

Application No: 19/5596C

Location: LAND OFF, VIKING WAY, CONGLETON, CW12 1TT

Proposal: Outline planning application with all matters reserved except for the principal means of access for the erection of a residential development (Use Class C3), employment and commercial floorspace (Use Classes B1/B2/B8/C1/D2) and a local centre (Use Classes A1/A2/A3/A4/A5/D1) with associated landscaping, drainage and other infrastructure.

Applicant: Richborough Estates LLP

Expiry Date: 28-Aug-2020

## **SUMMARY**

The proposal would satisfy the social sustainability roles by providing for much needed housing adjoining an existing settlement where there is existing infrastructure and amenities. Other mitigation for education, health, open space, indoor sport and outdoor sport and outdoor amenity is provided.

Details of the proposed indicative structure of the landscaping belts are considered to be acceptable.

The drainage/flood/ dewatering risk implications for this proposed development are considered to be acceptable subject to conditions that are requested by the Lead Local Flood Authority. The development would not have any significant impact upon the trees and hedgerows on this site.

Subject to conditions, the proposal is considered to have an acceptable impact upon ecology.

The proposed access point and the traffic impact as part of this development are considered acceptable. The internal design of the highway layout/parking provision will be a matter for reserved matters.

The development of the site would provide a number of economic benefits in the extensive commercial, employment, and residential uses of the site. The proposal also allows for a significant contribution to the Congleton Link Road, which in itself will, inter alia, deliver significant economic benefits to the town.

The adverse impacts of the development are the reduced provision of affordable housing units (17.5%). Viability assessments undertaken by the Council associated with the delivery of the Link Road have demonstrated that such an alteration to affordable housing will allow the developments with a significant financial contribution to the Link Road to remain viable.

It is considered that the environmental and economic benefits of the mixed commercial and residential proposal on this allocated site would outweigh the adverse social impacts to affordable housing within the planning balance.

**RECOMMENDATION Approve subject to the completion of a S106 Agreement and conditions**

## DESCRIPTION OF SITE AND CONTEXT

This site forms 23.55 hectares of the LPS 27 Congleton Business Park Extension allocation within the Cheshire East Local Plan Strategy (CELPS) and sits to the north of Viking Way/Barn Road. The site comprises agricultural fields separated by numerous hedgerows. The Congleton Link Road (CLR) extension road works from Viking Way have commenced.

The site abuts numerous other sites within the LPS 27 allocation. The surrounding land uses are a mix of agricultural uses to the south and north, to the east by grassland and Westlow Mere fishing Lake operated by Congleton Fly Fisheries Ltd, to the south by the existing Congleton Employment Park. Beyond the existing Congleton Employment Park, further to the south along Barn Road lies Congleton retail Park. The River Dane runs through the site. Parts of the site lie within the Dane Valley Area of Special County Value. The site has numerous level changes and slopes from north to south from the Giantswood Lane parcel to the Viking Way parcel of the site.

The site lies within Hulme Walfield Parish area. Hulme Walfield PRow 7 runs along the eastern boundary of the site, however no PRow's are within the site itself

## DETAILS OF PROPOSAL

This is an outline application with an Environmental Impact Assessment submitted for a mixed use development comprising the following:

- residential development (up to 175 dwellings)
- a retail supermarket for a discount retailer (1900sqm Gross Floor Area)
- local centre with use as non-convenience retail/hot food take away/public house (400sqm),
- office use (3,420sqm),
- light industrial/industrial use (8,680sqm) GFA
- warehousing use (11,710sqm)

The scheme also provides a greenway for pedestrian/cyclists, landscaping, ecological mitigation, sustainable urban drainage (SUDs), a buffer to the river Dane and public open space (POS). This is distributed across the following areas:

Zone	Size
Residential (Use Class C3) including landscaping and associated infrastructure	5.17 Hectares

Employment (Use Classes B1/B2/B8) including landscaping and associated infrastructure	7.60 Hectares
Local Retail (Use Classes A1-A5, D1) including landscaping and associated infrastructure	1.59 Hectares
Green and Blue Infrastructure – including P O S , ecology, (SUD's), infrastructure and vehicular access to the employment and retail zones from Viking Way.	3.79 Hectares
River Dane Buffer and greenway including cycleway and footway	3.95 Hectares
Additional non-intervention ecology area for habitat enhancements relating to Biodiversity Net Gain	1.45 Hectares

Access for the residential development only is applied for formally at this stage with access to the employment and commercial uses reserved. Vehicle access is wholly via Viking Way but with pedestrian/cycle links onto Giantswood Lane and north towards the CLR.

The application is accompanied by an Environmental Statement, an indicative layout and a Parameters Plan.

The parameters plan has been revised during the lifetime of the application and shows the larger of the three site areas being set out for housing, the creation of a green buffer between the housing and central commercial and a central retail zone. The provision of a third zone on the west side of Viking Way with the larger commercial warehousing and providing areas of green infrastructure and open space, particularly centred around the formation of the Greenway through the site and including the provision of a bridge over the River Dane. Land is also set aside for bio-diversity reasons.

The revisions also accommodate a 50m set back from the River to comply with the requirements of the Environment Agency. The Applicant has confirmed that because of the extensive revisions, the proposal seeks permission to up to 175 dwellings.

## **RELEVANT HISTORY**

### ***With respect to the site itself***

No relevant planning history

### ***With respect to sites within the CELPS LPS27 allocation***

16/1824M - Demolition of the existing building and an outline planning application with all matters reserved except for means of access for a mixed use development comprising residential dwellings (use class C3) and employment development (use classes B1, B2 and B8) incorporating an element of leisure uses (use classes A3 and A4), together with associated woodland buffer, ecological mitigation and enhancements, open spaces and infrastructure. Granted September 2018 subject to conditions and S106

20/5859C – Mount Pleasant Farm, Giantswood Lane - Outline application with details of access (matters of layout, scale, appearance and landscaping are reserved) for the demolition of all

buildings and structures, the erection of up to 50 dwellings, new vehicle and pedestrian access, landscaping, and associated works - to be determined

20/5867C - Sandy Lane Farm, Giantswood Lane - Outline application for Residential development for up to 9 houses - to be determined

19/4599C - Sandy Lane Farm, Giantswood Lane - Outline application for Residential development for up to 9 houses – Refused 20 Jan 2020

**With respect to the LPS29 Allocation - opposite on Giantswood Lane which extends to Manchester Road**

17/1000C – Outline application with all matters reserved except for means of access for a development comprising up to 500 dwellings (use class C3), site for new primary school (use class D1) and local shopping facility (use class A1) together with associated open space, green infrastructure, pedestrian and cycle links – Granted July 2019 subject to S106

**In addition is the approval for the Congleton Link Road:**

15/4480C - The proposed Congleton Link Road - a 5.7 km single carriageway link road between the A534 Sandbach Road and the A536 Macclesfield Road. –Granted July 2016

**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.

The Development Plan for Cheshire East comprises the recently adopted Cheshire East Local Plan Strategy, and the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plans (January 2004). The Congleton Local Plan is applicable for this site.

**Cheshire East Local Plan Strategy (CELPS)**

PG2 – Settlement Hierarchy

PG7 – Spatial Distribution of Development

SC4 – Residential Mix

CO1 Sustainable Travel and Transport

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE 1 - Design

SE 2 - Efficient Use of Land

SE 3 - Biodiversity and Geodiversity

SE 4 - The Landscape

SE 5 - Trees, Hedgerows and Woodland

SE 6 – Green Infrastructure

SE 8 – Renewable and Low Carbon Energy

SE 12 – Pollution, Land Contamination and Land Sustainability

SE 13 - Flood Risk and Water Management  
SE14 - Jodrell Bank  
LPS27 Congleton Business Park Extension  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **Congleton Borough Local Plan First Review (2005)**

The relevant Saved Policies are:

PS4 Towns  
GR6 Amenity and Health  
GR9 Accessibility, servicing, and provision of parking  
GR14 Cycling Measures  
GR15 Pedestrian Measures  
GR17 Car parking  
GR18 Traffic Generation  
GR21 Flood Prevention  
NR2 Statutory Sites (Wildlife and Nature Conservation)  
NR3 Habitats  
NR4 Non Statutory Sites  
NR5 Habitats

### **Hulme Walfield and Somerford Booths Neighbourhood Plan – Made Plan**

HOU2 Housing for Older People and people with disabilities (within Strategic Sites)  
HOU3 – Rural Character  
HOU4 Housing Design  
ENV1 Wildlife Corridors  
ENV2 Trees and Hedgerows  
ENV3 Multi use routes  
INF1 Infrastructure  
INF2 Communications Infrastructure

### **National Planning Policy Framework**

Of particular relevance are paragraphs:  
11 Presumption in favour of sustainable development.  
50. Wide choice of quality homes  
102-107 Promoting Sustainable Transport  
124-132 Requiring good design

### **Other Considerations**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation  
Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing

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

**Environment Agency:** No objection subject to the provision of a 50m buffer from the River Dane. No reply to consultation concerning the revisions which provide for the buffer

**Jodrell Bank:** No reply received

**United Utilities:** No objection subject to conditions concerning separate surface and foul drainage

**Lead Local Flood Authority:** Have considered groundwater risk at the site and watercourse. Considered the objections concerning the de-watering of the fishing lake/water table together with the Hydrogeological Impact Appraisal about Westlow Mere. No objection subject to numerous conditions, including assessment of details for a groundwater monitoring scheme and dewatering operations for the proposed development

**Natural England:** No objection

**Cheshire Wildlife Trust:** Objection on basis of insufficient biodiversity net gain, potential impact on local wildlife site, potential impact on veteran oak tree and wet woodland habitat.

**Strategic Highways Manager:** No objection. Detailed comments are set out in the Highways section below setting out the relationship with the CLR, more localised impacts including accessibility and the sites pivotal role in the provision of the East/West Greenway and what they feel should be covered by conditions/106 contributions.

**Environmental Health:** No objections, subject to conditions

**Public Open Space/ Indoor Sports Provision:** No objection subject to mitigation being provided.

**Education:** No objection subject to mitigation being provided. Seek mitigation for impacts upon secondary and SEN education.

**Housing:** No Objection. Confirms that the 17.5% affordable housing (80% Open Market Value rate) proposed is acceptable given the previous delivery of affordable rental units within the Congleton area.

**Archaeology:** No objection – satisfied with the report submitted. Require no further action

**NHS South Cheshire Clinical Commissioning Group (CCG):** Requests a financial contribution based on formula for the residential development.

## **VIEWS OF THE PARISH COUNCIL**

**Hulme Walfield and Somerford Booths Parish Council:** Object to the application “specifically on the impact this could have on traffic in our rural parishes”. They want no access on to Giantswood Lane from any development.

## **VIEWS OF THE ADJACENT TOWN COUNCIL**

**Congleton Town Council:** Object on basis of highway safety, traffic generation of Giantswood Lane; want no access on to Giantswood Lane; the additional traffic will result in loss of cycling and walking facilities, impact on nature conservation, concerns of adverse impact on Westlow Mere due to water table changes

## **OTHER REPRESENTATIONS**

Congleton and District Fly Fisheries Ltd object on basis of potential impact of the development upon de-watering of Westlow Mere and the implication for their fishing activity. They accepted the technical findings of the Hydrogeological Impact Assessment but wished to maintain objection given that the application is in outline form and full details are not known yet.

Airbags International Autoliv and their representative object on the basis that the residential element will result in long term issues that they as a large employer will not be able to mitigate the impacts of their activity upon the new residents.

A resident on the other side of the River Dane objects on the basis that the proposal will result in greater risk of flooding to them from the River Dane. Two neighbouring farmers object on basis of loss of privacy, raise concerns and requests information concerning ground conditions and raises concern about impact of de-watering on their fields crop yield.

An objection is also raised to principle of more housing. Further concern is also raised about noise and amenity for residents as a result of the proposed commercial activities

The representations from the 9 respondents can be viewed on the web

## **Applicants Supporting information**

The application is supported by an Environmental Statement (ES) (Containing 12 chapters) and in addition the following documents have been submitted:

Supporting Planning Statement  
Statement of Community Involvement  
Parameters Plan – Land Uses and heights  
Indicative Sections  
Design Code  
Transport Statement  
Hydrogeological Impact Assessment  
Design and Access Statement  
Arboricultural Impact Assessment

Section 106 Heads of Terms  
Ecology offsetting Statement/ Metric

These reports can be viewed on the application file, but it is important to note that some of these documents/plans have been amended during the lifetime of the application and have been the subject to re-consultation.

## **OFFICER APPRAISAL**

### **Principal of Development**

Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 and Policy MP1 'presumption in favour of sustainable development' of the CELPS state that planning applications and appeals must be determined "in accordance with the plan unless material considerations indicate otherwise".

Congleton has been identified as a Key Service Centre for Cheshire East. The focus for Congleton over the Local Plan Strategy period will be that of high-quality employment led growth to accommodate the expansion of existing businesses and attract new investment into the town.

The provision of new housing is seen as important as part of balanced and integrated portfolio of development to support the town centre, ensure balanced and sustainable communities and support the delivery of the Congleton Link Road.

Congleton is expected to accommodate in the order of 24 hectares of employment land and 4,150 new homes up to 2030 (CELPS policy PG 7 'spatial distribution of development').

LPS 27 'Congleton Business Park extension' is a significant allocation in scale. It presents the opportunity to establish a high-quality extension to Congleton Business Park, alongside other uses. The allocation offers the most effective means to support the expansion of existing successful business locations and make sure that new residential development is not only located within easy access of these employment sites but also to facilities and services, in Congleton. Key to the allocation is the provision of the Congleton Link Road.

The application site forms a part of the strategic allocation LPS 27 'Congleton Business Park extension' of the CELPS, which seeks the delivery of or a contribution towards the Congleton Link Road, a residential development of around 625 new dwellings, around 10 hectares of commercial development and the provision of pedestrian and cycle connections, which enhance Green Infrastructure, support existing wildlife areas and the River Dane, amongst other things.

In June 2016, at its Cabinet Meeting, the Council agreed to underwrite, in principle, any necessary gap funding of the Congleton Link Road. The level of any funding shortfall depends on the scale of contributions achieved from developments in the North Congleton Area.

As part of the Delivery Strategy for the Congleton Link Road (CLR), a recent (April 2020) Independent assessment of the viability of the sites in the North Congleton Area has been undertaken on the behalf of the Council.



The assessment looked at the ability of schemes associated with the delivery of the Link Road such as this site to also deliver the requested contributions as well as fully policy compliant mitigation, such as affordable housing. This will be considered later.

The Local Plan Strategy identifies the following policy requirements:

### ***LPS 27 Congleton Business Park Extension***

'The extension site at Congleton Business Park over the Local Plan Strategy period will be achieved through:

- 1. The delivery of, or a contribution towards, the Congleton Link Road;*
- 2. The delivery of around 625 new homes (at approximately 30 dwellings per hectare) as set out in Figure 15.32;*
- 3. The delivery of around 10 hectares of land for employment and commercial uses adjacent to Congleton Business Park as set out in Figure 15.32;*
- 4. The delivery of around 3 hectares of land for employment and commercial uses adjacent to the Congleton Link Road junction as set out in Figure 15.32;*
- 5. The provision of appropriate retail space to meet local needs;*
- 6. The provision of children's play facilities;*
- 7. Pedestrian and cycle links set in green infrastructure to new and existing employment, residential areas, shops, schools, health facilities the town centre;*
- 8. Contributions to health and education infrastructure; and*
- 9. The provision of land required in connection with the Congleton Link Road as set out in Figure 15.32*

### ***Site Specific Principles of Development***

- a. Provision for highway linkages to Giantswood Lane, enabling connection through to Strategic Site LPS 29 Giantswood Lane and allowing through traffic to travel between Hulme Walfield and Viking Way. Contributions will also be sought towards the Congleton Link Road /complementary highway measures on the existing highway network.*
- b. The provision of a network of open spaces for nature conservation and recreation, including the enhancement of the River Dane Valley Corridor as set out in Figure 15.32. Development should retain and enhance areas of landscape quality / sensitivity.*
- c. The timely provision of physical and social infrastructure to support development at this location.*
- d. The achievement of high-quality design reflecting the prominent landscape location of the site and creating a vibrant destination and attractive public realm.*
- e. The site should be developed comprehensively consistent with the allocation of uses set out in Figure 15.32 and the principles of the North Congleton Masterplan. Development should integrate with the adjacent uses, particularly through sustainable transport, pedestrian and cycle links.*
- f. The delivery of appropriate public transport links to connect with employment, housing and retail / leisure uses in the town.*
- g. The provision of pedestrian and cycle routes to provide clear and safe links to surrounding communities including the adjacent Strategic Site LPS 29 Giantswood Lane.*
- h. A desk based archaeological assessment will be required for this site.*

- i. The site will provide affordable housing in line with the policy requirements set out in Policy SC 5 'Affordable Homes'.*
- j. Future development should have reference to the River Dane Local Wildlife Site and Ancient Woodland.*
- k. Future development should also have consideration to Policy SE 14 'Jodrell Bank'.*
- l. In order to ensure a sustainable, mixed use scheme is delivered on the site, the council will require all housing proposals to demonstrate, through the execution of a s106 Agreement or appropriate alternative, how the delivery of employment land as an extension to the Congleton Business Park will be positively supported.*
- m. The visual, noise and pollution assessment of development should be undertaken with the assumption that the link road is in situ and suitable screening / mitigation provided accordingly. Noise and visual mitigation measures should be provided between future and existing employment / residential areas. This could include separation distances, acoustic fencing, earth mounding, tree planting and building orientation.*
- n. Any replacement and/or new sports provision should be in accordance with an adopted up to date and robust Playing Pitch Strategy and Indoor Sports Strategy and with Policy SC 2 'Indoor and Outdoor' Sports Facilities*
- o. Future development should provide an east to west greenway with pedestrian and cycle links across the site linking together proposed and existing leisure uses, local retail and other community facilities at this site with other sites to the north of Congleton. This should include a footbridge over the River Dane for pedestrian / cycle use.*
- p. The Congleton Link Road will form the northern boundary of the site*
- q. A minimum of a Phase 1 Preliminary Risk Assessment for contaminated land should be carried out to demonstrate that the site is, or could be made, suitable for use should it be found to be contaminated. Further work, including a site investigation, may be required at a pre-planning stage, depending on the nature of the site.*
- r. The proposed route of the Congleton Link Road is as shown in Figure 15.32.*

*Development should be undertaken with the assumption that the link road is in situ. The land required for the construction and delivery of the Congleton Link Road will be safeguarded from development.'*

## **Hulme Walfield and Somerford Booths Neighbourhood Plan**

The site falls within this Neighbourhood Area. The Neighbourhood Plan acknowledges the allocation of the site and that the area will be subject to significant influx of housing as a consequence of the allocation.

The policies within the Plan are in general not aimed at the Strategic sites, concentrating on windfall development of smaller sites.

Policy HOU2 'housing for older people and people with disabilities' in the Neighbourhood Plan notes that within the strategic sites, schemes should cater for the needs of people with disabilities and older people and should include a suitable mix of tenures based on an up to date assessment of housing need.

Policy ENV1 'Wildlife Corridors and Areas of Habitat Distinctiveness' protects identified wildlife corridors and habitats of high distinctiveness. The River Dane LWS is identified by the Neighbourhood Plan as an area of High Distinctiveness

Policy INF 1 'Infrastructure' notes that the associated infrastructure detailed in the site principles of development for the strategic sites must be adhered to.

As per para 11 of the Framework and CELPS Policy MP1, there is a presumption in favour of sustainable development taking into account the three objectives of sustainable development (social, economic and environmental) and compliance with the Development Plan in accordance with Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

In light of the allocation of the site within the CELPS, the principle of developing the site the mixes of uses identified within the explicit wording of the policy is acceptable in principle.

## **SUSTAINABILITY**

### **Housing Land Supply**

The Cheshire East Local Plan Strategy forms part of the statutory development plan.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. This is the test that legislation prescribes should be employed on planning decision making. The 'presumption in favour of sustainable development' at paragraph 11 of the NPPF means: "approving development proposals that accord with an up to date development plan without delay"

In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council's most recent Housing Monitoring Update (base date 31 March 2019) was published on the 7th November 2019. The published report confirms a deliverable five-year housing land supply of 7.5 years (17,333 dwellings). While it is acknowledged that these findings have been subject to recent challenge in the recovered appeal 'Land off Audlem Road/ Broad Lane, Stapeley, Nantwich', in his decision letter dated the 15th July 2020, the Secretary of State confirms that the council can demonstrate a deliverable housing land supply well in excess of 5 years.

The 2020 Housing Delivery Test (HDT) Result was published by the Ministry of Housing Communities and Local Government on the 19 January 2021 and this confirms a Cheshire East Housing Delivery Test Result of 278%. Housing delivery over the past three years (8,421 dwellings) has exceeded the number of homes required (3,030). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%.

The Council can now demonstrate a deliverable 5 year supply of land for housing, but it is important to note that this proposal would contribute towards the delivery of the overall allocation of up to 625 no dwellings on this entire allocated site within the adopted Local Plan.

The allocation of this site also results in the site now being located within the Settlement Boundary for Congleton.

The Council needs to keep the supply rolling and proposals that bring forward the Council's strategic vision through the development of the allocated sites such as this one will assist in relieving pressure on other edge of settlement sites and the countryside. As such, this is a key benefit of the scheme.

The NPPF determines that sustainable development includes three overarching objectives: economic, social and environmental. Which are interdependent and need to be pursued in mutually supportive ways (so opportunities can be taken to secure net gains across each of the different objectives).

## **ECONOMIC SUSTAINABILITY**

The site is part of a considerably larger allocation within the Local Plan Strategy (Congleton Business Park Extension LPS 27) allocated for approx. 625 houses, retail space to meet local needs and around 10 hectares of commercial development adjacent to the existing Congleton Business Park), a further around 3 hectares of commercial development adjacent to the Congleton Link Road is also included in the allocation but outside of the red line boundary of the application site.

A key element of the overall allocation in the CELPS is the delivery of employment land. As noted above, the allocation, in point 3 of policy LPS 27 'Congleton Business Park Extension', requires the delivery of around 10 hectares of land for employment and commercial uses adjacent to Congleton Business Park. The application is proposing 7.6 hectares of employment land split across either side of Viking Way. It is noted that there are areas outside of the red line boundary of the application site that are allocated for employment use (in LPS 27) and would contribute towards the overall figure of around 10 hectares.

The applicant has also provided a marketing letter on initial steps taken to market the employment elements of the site. In broad terms, the delivery of 7.60 hectares of employment land is consistent with the allocation of the site.

The site is also considered to contribute significantly to the economic strand of sustainable development by virtue of the planned release of housing together with the contributions towards the delivery of the Congleton Link Road.

This development proposal is required to effectively mitigate against its traffic impact on the strategic highway network. The allocation of the site with the Local Plan Strategy recognises the role that this site plays in supporting the delivery of the Congleton Link Road

The Link Road will contribute in a meaningful and significant way to local economic conditions by easing congestion/ job creation in Congleton, notwithstanding the economic benefits generated by the commercial elements of the proposal itself.

It therefore follows that the mixed commercial and residential development on this allocated site would contribute significantly to the economic arm of sustainability.

## **RETAIL IMPACT OF THE PROPOSED SUPERMARKET / SMALL PARADE**

The scheme includes a small supermarket and associated car park and a small local parade of shops / parking indicatively located off Viking Way in the commercial zone close to Viking Way/ Barn Road.

The local retail centre extends to 1.59 hectares including landscaping and associated infrastructure and car parking etc. The scheme is proposing: -

- A discount foodstore / supermarket of 1,900 sqm (Gross Internal Area). This comprises 1,300 sq m net floorspace of which 80% (1,040sq m net) would be for convenience retail floorspace and 20% (260sq m net) would be for comparison goods floorspace.
- A parade of up to three commercial units of 488sqm (gross maximum) and a café unit of 303sqm (maximum). The applicant has indicated that they are agreeable to planning conditions on the parade of shops and café that (1) restrict the café unit to the sale of food and drink for consumption (mostly) on the premises only; and (2) prevent the commercial units being occupied by a foodstore or non-food retailers (Class E(a))

Paragraphs 86 – 89 of the NPPF set out the approach to the sequential and retail impact tests for retail uses. The NPPF requires a retail impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no such threshold the default threshold of 2,500 sq m of gross floor space is applied). The second part of the Council's Local Plan, the Revised Publication Draft Site Allocations and Development Policies ("SADPD") policy RET 3 proposes a lower threshold of 300sqm. The policies in the Revised Publication Draft SADPD are emerging at this time. As the SADPD has yet to be examined and the policy has outstanding objections then the policy carries limited weight in decision taking at this time

The NPPF also requires the application of a sequential test for main town centre uses that are not in an existing centre nor in accordance with an up-to-date development plan. The application site is 1.1km to the north west of the town centre and is therefore in an out-of-centre location.

Policy EG5 of the CELPS states that the Town Centre will be promoted as the primary location for main town centre uses. Point 7 of this Policy then states that; *Proposals for main town centre uses should be located within the designated town centres or on other sites allocated for that particular type of development. Where there are no suitable sites available, edge-of-centre locations must be considered prior to out-of-centre locations. Edge-of-centre and out-of-centre proposals will be considered where:*

- i. there is no significant adverse impact on the vitality and viability of the surrounding town centres; and*
- ii. it is demonstrated that the tests outlined in current government guidance can be satisfied.*
- iii. The sequential approach will not be applied to applications for small scale rural offices or other small-scale rural development in line with the government guidance.*

The original submission proposed a discount foodstore only and provided a retail planning statement on that basis. The foodstore was below the impact test threshold but a qualitative impact assessment was undertaken by the applicant. In addition, as an out of centre scheme, the applicant undertook a sequential assessment. This assessment was independently assessed by the Council's appointed retail consultant.

Revisions to the scheme were made following design and layout discussions between the applicant and Council officers. This included the introduction of a few commercial units and a

café alongside the foodstore. The applicant provided additional retail justification for this approach which has been considered by the Council's independent retail consultant. Conditions are proposed to limit the retail uses of the small parade of retail units and cafe.

Point 5 of policy LPS 27 includes reference to the provision of appropriate retail space to meet local needs. The Council's independent retail consultant agrees that subject to conditions, the provision of a café and a parade of shops would be of an appropriate scale and would serve the retail / service needs of local residents and is therefore, in principle, in accordance with policy.

### **Sequential Test**

The sequential test is a key element of the NPPF. In support of this the Planning Practice Guidance states that the sequential test should be proportionate and appropriate for the given proposal and should;

- Have due regard to the requirement to demonstrate flexibility. Has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location preference should be given to sites that are well connected to the town centre.
- Is there scope or flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can be accommodate precisely the scale and form of the development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- If there are no suitable sequentially preferable locations, the sequential test is passed.

It is agreed between the parties that the site is situated in an 'out-of-centre' location in retail policy terms. As a result, the sequential test needs to consider sites within and on the edge of defined centres, in this case Congleton.

If suitable sites are not available, then the assessment should consider the potential alternative out-of-centre sites that are more accessible and better connected to the town centre than the application site.

It is agreed between both parties that there is no requirement to disaggregate elements of the proposed development and that the search for alternative sites should be able to accommodate the broad type of the development proposed. This view is supported by appeal decisions at Rushden Lakes and Braintree.

In this case numerous sites were considered in the town Centre

- Site 1 – Land at Market Square.
- Site 2 – Land East of The Silk Mills.
- Site 3 – Bridestone Centre Development Site.
- Site 4 - Vacant units within Congleton Town Centre.
- Site 5 - Capitol Walk Shopping Centre

The Council's appointed retail consultant has reviewed the retail evidence provided by the applicant and considers in terms of the Sequential Assessment that - :

Site 1 - Land at Market Square - the site, due to its limited size, even after allowing flexibility, can be considered to be unsuitable for the proposed development. It is unnecessary to require the Applicant to comment further on availability.

Site 2 – Land East of The Silk Mills - the site is not suitable for the proposed development because of its constrained size and irregular shape. It is unnecessary to require the Applicant to comment further on availability.

Site 3 – Bridestone Centre Development Site – this site is mostly in the Principle Shopping Area and has a now lapsed permission for a redevelopment scheme for a multi-level mix use scheme including a 5,250sq m gross foodstore, 500 car parking spaces, a hotel, a number of A1/A3 units and new indoor and outdoor markets. No alternative scheme has ever been submitted. The site is not suitable for the proposed development on size and viability grounds. It is unnecessary to require the Applicant to comment further on availability.

Site 4 - Vacant units within Congleton Town Centre. The Council's Appointed Retail consultant considers that none of the vacant units within the town centre are suitable

Site 5 - Capitol Walk Shopping Centre – this is a vacant parade within the town centre. The site is not suitable for the proposed development on size grounds. It is unnecessary to require the Applicant to comment further on availability.

Following a review of the evidence, the council's independent retail consultant notes that there are no suitable or available sequentially preferable site for the proposed development.

The council's independent retail consultant also considered the revised scheme against the impact tests set out in the NPPF.

The Independent retail consultant advises that whilst the closure of non-essential stores and social distancing is having an impact on business within Congleton Town Centre having regard to, inter alia, the stability of the convenience goods sector in the town centre and it is his view that the quantitative impact of the proposed supermarket on the town centre's convenience goods sector is likely to be low/unlikely to directly result in any store closures, he considers that the proposed development is unlikely to result in an impact on the town centre which would be at a level which could be considered to be 'significant adverse

Having regard to conclusions on the discount foodstore element of the proposed development, given the role of the small commercial/cafe units, the type of service uses proposed in the small units, and the fact that this element of the proposal is considered to be in accordance with the local plan (where impact of the allocation would have been duly considered as part of the Local Plan process (and subject to independent scrutiny), the Council's independent retail consultants consider that the revised scheme is unlikely to have a significant adverse impact on in centre investment and town centre vitality and viability.

The independent planning consultant considers that the discount foodstore and small commercial / café units are in accordance with the retail policy tests; sequential and retail impact

test subject to conditions including limiting the amount of flood space and the type of uses that are acceptable for the local parade of shops and cafe.

On this basis, the proposed discount supermarket would be of an appropriate scale and would serve the retail needs of local/future residents and is therefore, in principle, in accordance with policy LPS 27, point 5.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Access To Services**

It should also be noted that this site has been considered to be an appropriate housing site in the adopted Local Plan Strategy. In addition, numerous employment uses, services and amenities/local centre are accommodated within the site.

Other services such as a primary school form part of the adjacent larger sites in the area that have outline permission (LPS 29). It is therefore considered that most day to day services will be accessible to the proposed development on foot/bike or a short journey by car over the planned lifetime of the allocation

Accordingly, it is considered that this site is a locationally sustainable site and future residents would be able to avail themselves to a variety of services in the area by public transport, bike or on foot.

### **HIGHWAY SAFETY & TRAFFIC GENERATION**

Saved Policy GR9 of the Congleton Local Plan 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.

### **Access**

There are a number of access points to serve the commercial and retail elements of this application. These are taken from Viking Way directly and are an expansion the existing North Congleton Business Park. The junctions have adequate junction spacing and provide the necessary visibility splays.

However, it has been agreed with the applicant that the access to the proposed superstore site, within the central commercial zone will be via a new right turn lane. As access for this aspect of the development will be determined at the Reserved Matters stage a condition is necessary, if approved, to ensure this is provided.

The residential development zone has a single point of access from Viking Way (Priority Junction Design). It is noted that the Transport Assessment reviews the impact of up to 230 units on this part of the site, the revised indicative layout proposes approximately 175 units. The access as proposed has been shown to operate adequately.



There is no requirement to provide a secondary access or emergency access to Giantswood Lane given the level of development proposed and none is proposed to be required.

### **Internal Layout**

An indicative masterplan has been submitted for the residential layout, the main spine road is 5.5m wide carriageway and 2m footways on both sides. Whilst, the layout is indicative the principal route would be 5.5m wide the remaining roads can be downgraded to shared surface and lanes to reduce the formality of the design. This would be a matter at reserved matters stage

### **Development Impact**

The transport assessment submitted in support of this application has considered the following points, which have been agreed by the Strategic Highways Manager as being appropriate to assess;

A34 Rood Hill/A54 signal junction  
Clayton Bypass A34/Belgrave Avenue roundabout  
Clayton Bypass A34/West Street Roundabout  
Viking Way/CLR roundabout

The results of the capacity assessments at the above junctions indicate that a number of junctions operate over capacity in the base case, the Rood Hill junction and the A34/West Street junction. The capacity problems at these junctions will be significantly increased when the development is added, although when the CLR is included these junctions will operate within capacity in all scenarios. The other junctions operate within capacity in the base case plus CLR and also with development added.

It can be concluded that there are a number of junctions on the A34 in Congleton that already suffer from congestion problems and that the introduction of the CLR is required to allow the development to come forward without causing congestion and delay on the local road network. The CLR is likely to come forward in advance of this site

### **Accessibility**

The extension to Barn Road / Viking Way is currently under construction and will provide a 3.0m wide Pedestrian/Cycleway on the east side of this site. This will allow sustainable links to be provided to the proposed employment and residential areas.

A Toucan crossing is to be provided on Barn Road on the route of the proposed East-West Greenway. A 2.0m wide footway on the West side of Barn Road will link the residential and the retail/employment areas and also provide access to the Greenway. The funding for this crossing is part of the proposed S106 and the provision of a 2.0m wide footway on the west side of Barn Road will need to be secured via a S278 agreement.

A 3.0m wide pedestrian/cycle link 'Greenway' has been provided within the residential parcel of the development - linking to the PROW close to the Westlow Mere Fishing club access from

Barn Road. This Greenway also links into the emerging proposals for the allocated adjacent land parcels.

The Council has worked with the applicant to provide a DDA compliant gradient to the route that will be adopted by the Local Highway Authority. This link will provide essential multi-modal links across the North Congleton Local Plan allocation and as such should be completed as early as possible in the delivery of the residential parcel of the development. The provision of an east to west greenway with pedestrian and cycle links is required by LPS 27.. This includes a footbridge over the River Dane for pedestrian / cycle use.

On the West Side of the development the route of the Greenway continues from Barn Road to the site of the proposed Bridge Crossing. The applicant has agreed to transfer the land for the construction of this part of the Greenway to the Council along with the necessary access rights to construct the Bridge in the future. Contributions towards the estimated cost of providing the new Dane Bridge for pedestrians and the Greenway have been agreed with the applicant.

The accessibility of the site to bus services is considered poor due to the long walking distances between 1.5 and 1.8km to the nearest bus stops on Rood Hill. There are no current bus services that use Barn Road and no diversion of existing bus services is possible to serve the development. In order to provide the site with access to public transport a new bus service is required, and it is reasonable for this site to provide a contribution to a service with other planned housing sites providing similar contributions.

Based upon a 4-year contribution of 25% of the cost of running a bus service a contribution of £150,000 is required. It is expected that given the level of development coming forward along the CLR the bus service would become a financially viable service in the future. It will also be a requirement that there is a bus waiting / layover facility secured close to the Local Centre on Barn Road.

This development is also of a scale that requires a travel plan for all elements. A £6000 Travel Plan monitoring fee is applicable, this will form part of the S106.

## **LANDSCAPE AND TREE/HEDGEROW IMPACT**

As part of the application a Landscape and Visual Impact Assessment has been submitted. The assessment follows the guidelines and methodology outlined in the Guidelines for Landscape and Visual Impact Assessment 3<sup>rd</sup> Edition 2013. The assessment refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge. The assessment also refers to the Cheshire Landscape Character Assessment, although it identifies this as being at the local, rather than county level. The Cheshire Landscape Character Assessment 2009 identifies the application as being located within Type LCT 13: River Valleys , specifically LAC R5 Upper Dane Valley Character Area; the application area exhibits many of the characteristics of this landscape type.

The assessment also refers to the Congleton Landscape Character Assessment 1999. The Congleton Landscape Character Assessment identifies this is an area that is generally flat/gently undulating river valley, with steep wooded slopes and is, mainly pasture with some arable farming with a meandering watercourse lined with mature vegetation

Given the character of this area will change significantly in the near future and as such the landscape impact will change accordingly.

The Councils Landscape Architect advises that the structural landscape parameters contained within the indicative layout has been significantly amended through the application process. It is therefore considered the landscape impact is acceptable at this outline stage

## **Trees**

An Arboricultural Impact Assessment has been submitted. The site contains 35 individual trees, 17 tree groups, 11 hedgerows and 4 woodlands. The proposal will result in the loss of 2 low grade trees.

The National Planning Policy Framework states at section 175 c) that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists.

BS5837 recommends no construction works, including the installation of new hard surfacing using 'tree-friendly' techniques, occur within the RPA. Particular care should be taken in the design to accommodate veteran trees in a setting that aids their long-term retention. There are two veteran trees on the site, nos. 58 & 74. These trees have been highlighted throughout the design process and are to be retained without impact on the veteran tree buffer zone.

## **Hedgerows**

Policy NR 3 of the CBC Local Plan refers to Important Hedgerows. Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

Native hedgerows are a priority habitat and hence a material consideration. The ES does not anticipate that any hedgerows would be lost as a result of the proposed development. There is a hedgerow located in the centre of the site, however this may potentially be lost and re-instated as part of the Congleton Link Road scheme.

The reserved matters landscaping must ensure that any hedgerows unavoidably lost because of the proposed development are adequately compensated for at the reserved matters stage. This can be a condition.

## **Flood Risk and Drainage**

As the application site exceeds 1 hectare, a Flood Risk Assessment (FRA) has been submitted as part of this application. The site is mainly in Zone 1 with a corridor adjacent to the River Dane being in Zone 2 (Medium Probability) and Zone 3 (High Probability).

The submitted FRA identifies that there is no risk from river/fluviial flooding, the flooding maps and from historical flooding. However, there is a high risk of groundwater flooding in low lying parts of the site, a low risk from surface water flooding and a risk from blockages along the water ditch on site and infrastructure failure.

An 8m easement to the River Dane was recommended initially within the FRA. The Environment Agency (EA) raised objection to the recommended 8m easement put forward. The EA confirmed that they required a minimum easement of 50m from the River Dane.

As a result of this objection the Applicant has redesigned the layout to accommodate a 50m buffer from development to the River Dane. A condition can be imposed to require this buffer.

A Hydrogeological Impact Statement was also provided by the Applicant to address the potential for changes to the water table and the de-watering concerns expressed by the neighbouring fishing club and others. The adjacent fishing club, whilst wishing to maintain their position in respect of the future reserved matters, has accepted the information provided in that Assessment.

The Councils Drainage Section has considered the Hydrogeological Impact Assessment paying regard to the concerns expressed by neighbours, confirms that subject to condition, the area will not be subject to de-watering and that this issue can be addressed via planning condition.

The submitted FRA identifies Sustainable Urban Drainage Systems (SUDS) can be used on this site to manage storm water and run-off both to the application site and to surrounding properties.

The Flood Risk Manager (as Lead Local Flood Authority) advises that the proposal, as revised to include the 50m easement to the River Dane as required by the Environment Agency, is acceptable subject to drainage conditions.

## **Amenity**

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.

Congleton has three Air Quality Management Areas, and as such the cumulative impact of developments in the area 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.

An Air Quality Assessment has been submitted. The assessment concludes that the impact of the future development on the chosen receptors will be *not significant* with regards to NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations. None of the receptors are predicted to experience greater than a 1% increase relative to the AQAL. A sensitivity analysis has also been undertaken which makes the assumption that real world driving emissions will not reduce as much as predicted over the

coming years. This can be taken as a “worst case scenario” assessment and the results of this also show that the impacts on the receptors are predicted to be *not significant*, although one receptor in the West Road AQMA is predicted to see a slightly adverse impact on the levels of NO<sub>2</sub> once the development is completed in 2035.

In terms of air quality, the Environmental Health Officer has requested conditions regarding electric vehicle infrastructure for the residential and commercial uses, low emission boilers.

The Environmental Health Officer also requests an environmental management plan and dust management for amenity reasons and numerous contaminated land conditions across the site.

Subject to conditions the proposal is considered to safeguard the amenity of the area and living conditions of future residents

### **Amenity/privacy of existing and future residents**

For housing proposals, Saved Policy GR6 of the Congleton Local Plan requires consideration to be given to the occupiers of both neighbouring properties and the future occupants of the site with regards to privacy, loss of light, visual intrusion and pollution. Supplementary guidance in the Congleton Local Plan also indicates that a minimum distance of 13.8m from main room windows to a gable elevation should be achieved. The policy also requires 21.5m between principal elevations.

This matter will be fully assessed at reserved matters stage, however, given the scale of the residential zone as proposed, a development of up to 175 residential units is considered achievable.

### **Design**

This is an outline application with access applied for at this stage. Land levels vary significantly across the site and within the context of adjacent sites and the site adjacent at Radnor Park.

The application is supported by a design and access statement, a design code and testing layouts for the whole site have been provided, (albeit in sections) and a parameters/regulating plan has been provided.

During the extensive negotiations at application stage, there was a need to ensure that the parameters set out in the application addressed the various issues on the site particularly building heights of the commercial warehouses in the landscape having regard for the changes in topography in the area, and that the applicants had adequately demonstrated, in indicative form, that the distribution of uses could be accommodated on the site successfully.

The parameters plan has been extensively amended during the lifetime of the application. The Urban Designer has undertaken a Building for Life (BfL) 12 assessment based on the revised scheme and gave 11 greens, 2 ambers and no reds to the parameters plan/indicative building heights and sections

Whilst the submitted documents only gives an indication of what could be accommodated on site, and the testing layouts would not be approved, it is considered that it does give sufficient

comfort that the broad housing numbers, together with the areas of open space green links and other infrastructure can broadly be accommodated on the site. Only at the reserved matters stage(s) would the exact numbers be known. The parameters plan however would be approved which will set the basic requirements for the site including set off distances to boundaries and widths of greenways. .

This site is on the rural/urban fringe and is adjacent to numerous extensive mixed use development sites associated with the expansion of the Business Park and the delivery of/ extensive funding toward the Link road which will result in over 1000 houses being added in the wider area, together with hectares of commercial development.

This will be an urbanising development however, the transition of the site to the rural edge, where it remains rural, forms part of the Design Coding that, at a macro level, seeks to ensure significant amounts of green infrastructure remains within the site.

## **ECOLOGY**

Congleton saved Local Plan Policy NE. 3 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

An addendum to the Environmental Statement (ES) have been provided. The Council's ecologist has considered the evidence submitted and advises:

### Statutory Designated Sites

Natural England have raised no objection in respect of the potential impacts of the proposed development upon statutory designated sites.

### Non-statutory Local Wildlife Sites (LWS)

All of the local Wildlife Sites recorded in the vicinity of the proposed development are evaluated by the ES as being of Local importance. The Council's ecologist considers these receptors to be of County importance.

### Field at Hulme Walfield LWS

This Local Wildlife Site is located in close proximity to the northern boundary of the application site. Cheshire Wildlife Trust have raised a concern in respect of potential hydrological impacts on this LWS arising because of the proposed development.

An assessment has been submitted which identifies a ditch located on the boundary between the application site and the Local Wildlife Site and considers the topography of the application site. The assessment concludes that the proposed development is unlikely to result in a

hydrological impact upon the Local Wildlife Site. The Council's flood risk manager concurs. This Local Wildlife Site is not reasonably likely to be affected by the proposed development.

#### *River Dane (Radnor Bridge to Congleton Local Wildlife Site (LWS))*

This LWS is located on the western boundary of this site. The Local Plan site specific policy for this allocated site makes reference to the presence of this LWS.

To ensure that the LWS is safeguarded it must be ensured that there is no encroachment in to the LWS and also that a suitable undeveloped buffer is provided. An acceptable buffer is shown on the submitted parameters plan. Subject to the development occurring in accordance with the parameters set, there will be no adverse impact

A further block of priority woodland is also present adjacent to the site's northern boundary. An acceptable buffer between this and the built form of the development is shown on the submitted parameters plan.

#### *Proposed Outfall to River Dane*

The addendum ES notes the requirement to provide a surface water outfall to the River Dane (SSSI). The location of the outfall is not confirmed at the outline stage, but a likely location has been identified. The addendum ES advise that there would be no tree loss associated with the outfall or any impacts on the watercourse. An illustrative design for the outfall has been provided.

The construction of the outfall has the potential to have an adverse impact upon both water voles and otter.

Evidence of otter activity was recorded during a recent survey of the likely location of the surface water outfall, but no suitable sites for use for shelter and protection of this species were recorded. The construction of the outfall is therefore not likely to result in an offence under the Habitat Regulations in respect of Otter.

No evidence of water vole was recorded during the survey and the habitats assessed were of low suitability for water voles. Considering the small scale of the proposed outfall it is advised that based upon the currently available information water voles are not reasonable likely to be affected by the proposed outfall.

HWSB Neighbourhood Plan policy ENV1 protects identified wildlife corridors and habitats of high distinctiveness. The River Dane LWS is identified by the neighbourhood plan as an area of High Distinctiveness. A network of wildlife corridors is also identified through this application site.

The Neighbourhood plan also identifies a Wildlife Corridor on the site boundary to the north of the existing Airbags Site. It must be ensured that the River Dane LWS is adequately retained and buffered as part of the development. The reserved matters will need to address this issue

#### *Warburton's Wood Local Wildlife Site, Forge Woods Local Wildlife Site and Hulme Walfield Sand Quarry Local Wildlife site*

These three Local Wildlife Sites are located some distance from the application site and so would not be directly affected by the development. The submitted ES does however identify a 'Minor Adverse' impact arising from noise and pollution arising during the construction phase and a minor adverse effect because of increased recreational pressure during the operational/residential phase of the proposed development.

The ES anticipates that the proposed development would have a minor adverse impact upon retained habitats because of increased human presence. Construction management would mitigate the impact.

### Hedgerows

Native hedgerows are a priority habitat and hence a material consideration. The ES does not anticipate that any hedgerows would be lost as a result of the proposed development. There is a hedgerow located in the centre of the site, however this may potentially be lost and re-instated as part of the Congleton Link Road scheme.

If outline consent is granted it must be ensured that any hedgerows unavoidably lost as a result of the proposed development is adequately compensated for at the reserved matters stage. This matter may be a condition.

### Badgers

The proposed development will result in the loss of badger foraging habitat. Badger activity on site appears to be low so this impact is also likely to be correspondingly low.

As the status of badgers can change a condition would be required to ensure that any future reserved matters application is supported by an updated badger survey and impact assessment.

### Great Crested Newts

No evidence of great crested newts was recorded during the surveys undertaken to inform the ES. This protected species is unlikely to be affected by the proposed development.

### Common Toad

This priority species was recorded during the amphibian surveys undertaken to inform the ES. The ES identified a minor adverse impact on amphibian species as a result of the loss and disturbance of terrestrial habitats.

The ecologist required revisions to the scheme in the form of a new wildlife ponds. This pond should not form part of the sites SUDS.

The illustrative layout has been amended to include the required pond and its delivery can be secured through the ecological enhancement conditions required.

### Bats



The bat surveys undertaken in support of this application recorded a moderate level of bat activity on site. As would be expected the main areas of higher bat activity were associated with the river corridor and Westlow Mere.

The ES advises that the proposed development would result in a minor adverse impact upon foraging bats as a result of the loss of low-quality habitats. This impact is however likely to be at least partly compensated for through the habitat creation proposed adjacent to the river Dane.

The bat report also refers to a bat roost recorded of site during surveys undertaken in 2019. This roost is however located off site and is unlikely to be significantly affected by the proposed development.

The ES identifies a potential impact of construction phase lighting on foraging bats. Construction phase lighting can be controlled through the submission and implementation of construction management /environmental management scheme.

Six trees were identified on site that have potential to support roosting bats. The ES states that all these trees would be retained under the illustrative layout. A condition is required to ensure that these trees are retained at the detailed design stage.

#### Biodiversity net gain

Local Plan Policy SE 3(5) requires all developments to aim to positively contribute to the conservation of biodiversity. The applicant has submitted an assessment of the losses and gains resulting from the development using the Defra biodiversity offsetting 'metric' methodology.

Two versions of the metric have been produced. One version considers only that land within the red line of the application, whilst the second includes an additional area of land outside the red line of the application which appears on the revised illustrative layout plan as "additional non-intervention ecology area".

Both scenarios show a net gain for biodiversity. Limiting habitat creation to the red line of the application shows a net gain of only 1.74%. Whilst this is an overall gain only a slight variation in the biodiversity metric calculations could result in the scheme resulting in a net loss of biodiversity. The ecologist considers this to be inadequate.

The inclusion of the additional land within the blue line of the application under the control of the applicant and identified within the revised Parameters Plan as being for biodiversity net gain purposes increases the net gain to 9.59%. There is therefore significant benefit in securing the additional land for Biodiversity Net Gain purposes.

It is anticipated that the once enacted the Environment Bill will require all development to deliver a 10% net gain. The additional land is therefore required to ensure that the development delivers a more robust net gain and is closer to meeting this net gain threshold that is likely to be introduced by the Environment Act. It is important that the phasing of the biodiversity net gain happens early. This will be a condition.

#### Assessment of Cheshire Wildlife Trust objection

The Principal Ecologist considers that subject to numerous conditions as discussed above that the proposals will comply with adopted planning policy for the protection of flora / fauna / wildlife on this site. Whilst the objections of the Wildlife Trust are noted, it is considered that the objections are addressed by the planning conditions specifically aimed at the protection and enhancement of the ecology of this site.

On this basis, it is not considered that the objections from the Wildlife Trust can be sustained as reasons to refuse this application

## **Archaeology**

The Council's Archaeologist has considered the application and supporting report and considers that, subject to a standard archaeology condition, that the issue of archaeology needs no further assessment.

## **SOCIAL SUSTAINABILITY**

### **Public Open Space / Greenway**

The indicative layout shows that an area of Public Open Space (POS) and a Neighbourhood Equipped Area of Play (NEAP) would be provided to the residential area

In terms of children's play space, the Public Open Space Officer has also advised that the provision of the NEAP is adequate to cater for the future circumstances of this site. The NEAP should have a minimum activity zone of 100sq m for play equipment and structures and have at least 500 sq m amenity green space; Minimum 12 pieces of play equipment and including 2 combination multi-play units; Provision for seating along the Greenway should also be provided and within the developments public realm and SUD's areas as appropriate.

The Greenspace officer also advises that proposals for the Greenway should provide for public art/tree sculptures plus art at focal points. Wayfinders should be provided throughout the site and information and interpretation boards should be provided, a planning condition is suggested.

The open space/Greenway on site would be managed by a management company and this would be secured as part of a S106 Agreement.

### **Affordable Housing**

The Affordable Housing Officer accepts that this site is required to fund the delivery of the Congleton Link Road by virtue of Policy LPS27 and that the independent assessment of the viability of the sites in the allocation, including this site, as contained within the Delivery Strategy for the Congleton Link Road (CLR) demonstrates that a policy compliant quantum and tenure mix of affordable housing cannot be achieved as well as the contribution to the Link Road in this case.

As such the proposed Affordable Housing contribution of 17.5% of the total residential dwellings on the site is acceptable the Housing Manager.

Additionally, the Affordable Housing Officer agrees that of the 17.5% Affordable Dwellings are to be Intermediate Housing (at 80% OMV). These will be low cost home ownership dwellings and will enable those who cannot afford the open market prices to step onto the home ownership ladder.

The Affordable Housing Officer requires an Overage/Clawback clause to be agreed. This is to cover any uplift in value on the development during its completion and any connected raise in commuted sum amounts or increased on site provision for Affordable Housing.

Policy LPS27 of the CELPS refers to the delivery of around 625 houses across the entire allocation. This site comprises approximate 25% of the entire allocation. It therefore follows that this site could cater for 170-220 units, depending upon detailed design and mix. The Applicant has advised that they seek permission for up to 175 units in this case.

## **Education**

The numbers and size of residential units will not be known until reserved matters.

As a general guide the Education Manager has assessed this using a formula-based approach .

The development is expected to impact on secondary school places in the 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 secondary schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that a shortfall of secondary school places still remains. The development is not expected to impact on primary provision.

Special Education provision within Cheshire East Council currently has a shortage of places available with at present over 47% of pupils educated outside of the Borough. The Service acknowledges that this is an existing concern; however, the 2 children expected from the Land off Viking Way, Congleton application will exacerbate the shortfall.

Given the outline nature of the application and the fact that the Applicant has confirmed that the revised scheme seeks up to 175 dwellings, the education mitigation requirement is not known and the formula-based approach is considered more appropriate in this case.

The formula will then cater for all the education mitigation requirements based on the true numbers and size of units. The proposal will mitigate for its education impact on this basis

## **Health**

The South Cheshire Clinical Commissioning Group (CCG) have sought a S106 Contribution and advise that local medical centres are operating close to capacity and therefore to accommodate the future residents put forward, both Practises in Congleton will need to be developed to support their ability to provide the expected level of primary care facilities in the area.

The mitigation requested in the previous proposals by the CCG is based on the following formula

Size of Unit	Occupancy Assumptions Based on Size of Unit	Health Need/Sum Requested per unit
1 bed unit	1.4 persons	£504 per 1 bed unit
2 bed unit	2.0 persons	£720 per 2 bed unit
3 bed unit	2.8 persons	£1,008 per 3 bed unit
4 bed unit	3.5 persons	£1,260 per 4 bed unit
5 bed unit	4.8 persons	£1,728 per 5 bed unit

The CCG has confirmed this is now requested to fund expansion of the surgeries in Congleton that are close to capacity.

### **Jodrell Bank**

No comment has been received from Jodrell Bank in connection with this application.

In keeping with other developments associated with North Congleton allocations associated with the Link Road, appropriate building insulation will be required by condition.

### **PLANNING BALANCE AND CONCLUSION**

Paragraph 11 of the NPPF advises that planning decisions should apply the presumption in favour of sustainable development, and this means that proposals that comply with an up to date development plan should be approved without delay.

In this case, the development is an allocated site and part of a planned release of development in accordance with adopted CELPS policy LPS27 and would provide for employment and residential development

Subject to a Section 106 package and appropriate conditions, the proposed development would include the requirement for the future maintenance of the open space on site.

The proposal, subject to conditions, is considered acceptable in terms of its impact upon residential amenity, drainage, flooding /, design, ecology, trees and hedgerows.

The site was fully assessed when allocated as a Local Plan Strategy site and considered locationally sustainable to a range of services and facilities.

Whilst in the main the social impacts to education and health are neutral, the negative impacts relate to the inability of the site to deliver the full 30% affordable housing, when it delivers 17.5% affordable units, however, on balance it is considered that the benefits to the economic and environmental conditions of this area by virtue of the significant contribution this proposal makes to the by-pass, together with the additional environmental and economic benefits from the employment generated by the retail and commercial uses, outweigh that harm.

## 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.

The education contribution is necessary having regard to the oversubscription of local secondary schools and special education need provision given the demand that this proposal would add to the local provision. This is considered to be necessary, fair and reasonable in relation to the development.

The Health contribution is necessary having regard to the existing patient rolls within the Congleton and the need for the expansion of existing surgeries to meet the needs of additional population. This is considered to be necessary, fair and reasonable in relation to the development

The highways contribution and dedication of land is necessary to mitigate for the impact of the development on the local highway network and in that regard is fair and reasonable.

The contributions to sport and recreation are necessary to meet the recreation needs of the additional population

The above requirements are considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

On this basis, the S106 recommendation is compliant with the CIL Regulations 2010.

## RECOMMENDATION

**Approve subject to the following Heads of Terms**

<b>S106</b>	<b>AMOUNT/REQUIREMENT</b>	<b>TRIGGER</b>
<b>Link Road contribution</b>	£15,000 per dwelling. Minimum of £2million regardless of numbers of dwellings	•£900,000 before 1 <sup>st</sup> residential occupation •£900,000 upon occupation of 80 <sup>th</sup> dwelling •Balance of monies of all dwellings/remainder of £2 million paid upon occupation of 70% of dwellings
<b>Toucan</b>	£95,000	Prior to any occupation of the development
<b>New bus service</b>	£150,000	Upon occupation of 50 <sup>th</sup> dwelling
<b>Greenway and Dane Cycle and Pedestrian Bridge /cycling improvements</b>	£260,000	Prior to any occupation of any dwelling on site

<b>Greenway and Dane Cycle and Pedestrian Bridge /cycling improvements</b>	£100,000	Prior to occupation of any development on the west side of Viking Way
<b>Western Greenway Land</b>	<p>Transfer to the Council, any transfer to the Council will be free from incumbrances (other than as set out below) but for the avoidance of doubt the transfer shall:</p> <ul style="list-style-type: none"> <li>i. be a transfer of the entire freehold interest of land as shown on BRJ10407-H-SK-410</li> <li>ii. be free from any pre-emption or option agreement</li> <li>iii. be free from any mortgage, charge, lien or other such incumbrance</li> <li>iv. include all usual and necessary rights of way with or without vehicles</li> <li>v. be subject to rights of access to the public</li> <li>vi. reserve any usual and necessary rights to use existing services and to lay and use new services together with any rights of entry to inspect, repair, renew, cleanse and maintain the same</li> <li>viii. not require consideration in excess of one pound (£1)</li> </ul>	No more than 10% of the dwellings
<b>Easement to be provided</b>	<p>Easement over the land shown on BRJ10407-H-SK-411 to allow access to the Western Greenway Land. Any Easement to the Council will be free from incumbrances (other than as set out below) but for the avoidance of doubt the transfer shall:</p> <ul style="list-style-type: none"> <li>i. be free from any pre-emption or option agreement</li> <li>ii. be free from any mortgage, charge, lien or other such incumbrance</li> <li>iii. include all usual and necessary rights of way with or without vehicles to allow the construction of the Western Greenway and River Dane Bridge crossing.</li> <li>iv. not require consideration in</li> </ul>	No more than 10% of the Dwellings

	excess of one pound (£1)	
<b>Affordable Housing</b>	17.5% at 80% Open Market Value with overage/claw back clause	<ul style="list-style-type: none"> <li>• Not more than 50% (80% if there is a high degree of pepper potting through the site) of the open market dwellings shall be occupied until all of the affordable housing units have been completed and the affordable housing scheme made ready for immediate occupation and use.</li> </ul>
<b>Education</b>	Secondary and SEN education formula	<ul style="list-style-type: none"> <li>• 25% of the contribution to be paid prior to first occupation of any dwelling.</li> <li>• 30% of the contribution to be paid prior to occupation of 33% percentile of the dwellings</li> <li>• Remaining balance of the contribution to be paid prior to occupation of the 66% percentile of dwellings</li> </ul>
<b>NHS contribution</b>	NHS formula 1 bed unit 1.4 persons £504 per 1 bed unit • 2 bed unit 2.0 persons £720 per 2 bed unit • 3 bed unit 2.8 persons £1,008 per 3 bed unit • 4 bed unit 3.5 persons £1,260 per 4 bed unit • 5 bed unit 4.8 persons £1,728 per 5 bed unit	<ul style="list-style-type: none"> <li>• 33% of the contribution to be paid prior to first occupation any dwelling</li> <li>• 33% of the contribution to be paid prior to first occupation of the 50% percentile dwelling</li> <li>• Remaining balance of the contribution to be paid prior to occupation of 75% percentile dwelling</li> </ul>
<b>Outdoor Sport contribution</b>	Outdoor Sports formula is to be written into the s106 The formula is:  Residential: • £1,000 per 2+bed family dwelling • £500 per 2+ bed (or more) Apartment  Commercial (over 1,000 sqm): Use Class A1 Shops Food retail: 1 space/£300 per 14 m2  Non-food retail: 1 space/£300 per 20 m2	Residential <ul style="list-style-type: none"> <li>• 33% to be paid prior to first occupation of the residential development</li> <li>• 33% to be paid prior to first occupation of 50% percentile dwelling</li> <li>• Remaining balance of the contribution to be paid prior to occupation of 75% percentile dwelling</li> <li>• The contribution will be paid in full prior to the first occupation of the relevant commercial use for that phase.</li> </ul>

	<p>Use Class A3 Food and drink Restaurants: 1 space/£100 per 5 m2 Fast food/Drive through 1 space £100/per 7.5 m2</p> <p>Use Class BI Business B1 including offices: 1 space/£300 per 30 m2 Business parks: 1 space/£300 per 35 m2</p> <p>Use Classes B2 and B8 General industry and Storage and distribution 1 space/£300 per 45 m2</p> <p>Use Class C1 Hotels 1 space/£300 per bedroom</p>	
<b>Indoor Sport &amp; Recreation</b>	<p>Formula - Population increase x participation rate = additional "active population" due to the new development Active population / 25 x £6,500 (one fitness station)</p>	<ul style="list-style-type: none"> <li>•33% of the contribution to be paid prior to first occupation of any dwelling</li> <li>•33% of the contribution to be paid prior to first occupation of 50% percentile dwelling</li> <li>•Remaining balance of the contribution to be paid prior to occupation of 75% percentile dwelling</li> </ul>
<b>Open Space Management scheme</b>	Management scheme for NEAP and all POS/incidental open space throughout management site	<ul style="list-style-type: none"> <li>•No more than 75% of the residential development to be occupied until the open space has been provided or such other higher percentage as may be proposed by the Owner and agreed by the Council having regard to the construction programme and health and safety only.</li> <li>•Not to allow or permit occupation of the residential development until the Management Plan has been submitted and approved by the Council.</li> <li>• The NEAP will be delivered in full prior to first occupation of 50% of the residential development.</li> </ul>
<b>Residential Greenway Link</b>	To be offered up via a S38 agreement for the Council for future maintenance. Any soft landscaping provided in the approved proposals will be required to be maintained by the Open Space Management Company	Prior to 1 <sup>st</sup> residential occupation
<b>Travel Plan</b>	£6000	Prior to occupation of 1 <sup>st</sup> dwelling



<b>Monitoring payment</b>		
<b>Allotments</b>	Formula - £563.50 for each residential unit for every residential phase or sub phase	<ul style="list-style-type: none"> <li>•33% of the contribution to be paid prior to first occupation of any dwelling</li> <li>•33% of the contribution to be paid prior to first occupation of 50% percentile dwelling</li> <li>•Remaining balance of the contribution to be paid prior to occupation of 75% percentile dwelling</li> </ul>
<b>Signage for pedestrians and cyclists</b>	Scheme of signage for pedestrians and cyclists within the red line boundary and off-site shall be included within the s278 agreement	Prior to any development on site

#### **And the following conditions**

- 1. Standard Outline**
- 2. Submission of reserved matters**
- 3. Plans**
- 4. Residential travel plan inc residents information pack**
- 5. Development to comply with Coding within Chapter 6 of the revised Design and Access Statement and the Regulating Plan (p39 rev Design and access statement)**
- 6. Phasing plan covering entire site to be provided with 1<sup>st</sup> reserved matters application. The phasing plan shall secure the delivery of habitat creation/ecological mitigation throughout the River Dane corridor upon implementation of the 1<sup>st</sup> reserved matters scheme within the site.**
- 7. Prior to development commencing Biodiversity Net Gain scheme to be provided for area identified Blue hatch on Parameters plan. The scheme shall be completed prior to the completion of the 1<sup>st</sup> reserved matters scheme anywhere on site. Each RM's to be supported by habitat creation/30yr habitat management plan for all created areas within that phase informed by submitted biodiversity metric**
- 8. Updated otter and water vole surveys**
- 9. Any reserved matter application to be supported by updated badger survey/impact assessment and mitigation**
- 10. Each reserved matters application to include proposals for the creation of compensatory hedgerow planting to address any hedgerows unavoidably lost.**
- 11. Each phase of development to have bat friendly/ecologically sensitive lighting**
- 12. Detailed design of surface water outfall to river Dane to be submitted with Reserved Matters (relevant phase)**
- 13. Submission of habitat creation, management and monitoring proposals (for a period of 30 years) with each reserved matters application informed by submitted biodiversity metric**
- 14. 50 m buffer to River Dane**
- 15. Drainage strategy/surface water run off**
- 16. Groundwater monitoring scheme/westlow mere**
- 17. Compliance with AIA/trees identified as bat roost potential in ES to be retained**
- 18. Tree/Hedge protection for each phase**

- 19 Programme of archaeological work
- 20 Scheme of signage for pedestrians and cyclists within the red line boundary
- 21 A scheme for the provision of Street lighting (To cover as a minimum from the end of the existing lighting installed on Barn Road to cover up to the new residential development access)
- 22 A scheme for the provision of a right-turn lane facility shall be submitted as part of the Reserved Matters application for the proposed superstore parcel of the site.
- 23 Full details inc Street Lighting of the proposed Greenway Link as shown on the illustrative residential parcel masterplan.
- 24 The proposed residential Greenway Link will be built to adopted highway standards (including any structural retaining walls / earthworks that may be required) shall be provided prior to the occupation of the 50<sup>th</sup> dwelling
- 25 Prior to the occupation of any of the residential properties a Scheme for the provision of a Bus Layby and bus shelter on the northbound side of Barn Road as detailed in the Illustrative Layout shall be submitted for approval. This layby shall be delivered prior to the Occupation of 50 dwellings.
26. Prior to the occupation of any of the residential properties a Scheme for the provision of a 'on carriageway' Bus Waiting facility on the southbound side of Barn Road, including raised kerbs, road markings and bus shelter shall be submitted for approval. This Bus Stop facility shall be delivered prior to the Occupation of 50 dwellings.
27. Prior to any development on the West side of the Barn Road development a Scheme shall be submitted for approval for the provision of a minimum 2.0m wide footpath adjacent to Barn Road (limited to within the extents of the development) and this implemented prior to any occupation.
- 28 Noise Impact Assessment tbs with reserved matters to achieve DbA at residential properties
- 29 A scheme of odour abatement / control / mitigation shall be submitted for each phase of commercial development
- 30 Electric Vehicle Infrastructure – for all land uses proposed
- 31 Ultra Low Emission Boilers
- 32 Construction and Environment Management Plan for each phase
- 33 Material Management Plan
- 34 Contamination each phase - Residential
- 35 Contamination commercial each phase
- 36 Soil importation – whole site
- 37 Verification Report for each phase approved prior to occupation of that phase
- 38 Unforeseen contamination – whole site
- 39 Existing/proposed/FFL Levels for each phase
- 40 Superfast broadband provision
- 41 Scheme for the incorporation of electromagnetic screening measures(protection of Jodrell Bank telescope)
- 42 Removal pd for extensions - Class E uses only (Part 7 GPDO) /no mezzanine floors to be developed for discount foodstore/parade of 3 shops and café unit
- 43 Discount food store – limit to 1,900 sq m gross (GIA). To comprise 1,300 sq m net floorspace of which 80% (1,040sq m net) would be for convenience retail floorspace and 20% (260sq m net) would be for comparison goods floorspace.

- 44 The café unit hereby permitted shall not exceed 303 sqm (GIA) and shall be used for use class E(b) the sale of food and drink for consumption (mostly) on the premises
- 45 The 3 no small retail units shall not be operated for a use that falls within Use Class E(a) and E(g) of the Use Classes Order (as amended) and shall have cumulative floor area no larger than 488sq m gross (maximum) in total. The 3 units shall be separate from each other and not amalgamated into
- 46 EMPLOYMENT AREA - limited to Use Class E(g)(i) (Offices), E(g)(ii) (Research and Development) and E(g)(iii) (Industrial Processes), B2 (general industry), B8 (storage or distribution)
- 47 site waste management to be provided prior to any commercial floor space being occupied
- 48 Commercial development – non centralised low carbon energy
- 49 Max residential = 175 units
- 50 Scheme of public art to greenway
- 51 Bat sensitive lighting
- 52 Ecological enhancement (bat and bird boxes) to be submitted with each reserved matters
- 53 Landscape/public realm/habitat management plans should be for a minimum period of 25 years
- 54 Construction and Management Plan dealing with noise/pollution impacts upon adjacent wildlife site

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

