed – subject to the receipt of an amended Arboricultural Impact Assessment (AIA) considered acceptable. A revised AIA has recently been received and comments on this will be reported in the Update Report.

ECOLOGY

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

(a) 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

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon species specially protected under Schedules 1, 5 or 8 of the Wildlife and Countryside Act 1981 (as amended), or their habitats. Where development is permitted that would affect these species, or their places of shelter or breeding, conditions and/or planning obligations will be used to:

- facilitate the survival of individual Members of the species
- Reduce disturbance to a minimum
- Provide adequate alternative habitats to sustain the current levels of population.

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."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case specific advice has been sought from the Council's Ecologist has commented as follows:

The proposed revised layout includes an additional access which will result in the loss of a section of Hedgerow that has been identified as being 'Important' under the Hedgerow Regulations. This additional impact was not anticipated during the determination of application 16/5156C.

The application is supported by an ecological mitigation strategy dated 2017, this strategy is however based on the previously consented layout. I advise that the mitigation strategy should be revised to include the currently proposed layout.

Conditions 15- 23 attached to planning permission 16/5156C deal with nature conservation matters. These conditions should be attached to any further permissions at this site. Two conditions however require updating.

Condition 19 should be amended to read:

No development shall commence until an updated survey for Badgers has been carried out and a revised ecological mitigation strategy submitted to and approved in writing by the Local Planning Authority. The revised strategy to include details designs for wildlife corridors to facilitate the movement of badgers. The survey shall be carried out by a suitably qualified person approved by the Local Planning Authority.

Reason: In order to safeguard wildlife in the interests of nature conservation and to comply with Policy NR5 of the adopted Congleton Borough Local Plan First Review

Condition 22 should be amended to read:

Prior to the commencement of development details of the proposed lighting scheme should be submitted to and approved in writing by the Local Planning Authority.

The scheme should include dark areas and avoid light spill upon bat roost features, bat commuting and foraging habitat (boundary hedgerows, trees, watercourses etc.) aiming for a maximum of 1lux light spill on those features.

The scheme should also include a modelled lux plan, and details of:

- Proposed lighting regime;
- Number and location of proposed luminaires;
- Luminaire light distribution type;
- Lamp type, lamp wattage and spectral distribution;
- Mounting height, orientation direction and beam angle;
- Type of control gear.

Reason: To safeguard protected species in accordance with the NPPF.

A revised mitigation strategy has been received and comments on this will be reported in any Update Report.

URBAN DESIGN

The Council's urban design officer has carefully considered the proposals and has raised a number of issues:

- There is a concern that the increase in density does not reflect the existing built context. Some increase in density can be beneficial but here it is considered to be too concentrated.
- There is too much frontage parking especially associated with the affordable units.
- Some of the corner plots present awkward resolutions where the back of a unit is prominent to street vistas within the site.
- Insufficient information is provided on landscaping within the plots, this is important to assess the impact on the street-scene.
- The materials palette for the streets and driveways is unclear and needs clarifying.
- The affordable units are not sufficiently pepper-potted throughout the scheme.

These matters have been highlighted to the applicant and they have indicated that appropriate revisions will be submitted to resolve these matters. Members will be updated accordingly but satisfactory resolution is required to ensure compliance with the Design Guide.

CONTAMINATED LAND

No objections are raised but conditions requiring the development to be carried out in accordance with the Remediation Strategy, together with conditions relating to verification, importation of soils and measures should contamination not previously identified be found.

NOISE

The applicant has submitted a Road Traffic Noise Assessment in support of the application, which takes account the potential noise impact of the Congleton Link Road scheme on the proposed development, requested by Environmental Protection in December 2016. Environmental Protection are in agreement with the methodology, noise measurement locations and prediction calculations detailed in the assessment, which in summary required no special measures with regards to garden areas, and no special sound insulation measures for the houses. As such, and in accordance with the acoustic report, no additional sound insulation measures for dwellings are necessary at this development.

AIR QUALITY

Policy SE12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 181 of the NPPF and the Government's Air Quality Strategy.

When assessing the impact of a development on Local Air Quality, Environmental Protection has regard to (amongst other things) the Council's Air Quality Strategy, the Air Quality Action Plan, Local Monitoring Data and the EPUK Guidance "Land Use Planning & Development Control: Planning for Air Quality January 2017)

This proposal is for the re-plan of a previously approved development (16/5156C) from 170 dwellings to 203. Due to the increase in the number of dwellings Environmental Protection requested an updated assessment be conducted, especially given the sites proximity to the West Road AQMA in Congleton. The developer has, therefore, submitted a qualitative screening assessment. The report states that a detailed assessment into the impacts of NO₂ and PM₁₀ during the operational phase is not required in accordance with EPUK and IAQM criteria based on the extra predicted development flows, and concludes, therefore, that the development impacts on local air quality will be negligible. The report also concludes that the potential dust impacts during construction will also be negligible subject to appropriate dust mitigation measures. It also makes reference to the previous report not taking into account the planned Congleton bypass, which was not confirmed at that time. The presence of this bypass will also help reduce the impact of this development.

That being said, there is still a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality.

Congleton has two other Air Quality Management Areas, and as such the cumulative impact of developments in the town is likely to make the situation worse, unless managed.

Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact, which is also a point highlighted in the submitted air quality assessment.

Conditions relating to requiring: Travel Information Packs, Electrical Vehicle Infrastructure and Ultra Low Emission Boilers are recommended.

JODRELL BANK

Jodrell Bank are likely to object to the application, on the grounds of additional impact on the observatory's operations. This however needs to be considered against the fact the site is allocated alongside others in North Congleton to help meet the Council's identified housing need and will have been a factor considered as part of the Local Plan allocation process.

Should the application be Mindful to Approve then Jodrell Bank would need to be given the required 21 days to allow them to refer the matter to the Secretary of State.

Section 106 Agreement / Community Infrastructure Levy (CIL) Regulations

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

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

There is an existing Section 106 for the extant permission requiring contributions including Affordable Housing, Education, Play/POS, Ecology and Highways, This revised application will need to pick up on these matters and their current status on triggers/payments and incorporate the additional requirements based on the increase in numbers with regards to affordable housing, Education, Play/POS and the speed reduction measures on Chelford Road. On this basis the proposals are considered to be compliant with the CIL Regulations 2010.

Planning Balance and Conclusion

This application proposes a re-plan of the southern area of this allocated site, which has planning permission for 170 dwellings. The revised proposals would increase numbers by 33, to 203. There are no in principle, policy or land supply objections to the proposals.

The applicant has agreed to meet the Education contribution and will provide the affordable housing in line with the Council's policies so these matters are addressed.

Whilst a new access onto Chelford Road is proposed, Highways have raised no objections subject to initiating a speed reduction on the road, and Members may recall the access was approved in the original outline approval granted in 2014.

The application is neutral with regards to flood risk/drainage, amenity, ecology and subject to receipt of an AIA, trees. Comments on open space and play provision are awaited but it is not considered that any significant issues will need to be reported.

Matters of contaminated land, noise and air quality can all be addressed by conditions.

This leaves the issue of urban design. There are a number of concerns with the submitted scheme which requires revisions to ensure compliance with the Design Guide. A positive response has been received from the applicant and it is expected that revisions will be received

to address the concerns. This matter will need to be reported in any update report, which will confirm the recommendation. However on the basis that these matters can be addressed the application is **Minded to Approve** subject to referral to Jodrell Bank to see if they feel the application should be referred to the Secretary of State.

RECOMMENDATION

MINDED TO APPROVE subject to revised plans, referral to Jodrell Bank and to a Section 106 Legal Agreement to Secure the requirements of the existing Section 106, incorporating the changes by adding 33 units:

- 30% of the dwellings to be affordable.
- The tenure split of the affordable housing required is 25% social or affordable rent, 75% intermediate tenure.
- Affordable Homes should be pepper-potted (in clusters is acceptable) 25% of the affordable dwellings to be built to meet Lifetime Homes standards, and these properties should be bungalows, maisonettes or adaptable houses. The affordable dwellings should be built to meet Code for Sustainable Homes Level 3.
- The affordable homes to be provided no later than occupation of 50% of the market dwellings unless the development is phased, in which case 80% of the market dwellings can be occupied.
- Provision of a LEAP with 5 pieces of equipment specification to be submitted and agreed and in accordance with that set out in the Greenspaces Officer consultation response. Management plan for all open space in perpetuity (including, inter alia, the LEAP, allotments if provided, woodland, general amenity open space, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).
- Commuted sum of £55,610.00 to be used to deliver off-site habitat creation/enhancement as per the report.
- Commuted sum of £272,748 in lieu of Primary, Secondary and SEN education with an additional £146,791 for the additional units.
- Contribution of £850,000 towards capacity improvements of the A34 Rood Hill Traffic Signals or the A34 West Street roundabout OR alternative measures that offer congestion relief benefits to the A34 corridor through Congleton.
- Contribution of £50,000 towards the improvement and accessibility of Local Bus Stop Infrastructure.
- Speed reduction measures on Chelford Road

And the following conditions

1. Standard 3 year consent
2. Approved Plans
3. Materials
4. Landscaping
5. Implementation of landscaping
6. Tree/Hedgerow Protection Measures
7. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil

8. Noise insulation measures
9. Individual Travel plans
10. Travel Information packs to be provided for residents
11. Electric Vehicle Infrastructure
12. Submission of a Contaminated Land Phase II investigation.
13. Control over imported soils
14. Requirement to inform LPA if unexpected contamination found
15. Submission of Construction and Environmental Management Plan
13. Bin storage.
14. 10% renewable provision
15. Submission of detailed design for wildlife corridors together with proposals for the fencing off of the wildlife corridors during the construction phase.
16. Implementation of Great Crested Newt Reasonable Avoidance Measures
17. Updated badger survey to be undertaken and submitted to the LPA prior to the commencement of development.
18. Hedgehog access.
19. Submission of details for the incorporation of wildlife kerbs, bat and bird boxes (as per section submitted ecological mitigation strategy).
20. Safeguarding of nesting birds
21. Submission of 10 year habitat management plan
22. Creation of wildlife hibernacula as specified in section 4.65 of the submitted ecological mitigation strategy.
23. Bat lighting condition
24. Detailed design of ponds to be submitted with reserved matter application
25. Archaeological programme of works
26. Scheme of appropriate surface water drainage
27. Detailed design of surface water drainage
28. Provision and implementation of Travel Plan
29. Sewer easement as detailed in United Utilities response
30. All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings
31. Finished floor levels

In the event of any changes being needed to the wording of the committee's decision (such as to delete, vary or addition conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Head of Planning Regulation, in consultation with the Chair of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.

