

Planning Reference No:	09/3498C
Application Address:	Land at Forge Lane, Congleton.
Proposal:	Demolition of four dwellings, a coach and HGV depot building, a workshop and various outbuildings and construction of twenty dwellings with associated garages and car parking and alterations to access road (resubmission of 08/1019/FUL).
Applicant:	Mirwell Homes Ltd c/o Emery Planning Partnership.
Application Type:	Full Planning Permission
Ward:	Congleton Town West
Registration Date:	22 nd October 2009
Earliest Determination Date:	17 th December 2009
Expiry Date:	21 st January 2010
Date report Prepared	6 th July 2010
Constraints:	Within the Settlement Zone Line Tree Protection Orders

SUMMARY RECOMMENDATION

Grant planning permission subject to conditions and completion of S106 Agreement

MAIN ISSUES

- Principle of Development
- Loss of an Employment Site
- Layout and Design
- Residential Amenity
- Viability (Affordable Housing and POS)
- Environmental Health Related Issues
- Highways
- Ecology
- Trees
- Flood Risk & Drainage

1. REASON FOR REPORT

The application proposes small-scale major development in excess of 10 residential units.

2. DESCRIPTION OF SITE AND CONTEXT

The application site comprises 0.85ha of previously developed land split into two parcels on either side of, but extending to include, Forge Lane and Crossledge (a small section of highway leading into Forge Lane). The parcel to the west of the site contains a number of smaller dilapidated structures and an area of overgrown hard standing. The eastern side contains four existing dwellings and a small, steel framed commercial building also with an area of hardstanding. Three existing dwellings are located at the southern end of the site with the two dwellings at the entrance to the site being particularly prominent and unsightly.

The final dwelling, a bungalow at the northern end of the site, is also particularly unsympathetic within the site context. Both parcels of land are enclosed behind two mature hedgerows that screen Forge Lane for most of its length.

In the wider sense, the site is located off West Road and on the northern edge of Congleton's Settlement Zone. The site's topography slopes south to north with the result that the site is enclosed by two steep embankments. The eastern embankment is near vertical in places and screened with a series of hedgerows above which are located the rear gardens of dwellings within Westholme Close. The western side meanwhile has a somewhat shallower gradient which contains an area of mature TPO woodland that subsequently connects into a much larger woodland belt to the north known as Forge Wood.

Forge Lane itself is a narrow lane enclosed by the aforementioned hedgerows and leads to a large factory and industrial complex. There are extensive views to the north of Forge Lane over the Cheshire Plain which contains an area of Special County Value.

3. DETAILS OF PROPOSAL

The application seeks permission to demolish the existing buildings and redevelop the site with a total of 20no residential dwellings comprising 9 dwellings on the western parcel and 11 dwellings on the eastern parcel.

Six low cost units would be provided within a block located in the southwestern corner of the site with a further three detached dwellings extending along the remaining strip of land to the north. On the eastern side, a total of 11-detached houses would be constructed with seven of these being grouped around a cul-de-sac at the northern end of the eastern parcel.

The scheme would also involve the realignment of Forge Lane thereby necessitating removal of the existing hedgerows.

4. RELEVANT HISTORY

There are several historical applications on this site however the most relevant one is outlined below.

08/1019/FUL 2009 Withdrawn application for demolition of four dwellings, a coach and HGV depot, building, a workshop and various outbuildings, and construction of eighteen dwellings with associated garages and car parking and alterations to access road.

5. POLICIES

National Policy

PPS1 'Delivering Sustainable Development'

PPS3 'Housing'

PPS5 'Planning for the Historic Environment'

PPS9 'Planning and Bio-diversity'

PPG13 'Transport'

PPS23 'Planning and Pollution Control'

PPS25 'Development and Flood Risk'

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'

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

NR6 'Reclamation of Land'

Other Material Considerations

SPG1 'Public Open Space'

SPG2 'Private Open Space'

SPD6 'Affordable Housing and Mixed Communities'

SPD14 'Trees and Development'

2006 Congleton Housing Needs Survey

Annual Monitoring Report 2008/09

Strategic Housing Land Availability Assessment (Congleton) 2009

6. CONSIDERATIONS (External to Planning)

District Valuation Office (DV):

The DV has considered the various supporting documents and reports submitted by the applicants in relation to viability. Whilst the DV disagreed with a number of the applicants' inputs (including finance costs over time and build costs for example) he concluded that at the present time, under present market conditions, the development cannot support the provision of any affordable housing and is not therefore viable. He also notes that even without affordable housing the development it is still not viable. The final point made by the DV is that if the market was to up-turn with an improvement of 10-15% on the sale price values a scheme could become viable and on that basis, a mechanism should be included within any permission to allow for a review mechanism should development not be completed within a reasonable period of time.

Highways:

No objection subject to the imposition of a condition requiring a detailed suite of plans relating to the off site highway works being submitted for approval. The junction to Forge Lane/West Road will need to be improved and also; Improvements are required to the carriageway/footway/verge areas of Forge Lane. A Section 106 Agreement is required to secure a capital sum of £2000 from the applicant for use by Cheshire East Council for local traffic management issues.

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 in relation to the following areas:

- a) Contaminated Land conditions
- b) Scheme for noise insulation
- c) Restriction on hours of construction (08.00-18.00 Monday to Friday, 08.00-13.00 Saturday and not at all on Sundays or Bank Holidays)
- d) Precise details of any pile driving (method, hours and duration) to be submitted and agreed prior to commencement of development.

Senior Landscape Officer (SLO)

The SLO submitted a detailed technical response in relation to the impact of the development. The SLO concluded the following points: -

- Proposed new levels details are not comprehensive. Insufficient information with regard to the proposed structure adjacent to the woodland and to the east of the site.
- On the basis of the information supplied, it appears that the proposed layout would have an adverse impact on existing healthy trees of amenity value. This situation would be contrary to Policy NR1 and SPD14 'Trees and Development'. Should it be possible to secure the long-term management of woodland through a management plan it may be possible to mitigate the impacts.
- Loss of roadside hedgerows is undesirable due to the impact on the landscape. To some extent replacement planting would compensate.
- Rear elevations of plots 16-19 would be prominent in views from the North.
- In the event that the development is deemed acceptable, I recommend detailed conditions in respect of tree and hedge protection measures (including an arboricultural method statement), tree works, landscape and an enforceable mechanism (S106 Agreement) to secure management of the woodland.

Nature Conservation Officer

Following the submission of an updated ecological survey in March, the Ecologist has confirmed that he has no objection to the proposed development subject to a condition requiring compliance with the recommendations in the updated ecological report.

Greenspace

No comments received.

Environment Agency

The EA confirmed that it has no objection in principle to the proposed development but requested various informatives be attached to any decision notice in respect of protected species. The EA recommend the landscaping scheme is composed solely of native species. The EA recommend the development incorporate a sustainable urban drainage

system (SUDS). In relation to contamination, the EA advise they consider controlled waters at this site to be of low environmental sensitivity and they do not therefore consider it necessary to assess the applicants' contaminated land reports.

Public Rights of Way Officer

No objection to the proposed development.

7. CONGLETON TOWN COUNCIL

None received at the time of report writing.

8. OTHER REPRESENTATIONS

A total of 7 representations have been received relating to this application, expressing concerns about the following issues:

- Loss of light
- Loss of privacy
- Design, size and density of the dwellings
- Visual intrusion and overbearing impact
- Increase in traffic causing detriment to highway safety
- Impact on existing parking problems
- Increase in noise and disturbance
- Impact on protected trees
- Land contamination
- Impact on the Site of Biological Importance and protected species
- Wider environmental impact
- The fact the Design and Access Statement states that there was consultation with neighbours, which is disputed.

9. APPLICANTS' SUPPORTING INFORMATION

Design and Access Statement (October 2009)

Tree Statement (September 2009)

Ecological Survey (September 2009)

Transport Statement (October 2009)

Capital Valuation (August 2008) and Viability Appraisal

Draft S106 Agreement

Desk Top Study and Preliminary Site Investigation Report

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 is acceptable under local plan policy PS4. However, the applicants must address a number of other issues extending to include design, loss of employment land, impact on woodlands and ecology and whether the proposal is acceptable in terms of its impact on residential amenity.

Aside from this however, the principle of development would be supported more generally by PPS1 and PPS3 because the proposals utilise previously developed land inside the settlement zone and within a reasonable distance of Congleton town centre which offers a good range of shops and services.

Whilst the application is speculative your officers are satisfied that the site would fall to be considered as '*deliverable*' when assessed against the advice within paragraph 54 of PPS3. The site is suitable for housing, available for development now and, even though not viable at the present moment in time, has a reasonable prospect of being delivered within the 5-year period.

It should be noted that the structure plan figures referred to in the text for policy H1 are not up to date. More recent figures in respect of housing targets were published within the North West of England Plan: Regional Spatial Strategy to 2021. Whilst Eric Pickles recently announced the abolition of Regional Spatial Strategies, the housing figures included are nevertheless the most up to date and represent the latest guidance in respect of housing targets.

PPS3 states that Local Development Documents should be informed by a robust, shared evidence base, in particular, of housing need and demand, through a Strategic Housing Market Assessment and land availability, through a Strategic Housing Land Availability Assessment. The draft Strategic Housing Land Availability Assessment for the Congleton Area has been produced in consultation with the Cheshire East Housing Market Partnership and its Congleton Area sub group. The Partnership endorsed the draft document for stakeholder consultation on the 17th March 2009. This indicated that in terms of existing commitments the supply figure exceeds both the Local Plan and Regional Spatial Strategy targets although this does not take into account deliverability.

The RSS proposed a dwelling requirement of 5,400 dwellings for the former Borough for the period 2003 to 2021, which equates to an average annual housing figure of 300 dwellings per annum. Since 2003 1,443 (net) dwellings have been completed leaving a further 3,957 dwellings to be provided for the period to 2021, equating to approximately 330 dwellings per annum for the remaining period. In order to achieve a 5-year supply against the RSS provision taking into account up to date completions, a supply of 1,650 is required. This therefore indicates that there is a demand for additional housing land and therefore at the present time the Council is favourably considering applications for residential development subject to compliance with other material considerations.

Loss of Employment Land

The general thrust of policy E10 is to protect existing employment sites and employment land supply. The policy does however allow for two exceptions which include situations where the site is no longer suitable for continued employment use.

In this case, it is clear that the site is no longer suitable for continued employment use as a HGV and coach depot. Access to the site is heavily constrained by the narrow nature of Forge Lane adjacent to the site and because the access point into the application site is highly unsuitable for use by large vehicles. Your officers also consider that the prospect of the site being re-used for other commercial purposes is unlikely having regard to the nature of the unit (a small, isolated parcel of land), and its general location.

On that basis, it is considered that redevelopment of the site with residential development would comply with policy E10 and that loss of employment land in this case does not amount to a sustainable reason for refusal.

Layout and Design

In overall terms your officers consider that the proposed layout and design are acceptable. In terms of the low cost units, the proposed siting within the southwestern corner of the site reflects the layout and character of the existing terraced properties to West Road which are located to the rear of the proposed units. Meanwhile, the layout and design of the remaining 14 detached dwellings serve to reflect the overarching vernacular of the immediate area, characterised by the adjacent development within Westholme Close.

Whilst it is acknowledged that Forge Lane has a different character to the general environment along West Road and Westholme Close, we consider the design and layout of the scheme to be appropriate because they reflect the character and design of properties within the wider area. Furthermore, the site is also located within the Local Plan settlement zone boundary indicating that the site is considered to fall within an urban, rather than rural context.

Further regard must also be had to the fact that the site contains a number of unattractive buildings, particularly two rendered dwellings located at the entrance into Forge Lane which are extremely visible and out of place when viewed from West Road. Your officers therefore also attach additional weight to the fact that the units would be removed to be replaced with a landscaped boundary to the side of Plot 10 which is considered to improve the character of the area more generally.

Therefore, on the basis of the above, it is considered that the proposed development would satisfy the requirements of PS1 and PPS3 as well as local plan policies GR1, GR2, GR3, H4 and PS4 delivering development.

Residential Amenity

In respect of the residential amenities afforded to neighbouring properties, the proposals would achieve the minimum interface distances advised within SPG2. The scheme would not give rise to any direct overlooking or significant loss of sunlight or daylight to the properties situated to the east or the south. With regard to the amenities of the occupiers of the proposed units, the dwellings have been configured and carefully arranged so as to ensure that there is no direct overlooking of principal windows. Each dwelling unit would benefit from its own rear garden and it is considered that the amenity space provided as part of the development would be acceptable for the size of units proposed. Subject to the removal of permitted development rights, the proposal is found to be acceptable in terms of residential amenity.

Viability (Affordable Housing and POS)

As part of their application submission, the applicants submitted a detailed viability appraisal demonstrating why they could not provide either an affordable housing or public open space contribution. By way of summary the applicants argue they cannot provide 30% affordable housing principally because the land acquisition costs (which include a capital sum figure to cover finance lent to another developer of the site who went into administration) coupled with the economic downturn result in a situation where they would make a substantial loss on the development even without factoring in the 30% affordable housing contribution.

Following a detailed assessment by the District Valuation Officer Surveyor (DV), the DV advised he agreed with the applicants' conclusion that the proposed development is not

viable and cannot deliver affordable housing at the present moment in time. Whilst he identified some areas where he disagreed with a number of variables within the applicants' appraisal, these did not alter his view that development was ultimately unviable. The DV advised however a rise of 10-15% in house price values within the area could render a scheme viable and on that basis he recommended a review mechanism be included within any permission should development not be completed within a reasonable period of time during which time house price values could have improved making a contribution a potential proposition.

On the basis of this advice your officers are satisfied that the proposed development cannot provide for 30% affordable housing or a financial contribution towards public open space without resulting in a further substantial reduction in the already negative development value.

In dealing with this matter it is important to recognise that policy H13 of the adopted Local Plan advises that the nature of provision must have regard to factors which extend to include the economics of provision. Therefore, whilst the town clearly has a significant housing need, your officers consider that the fact that the development is clearly unviable is an important material consideration.

It is also important to note the fact that the proposed development would include the provision of 6 low cost units within the scheme which amounts to 30% of the development and that these units in their own right would make an important contribution to addressing local housing need.

On the basis of the above points your officers consider that the lack of affordable housing provision is outweighed by the economics of provision and the delivery of 30% low cost housing and is therefore acceptable when assessed against the requirements of PPS3, Local Plan Policy H13 and SPD6.

Environmental Health Related Issues

Noise

Environmental Health have raised no objection on the basis of noise but recommend a condition to ensure a detailed scheme for noise mitigation is submitted to the Council for approval and fully implemented in order to address the possibility of noise pollution from the Radnor Park Industrial Estate. Subject to a condition to secure precise details of this scheme prior to construction it is considered the requirements of policy GR8 can be satisfied.

Contamination

The application was accompanied by a contaminated land study which advised that the site does not suffer from significant levels of contamination but which recommended a further site investigation be undertaken in the vicinity of the depot and the joinery in order to ascertain the presence or not of contamination in this area. Environmental Health confirmed they therefore have no objection to the proposed development but that further discussions would be needed with the Council's contaminated land officer. On that basis, your officers are satisfied that subject to the imposition of a suitably worded contaminated land condition, the proposed development would meet the requirements of local plan policies GR7 and GR8 as well as PPS23.

Highways

The Strategic Highways Manager has expressed no objections to the proposal subject to a condition being imposed requiring the submission and approval of plans relating to the off site highway works. The junction to Forge Lane/West Road would need to be improved and the carriageway/footway/verge areas of Forge Lane would need to be improved. The Highways Engineer has requested a Section 106 Agreement to secure £2000 from the applicant for use by Cheshire East Council for local traffic management issues.

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

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,

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

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

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

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

Local Plan Policy NR2 states that proposals for development that would result in the loss or damage of any site or habitat supporting species that are protected by law will not be permitted.

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

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

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

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

In this case, the Nature Conservation Officer originally raised concerns regarding the ecological reports submitted with the application. Subsequently updated reports have addressed these issues and the proposal is now considered to be acceptable in terms of any impacts on protected species. Subject to compliance with the recommendations offered by the applicant's ecologist, it is considered that the scheme would not cause significant harm or loss to species protected by law and would therefore be in compliance with Policy NR2 and PPS9.

Trees

The formal representation of the Senior Landscape Officer (SLO) raises a number of concerns over the impact of the proposed development on trees and hedgerows. For the most part, following a meeting between the applicants and officers, it is considered that the main areas of concern now revolve around the following issues: -

- The precise design, construction method and location of the retaining structure to the western edge of the development site;
- and
- How the large area of TPO woodland to the west of the site can be managed given the SLO's concerns that, left unmanaged, it would have potential to seriously affect the amenity of the future occupiers of the dwellings that would be located on the western side of the site.

In relation to the first matter, the SLO's concern essentially relates to whether precise details of the retaining structure are submitted prior to determination or are secured by way of a Grampian condition. In this respect, whilst the concerns of the SLO are understood, your officers consider that the matter should be addressed by way of a suitable Grampian condition. The precise location of the retaining wall is clearly defined on the application plans and imposition of a Grampian condition would ensure that the precise details of the retaining structure could be secured ahead of construction thereby addressing the requirements of NR1 and SPD14.

In terms of the second concern, the applicants have confirmed that the owner of the adjacent land could be brought into a management agreement for the area of TPO woodland and on that basis it is considered that the SLO's concerns over potential conflict between amenity and tree protection can be adequately addressed. A Section 106 Agreement is recommended to secure a detailed woodland management plan.

The loss of the roadside hedgerows could have an adverse impact on the local landscape. However, it is considered that this could be mitigated by requiring the applicants to plant replacement hedges using native species. A condition is recommended.

Your officers are therefore satisfied that, subject to the completion of a Section 106 Agreement and conditions which secure a detailed scheme for tree protection measures and the implementation of a detailed scheme of landscaping, the impacts from the development can be minimised and the requirements of policy NR1 and SPD14 can be addressed.

Flood Risk & Drainage

It appears that the risk of flooding and the risk to controlled waters are low and therefore on this basis the Environment Agency raises no objections. In terms of drainage, PPS25 'Development and Flood Risk' states that LPAs should in determining planning applications give priority to the use of sustainable draining systems for the management of runoff. Building design should ideally use softer engineering structures such as swales, detention ponds, infiltration basins and porous surfaces as alternatives to conventional drainage systems to minimise flooding and environmental damage as a result of uncontrolled surface water runoff. In the event of such development being approved, sustainable drainage systems can be secured through condition.

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 layout and design is considered to be acceptable and accord with the requirements of PPS1 and PPS3 as well as the relevant local plan policies.

Whilst the proposals would result in the loss of a small B8 employment site, it has been demonstrated that the site is in no longer suitable for economic use and that the proposals have satisfied the requirements of policy E10.

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

12. RECOMMENDATION

That, subject to the prior completion of a S106 Agreement to secure a detailed woodland management plan and a contribution for local traffic management issues, planning permission is granted subject to the following conditions:

1. 3-year Time Limit
2. Development in accordance with approved plans
3. Materials to be agreed prior to construction commencing (including window frames, doors and balconies)
4. Standard contaminated land condition
5. Scheme for noise mitigation within new dwellings
6. Restriction on construction hours to 08.00 to 18.00 Monday to Friday, 08.00 to 13.00 Saturday and no work on Sundays or Bank Holidays
7. Removal of permitted development rights
8. Submission of a scheme of landscaping to include replacement hedge planting using native species
9. Implementation and 5 years landscape maintenance condition
10. Tree protection measures
11. Precise details of boundary treatments

12. Precise layout of car parking court to be submitted and agreed prior to commencement of development
13. Precise details of retaining wall to the western site boundary to be submitted and agreed
14. Scheme for ecological enhancements for bats and birds
15. Site levels condition
16. Submission of a detailed suite of plans relating to the off site highway works
17. Compliance with the recommendations contained within the ecological report
18. Provision of a sustainable urban drainage system (SUDS)

Location Plan: Cheshire East Council Licence No. 100049045

