

Planning Reference No:	10/1269C
Application Address:	Bath Vale Works, Bath Vale, Congleton
Proposal:	Erection of 126 No. dwellings, provision of public open space and associated works
Applicant:	Bovis Homes Ltd
Application Type:	Reserved Matters
Grid Reference:	387429 363226
Ward:	Congleton Town East
Consultation Expiry Date:	20 th May 2010
Date for determination:	8 th July 2010

SUMMARY RECOMMENDATION

Approve subject to Section 106 Agreement and conditions.

MAIN ISSUES

- Principle of Development
- Design
- Layout
- Amenity
- Open Space
- Ecology
- Drainage and Flood Prevention
- Highways
- Tree Issues
- Landscape Matters
- Affordable Housing

REFERRAL

The application has been referred to Southern Planning Committee because it is for more than 10 dwellings and is therefore a major development. The application was deferred at the committee meeting on 3rd November 2010 for further negotiations with the applicant in respect of the siting of the play area.

1. SITE DESCRIPTION

The site is located approximately 1.5km to the north east of Congleton town centre in an area of open countryside. It is broadly rectangular and orientated in a north western – south eastern alignment. The existing buildings on the site were previously used for industrial purposes and covered most of the site. These have now been demolished and the site now comprises a large expanse of hardcore. The site itself, which slopes up gradually from the entrance, lies in a river valley, the sides of which are steeply sloping and heavily treed. The site area is approximately 10.07ha. It is accessed off Brookhouse Lane, which roughly follows the southern boundary of the site.

2. DETAILS OF PROPOSAL

Outline planning permission was originally granted in June 2008 for residential redevelopment of the site for 130 dwellings, with 20% affordable housing. (07/0596/OUT refers). A subsequent outline application (08/1317/OUT) for 130 dwellings was refused on 7th November 2008, because the developer sought to reduce the extent of affordable housing provision to 5%. A subsequent appeal against that decision was allowed, and outline planning permission granted, on 28th April 2010.

This is a reserved matters application seeking approval for details of access, appearance, landscaping, layout and scale. In addition the application seeks to address condition 17 of the outline approval which requires a statement setting out design principles and concepts and how these are reflected in the proposals for the development in the reserved matters application.

3. RELEVANT PLANNING HISTORY

07/0596/OUT Outline planning permission for up to 130 dwellings, provision of public open space, highway improvements and associated works – Approved 23rd June 2008.

08/1317/OUT Outline Planning Application for demolition of existing buildings and erection of up to 130 dwellings, provision of public open space, highway improvements and associated works.- Refused 7th November 2008 – Appeal Allowed

4. PLANNING POLICIES

National Policy

PPS 1 Delivering Sustainable Development
PPS 3 Housing
PPS7 Sustainable Development in Rural Areas
PPG13 Transport
PPS23 Planning and Pollution Control
PPS25 Development and Flood risk.

Local Plan Policy

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
GR5 Landscaping
GR9 Accessibility, servicing and provision of parking
GR14 Cycling Measures
GR15 Pedestrian Measures
GR16 Footpaths Bridleway and Cycleway Networks
GR17 Car parking
GR18 Traffic Generation
NR1 Trees and Woodland
NR3 Habitats

NR5 Habitats
H6 Residential Development in the Open countryside
H13 Affordable Housing and low cost housing
E10 Re-use and redevelopment of existing employment sites

5. OBSERVATIONS OF CONSULTEES

Public Rights of Way Officer

The property is adjacent to public bridleway Congleton No.40 as recorded on the Definitive Map. It appears unlikely that the proposal would affect the public right of way although advice notes should be added to the decision notice to ensure that developers are aware of their obligations to ensure that the right of way remains safe and unobstructed.

Environmental Health

Prior to commencement of development

- A contaminated land assessment should be submitted and approved
- The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
- Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.

Natural England

- This proposal lies close to Dane-in Shaw-Site Pasture of Special Scientific Interest. They note that this site has previously been subject to planning applications and the site has received planning consent following an appeal made by the developer against refusal.
- Natural England has previously commented on the application, in particular in reference to protected species and the Site of Biological Importance (Bath Vale Woods) adjacent to the site as well as the SSSI which is west of the site. We note that the Construction Ecological Management Plan (CEMP) which accompanied planning application (08/1317/OUT) prepared by WSP Environmental and dated 2008, provided a site and habitat protection methodology for Bath Vale Woods Site of Biological Importance although no consideration of the SSSI was made but it is the opinion of Natural England that the proposed development will not materially or significantly affect it.
- They are also satisfied that the proposal does not have any significant impacts upon Natural England's other interests, including National Trails, Access Land, or the areas of search for new national landscape designations.
- It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. They therefore assume that all relevant information relating to protected species has been provided to the local authority in relation to this site. If not, further information should be requested to ascertain any potential impact on protected species.

United Utilities

No objection to the proposal provided that the following conditions are met: -

- In accordance with PPS25 surface water should not be allowed to discharge to foul/combined sewer. This prevents foul flooding and pollution of the environment.
- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Foul drainage must be connected to Man hole SJ 8663 4201 in Brook Street. Surface water is to be discharged to Timbers Brook subject to the approval of the Environment Agency.
- If any sewers on this development are proposed for adoption then the developer should contact our Sewer Adoptions Team on 01925 428274.
- A water main crosses the site. As we need access for operating and maintaining it, we will not permit development in close proximity to the main. We will require an access strip of no less than 5 metres 2.5 metres either side of the centre line of the main.
- Any necessary disconnection or diversion required as a result of any development will be carried out at the developer's expense. Under the Water Industry Act 1991, Sections 158 & 159, United Utilities have the right to inspect, maintain, adjust, repair or alter water mains. This includes carrying out any works incidental to any of those purposes. Service pipes are not their property and they have no record of them. If a diversion is required the applicant must discuss this at an early stage with their Regional Mains Diversions Team
- A separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999.
- Should this planning application be approved, the applicant should contact Service Enquiries regarding connection to the water mains/public sewers.
- United Utilities water mains may need extending to serve any development on this site. The applicant, who may be required to pay a capital contribution, will need to sign an Agreement under Sections 41, 42 & 43 of the Water Industry Act 1991. Currently, United Utilities policy is not to adopt SUDS (Sustainable Urban Drainage System) structures. This stance has been taken as SUDS structures, typically ponds, do not align with United Utilities asset base and would represent a substantial maintenance liability.
- United Utilities will only consider the adoption of surface water sewers draining to a balancing pond (as opposed to any other SUDS structure), providing the following conditions are met: -
 - The Local Authority takes responsibility for the maintenance of the pond
 - The freehold of the land on which the pond lies is transferred to the Local Authority
 - United Utilities is provided with a deed of "Grant of Rights" to discharge into the pond in perpetuity. Such a deed would necessarily contain provisions against the development within the balancing pond, and against altering its topography, or making connections to it.
 - That measures have been taken to prevent flooding of properties
 - That a legal agreement is in place between all parties. A section 104 (Water Industry Act 1991) agreement for the surface water sewers draining to the balancing pond will not be entered into until every condition described above has been met.

Ecologist

Does not object to this application and no comments to make

Environment Agency

Following receipt of a FRA, we are now able to remove our objection to the stated application.

The Flood Risk Assessment (FRA) is acceptable in principle. Their response to the outline planning permission (Planning reference 08/1317/OUT, dated October 2008, requested that a number of conditions and informatives were attached to any planning permission.

They would request that their previous planning conditions and informatives relating to 08/1317/OUT are included on the decision notice for this reserved matters application.

Cheshire Fire Authority

Make the following comments

1. Access and facilities for the fire service should be in accordance with the Building Regulations
2. The applicant is advised to submit details of the water main installations in order that the fire hydrant requirements can be assessed
3. Means of escape should be in accordance with the Building Regulations.
4. The applicant should consider the inclusion of an automatic water suppression system.

Housing Section

Although PPS3 states that for sites over 15 units there should be 30% affordable housing provided, the affordable housing requirement to this site has been reduced to 5% following a planning appeal by the applicant which was upheld, and that these should be 2bed houses. Having looked at the plans submitted it is noted that there are 6no. 2bed houses identified as affordable.

The SHMA 2010 shows there is a small need for 2bed affordable houses in the Congleton & Congleton rural areas each year with a requirement for 2 per annum. However currently on CBL there are 34no. active applicants for 2bed houses in Congleton.

The SHMA 2010 also shows that the most demand is for social rented (68.6%), therefore the priority is for rented properties, so the tenure split for the 2bed houses should be 50% social rented and 50% intermediate housing.

They have also had a look at the site layout plan and do not have any issue with the proposed location of the affordable housing units.

Highway Authority

This application site offers a residential layout for 126 dwellings and bases the layout design on Manual for Streets principles.

The proposed layout has been the subject of a considerable amount of pre-application discussion and this has resolved many of the issues, however there are still some minor design alterations which need to be agreed.

During the design considerations, the proposed junction of the new estate road with Brookhouse Lane was reviewed and in order to resolve priority issues this junction has been re-designed so that the existing road runs directly into the development, becoming the major road and Brookhouse Lane will now come to a priority junction with it.

This change in priority matches the hierarchy of traffic flows and can be managed within the Section 38 Agreement for adoption purposes.

The Strategic Highways Manager has directed discussions on the design of the internal layout with regard to the use of Manual for Streets principles and the required quality of design. The required adoptable boundary detail has now been taken on board by the developer who is to provide an amended plan which satisfies the fine detail design requirements.

As a result, the SHM recommends that the following conditions and informatives be attached to any permission which may be granted for this application proposal:

Condition:- Prior to first development the developer will provide an amended plan showing the specific details of the internal layout with regard to Manual for Streets principles and the extent of the adoptable boundary, to include full service strip provision.

Informative:- The developer will enter into and sign a Section 38 Agreement under the Highways Act 1980, with respect to all new highway infrastructure which is agreed to be adopted by CEC Highway Authority.

6. VIEWS OF THE PARISH / TOWN COUNCIL

NO OBJECTION to Cheshire East granting approval but wish to comment as follows. Concerns were expressed regarding the location of the Play Area and the close proximity to the river. Members are sympathetic with the objections received from members of the public.

7. OTHER REPRESENTATIONS

Letters of representation have been received from Bath Vale Farm, 5 Bath Vale, 2 Bath Vale Cottages, 3 Bathvale Cottages, 1 Bath Vale Cottages making the following points:

- The car park appears to appropriate the garden wall and boundary hedge of Bath Vale Farm which the occupants have maintained and looked after since 1971
- The river bridge in the original plans was going to be widened but now it is not and instead a footbridge is to be installed alongside.
- The proposal will have a detrimental effect upon the character of the hamlet of bath Vale and residents amenity
- Bath Vale comprises a group of 6 early Victorian Mill Dwellings, enjoying a peaceful, semi-rural situation with little traffic and an absence of the usual features of suburbia
- The residents here supported the original outline planning application and generally welcome the proposals for the new housing, but with the following significant objections
- They most strongly object to the play park. The site is totally unsuitable. It would cause unacceptable noise and nuisance to Bath Vale, sited as it is, immediately adjacent and apparently encroaching upon residents' gardens. It is an inappropriate location for such a facility in terms of children safety, parents, convenience and potential for vandalism and other antisocial activities.

- It should be placed within the estate to maximize its potential use and to facilitate the necessary passive surveillance.
- The green belt site, outside the estate, should be left to develop naturally so that the sensitive biodiversity of the Dane-in-Shaw Brook and its banks can be maintained undisturbed.
- The sewerage and electricity stations are also unacceptable. They are ugly utilitarian structures and would be in full view of the entrance to the development. Why should Bath Vale be spoiled when there would appear to be ample room within the site to accommodate them.
- Residents are totally opposed to the construction of any such feature which would detrimentally alter the appearance and character of Bath Vale at its most crucial point, namely where both visitors and residents alike arrive at the hamlet.
- Residents' prime concern here is to maintain the amenity of the area for both its current residents and future neighbours.
- Residents value highly the wooded feel of the approach, the ecological importance of the Bath Vale Works Site of Biological Importance and the historical features linking the present with the industrial past.
- They are keen that the two large TPO Beech trees be retained unmodified and protected from the building activities, the old mill house gardens be preserved as much as possible and crucially the old stone mill wall be left in its current position, not least to act as a visual screen and sound barrier and to discourage traffic from entering Bath Vale proper at too greater a speed
- The road layout of the proposed estate seems mostly acceptable, but there is concern about the height of the 3 storey terrace and some brick colours will not match those in the buildings already in situ.
- The plans call for combined usage of the area and include an electrical substation, a sewage pumping station, a children's play area and a bat house. While all of these items are no doubt a necessity for the new housing estate, it seems incompatible to lump them all together in this small area and I feel that with the exception of the bat house, they could be more appropriately situated within the estate itself.
- Residents are opposed to putting a pumping station and an electrical substation in such a prominent location, as it will be the first thing people see as they arrive (either by foot or by vehicle) into Bath Vale, and as such it will ruin the natural beauty and historic hamlet feel of the area.
- The owner at Bath Vale Farm has pointed out, his orchard is lower than the area where the pumping station will be located and it will be flooded with sewage should there be a problem.
- The car park is also unsuitable for a children's play area for several reasons.
 1. Although it is now a quiet country lane, with the addition of upwards of 200 cars from the new housing estate, the children will have to cross what will be a busy road to get to the play area.
 2. The site is also bordered on two sides by a fast flowing, very deep river with areas of quicksand. The river rises very quickly when there is a heavy storm and according to my neighbour, the river has flooded the car park area at least three times in the last 20 years. Should a ball go in the river and a child goes in after it, it could be disastrous.
 3. Bath Vale Farm also keeps several colonies of honeybees (an endangered species). The beehives are situated on the boundary line of his property and the proposed play area. The proposed play area is also too far away from the houses and out of view from all but a couple. While I do understand that the children living in the estate will need somewhere to play, it would seem a much better idea to put the play area inside the estate as opposed to outside of it.

- With regard to the bat house, erecting it near a children's play area seems at odds with its purpose as bats naturally roost where it is peaceful and quiet. It appears as if this is a token gesture to satisfy environmental regulations, as it is unlikely that the bat house will be used.
- It would seem more appropriate to locate the play area in the middle of the new estate where it would be overlooked, on a cul-de-sac, away from the river and closer for the majority of children living on the new development.
- The previous plans were to use the area in question as a rural small park type area grassed, with shrubs and picnic tables, this would be far more appropriate. It would give a great first impression reflecting the semi-rural nature of the area.
- There is no provision for parking cars at the recreational site and this could cause inconvenience in the future, with parents dropping off and picking up their children. Children can not be monitored safely by their parents as it is sited too far from the new houses.
- The recreational site will draw the older children in for means other than recreational; it will be used for drink and drugs.
- The road leading to the main site crosses a single track bridge which will be a bottle neck and could lead to accidents to both motorists and pedestrians. Children will have to cross this road to access the recreational area.
- There is also the brook which flows across the rear of the proposed site. This brook is teeming with wildlife that will be damaged by the proposed plans.
- The original plans of the site had the old car park area being used as an area for ramblers to park. Maybe a couple of low maintenance picnic tables and the planting of some trees, to replace the trees that have already been sacrificed for the site. This would be a much better use of the land as parking is limited in the area anyway, and with another 130 houses (250 cars maybe) the extra parking will be well used.
- The electricity sub station did not feature on the original plans for the site. It seems like the builders want to pile all the unsightly items on the doorsteps of the existing residents' houses, keeping their new site free of all the ugly bits. Why can't the sub station be sited on the actual site of the new houses seeing as though it is those residents who will benefit from the sub station?
- Some of the houses on the new site we feel are a little too tall for certain areas. The area directly behind the row of 180 year old weaver's cottages has been designated for the building of three storey generic "town houses". This area is the highest area on the site and they chose to site their tallest buildings there. These buildings will cast a large shadow which will block out natural light from the existing cottages. Surely if the plans are to be passed there will be a maximum of two storey houses in this area previously mentioned.

8. APPLICANT'S SUPPORTING INFORMATION:

Design Statement

- The former Bath Vale Works is located on the edge of the town of Congleton, covering a total of 10.07 hectares. The site was formerly used for heavy industry producing steel components principally for the motor trade. The site went into receivership in 2004 and since then has lain vacant and been the subject of continuous vandalism. The site has now been acquired by Bovis Homes and demolition work and site clearance activities have commenced
- As part of the design process undertaken in the preparation of the outline planning application, key constraints and opportunities associated with the proposed development of the site were identified. These were identified on the constraints and opportunities plan included in the Design and Access Statement. Each of these constraints and opportunities has been reviewed again at this stage to inform other design principles and concepts incorporated into this reserved matters application.

- At the outline planning stage an illustrative master plan was submitted which has also informed this application
- The construction of 126 homes is proposed. They comprise a mix of 1,2,3,4 and 5 bedroomed units. Of these, 7 no. 2 bedroomed homes are to be affordable within the definition of such in the unilateral undertaking submitted at the appeal stage. In addition, 25% of the homes are to be constructed as low cost market houses compliant with condition 20 of the outline planning permission. Public Open Space and an equipped children's play area to NEAP standard are to be provided in accordance with the requirements of the unilateral undertaking.
- The illustrative master plan submitted with the outline application shows the proposed built form and public realm structure within the site. The site is accessed from Brookhouse Lane and the layout is to be focused on a single movement corridor connection as a series of squares, spaces and mews, designed in accordance with Manual for Streets. As a consequence the alignment of the access road though the site has been designed specifically to ensure that vehicle speeds are kept low in order to allow the street to be used as functional spaces as well as a movement corridor.
- Sufficient off street parking is to be provided within the development so as to reduce street congestion, in line with the guidance contained within Manual for Streets.
- The layout and built form of the development has been determined by a number of factors and constructs including
 - Restricting development to the previously developed part of the site, with the existing footprints of former buildings informing the amount of built form on the site
 - A single point of access into the site
 - Protection and enhancement of the Timbers Brook as a natural landscape feature and the protection and enhancement of the woodland surrounding the site through the implementation of a woodland management plan.
- The irregular, linear nature of the site combined with the single point of access and the need to provide frontages onto public spaces largely dictates the arrangement of built form, the disposition of homes and the spaces around them. As a result the development proposals are designed in such a way which provides for changes in street scene through the use of enclosed and open spaces with key landmark buildings forming visual stops. The layout has been designed with security in mind, orientation guidelines that overlook and front out onto public areas and private areas alike. Alleyways and paths to the rear of homes are avoided where possible and where parking courtyards are proposed they are overlooked.
- The scale, height and massing of the proposed buildings vary from 2 to 3 storeys which facilitates a variation in roof heights and articulation of the street scenes. This also ensures a range of house types can be accommodated across the site including apartments, mews, terraced units and detached homes. Due to the topography of the site and the extensive woodland cover, 3 storey buildings can be easily accommodated without any adverse impact on views into the site
- Elevations and materials of construction are based on a traditional palette utilising predominantly red brick and combinations of grey and red tiles. Some render facades will be introduced to provide visual interest. All fascias and bargeboards will be finished black with black rainwater goods.

Arboricultural Statement

- The retention of the category B trees on any site should be seen as a priority as these specimens are the most likely to make a continued contribution to the character and appearance of the new development

- Where tree removal is required to achieve the proposed development and demolition it should be mitigated for by undertaking replacement tree planting.
- A suitable landscaping scheme will give the opportunity to introduce better species and structural diversity in any development
- To achieve a satisfactory juxtaposition between new development and those trees selected for retention, the guidance contained within this report should be considered during the detailed design of the site.
- The proposed development of the site should take into account the presence of retained trees and should ensure that where possible all buildings and new surfaces are located outside of their Root Protection Areas
- Trees located along the northern, eastern and southern boundaries of the former works site are all in locations that prevent root growth extending into the central portion of the site. This is due to the presence of a high concrete retaining wall, existing areas of hard standing, Timbers Brook and a further steel retaining structure. Areas where root growth has been restricted by such structures are marked on the Tree Constraints Plan.
- As such any proposed development within the central portion of the site will not have an impact on tree root health.
- New development should not only take account of current tree sites and positions, but also of mature tree size.
- Tree protection areas should be established and appropriate protection measure implemented prior to construction. Specifications for erecting protective fencing have been provided in the report
- Guidelines contained within BS5837: 2005 Trees in Relation to Construction should be followed. Working methods and specifications should be followed to limit potential damage to trees through the construction period.

9. OFFICER APPRAISAL

Principle of Development

Given that the principle of development has been established by the granting of outline planning permission at appeal this application does not represent an opportunity to re-examine the appropriateness of the site for residential development. The key issues in question in this application are the acceptability of the access, appearance, landscaping, layout and scale of the buildings, particularly in respect of residential amenity, their relationship to retained trees and the brook.

Design

The surrounding development comprises 19th century mill workers cottages and farmhouses, which are built in a traditional vernacular style. In terms of elevational detail, the proposed scheme comprises traditional pitched and hipped roof designs, finished in red brick with grey tiles, which will respect the character of the surrounding development. The applicant also proposes to use render and red roof tiles, to some properties. Whilst it is considered that the render element will help to add visual interest, red roof tiles are not considered to be appropriate in this location and this will be conditioned accordingly, along with a requirement to submit samples of actual materials for consideration.

Other features such as door pediments, arched headers to garages, brick headers to doors and windows and stone cill details are also reminiscent of traditional mill workers cottages and mill buildings themselves.

Building heights will range from two to three storeys, which will help to add visual interest to the new street scenes. Taller units will also help to emphasise key focal points such as corners, gateways and the end-stop to the development. Whilst many of the dwellings will be significantly taller than the original cottages in Bath Vale, they will be well screened from the surrounding development, the new properties will not be seen in the same context as the original cottages. Furthermore, given that the site lies within a valley, the 3 storey dwellings will not appear intrusive within the wider landscape. It is also necessary consider the substantial height of the industrial buildings that occupied the site previously. On this basis, the overall form and elevational details of the proposed buildings is considered to be acceptable.

Layout

With regard to layout, amended plans have been secured, showing plots 1 to 3 at the entrance to the site reorientated to face outwards onto Bath Vale, and to overlook the play area and open space at the entrance to the site. This creates an active frontage to Bath Vale, which adds visual interest, improves the security of this area, and provides an welcoming and interesting gateway to the development.

Moving though the development the linear site has been subdivided into a series of streets and squares, in accordance with current urban design and Manual for Streets thinking. The squares are overlooked by the properties, which ensures natural surveillance and creates a sense of place. The road meanders through the site, reflecting the haphazard nature of the original buildings and the course of the brook. It also helps to create a sense of anticipation as the visitor moves through the site from one square to the next and each space is gradually revealed. Amended plans have been secured to include a number of corner units to increase active frontage, add visual interest and better overlook the public spaces. A reduction in the amount of hard landscaping has also been achieved in these areas. The roads and squares will be lined with trees, which helps to compensate for existing trees that will have to be removed, and will create a more pleasant residential environment. Shared surfaces have been utilised in accordance with Manual for Streets best practice, to slow vehicle speeds, reduce the visual impact of highway over-engineering and to give pedestrians natural priority.

A number of residents have expressed concern about the positioning of a substation and sewage pumping station at the entrance to the development. Amended plans have been secured, which show the substation to be relocated within the estate itself, in an unobtrusive location. The pumping station remains in the same position but will be an under-ground chamber. The only external manifestations of which will be a manhole on the surface.

Amenity

The nearest neighbouring properties are Bath Value Cottages, Bath Vale Farm, Primrose House and the Coach House. The nearest neighbouring property is 1 Bath Vale Cottages, which stands directly behind the site of the proposed plots 113 to 109. However, given that the minimum separation distance of 21.3m, as set out in the Council's Supplementary Planning Guidance, will be achieved, it is considered that an adequate level of privacy and light will be maintained to both properties.

The remainder of the neighbouring dwellings are significantly more than 21m from the proposed houses and in view of the substantial degree of screening afforded by the

woodland and steep valley sides surrounding the site, it is considered that no other adverse effects on the amenity of existing dwellings will occur.

To turn to the standard of amenity within the site, the scheme falls substantially short of the recommended 21.3m between principal windows, 13.7m between principal elevations and flank elevations and 65sq.m of private amenity space per dwelling, as set out in the Supplementary Planning Guidance, in a number of cases. Between some plots, as little as 10m will be achieved between principal windows.

However, Government advice is PPS.3 indicates that local planning authorities should have regard to the need to make effective and efficient use of land in the consideration of planning applications, and if the minimum standards were to be achieved, it would not be possible to accommodate within the site the density of development which is currently proposed. Furthermore, modern urban design principles encourage the tightly defined streets and spaces, with parking to the rear to avoid car dominated frontages. The reduction of separation distances between front elevations helps to achieve these requirements. It also reflects the narrow nature of Bath Vale itself, which is characterised by a shared surface road, with properties constructed up to the back edge of the highway. On this basis, it is considered that, where it is desirable in order to achieve wider urban design objectives, a reduction to 15m could be justified. Amended plans have therefore been secured to ensure a minimum of 15m is achieved across the site.

Open Space

The unilateral undertaking, which was accepted by the Inspector at the outline stage, states that the reserved matters should make provision for the Public Open Space within the development site. This area is located on the opposite side of Bath Vale to the main part of the development, adjacent to the site entrance.

A number of residents have expressed concern about the location of the play area at the entrance to the development on the grounds that it would not be overlooked, which may result in anti-social behaviour and a hazard to children who would have to cross the road from the development to reach the facility. However, the location of the play area was fixed within the unilateral undertaking, which was accepted by the Inspector. Therefore, the principle of the location of the play area has already been established and, whilst it may not be desirable, it cannot now be revisited. Furthermore, for this reason, the inadequate location of the play area would not provide sustainable grounds for refusal of the application.

At the request of Members, Officers have held discussions with the developer in order to ascertain whether they would be willing to voluntarily relocate the play area to within the main part of the development. The developers have investigated this possibility, but unfortunately it would not be possible because the number of dwellings that would need to be removed to make space for the play area would be greater than the number which could be accommodated in the current approved position for the play area. The result would be a net reduction in the number of units on site. This would further reduce the viability of the scheme, which would, in turn impact on the amount of affordable housing provision which could be offered. As has been stated above, this has already been significantly reduced below local plan policy requirements as a result of viability issues.

Furthermore, the developer considers that, given the long, narrow, shape of the site, the relocation of the play area to the middle of the development would split the estate in half,

which would make it harder to establish a sense of community, would be undesirable in urban design terms, and would make natural surveillance of the play area, even more difficult than in its current position.

Amendments to the highway design have been secured, which change the priority of traffic so that vehicles travelling along Bath Vale have to give way to traffic moving into and out of the new estate. This means that pedestrians from the estate visiting the play area can cross Bath Vale at the T-junction where vehicle speeds will be slower. Bath Vale is very lightly trafficked at this point. It severs only Bath Vale Cottages and a few other isolated dwellings. It is a public footpath and bridleway, and, as a result, cars have shared road surface has been shared with cyclists, walkers and pedestrians, for many years without incident. The Council's Greenspace Section is currently considering the installation of gates along Bath Vale to prevent access by unauthorised vehicles. Nevertheless the developer has commissioned a safety audit of both the play area, and the road junction outside it, to ensure that the design provides safe access for children to the play area and to identify any further safety improvements which could be made.

The unilateral undertaking also requires details of grading, drainage, layout, landscape, fencing, seeding and planting of the public open space to be agreed in writing with the Council. Some details have been submitted for illustrative purposes with the application, which initially included a Multi-Use-Games-Area (MUGA). The Council's Greenspace Section expressed concerns about these proposals and these have subsequently been amended to remove the MUGA. The developer has also clarified that the boundary treatment to the area will be bow-topped railings. These will be sufficient to ensure that there is no danger of young children falling into the adjacent brook, whilst, in the event of the area becoming flooded, they would allow water to pass through. Negotiations are still on-going with the developer in respect of the detailed layout of the play area. However, these are nearing a conclusion and a further up-date will be provided to Members at the Committee Meeting.

Notwithstanding this point, there is no requirement in either the unilateral undertaking or the conditions attached to the planning permission, for these to form part of the reserved matters application. Therefore, approval can be granted to this reserved matters application, without inferring any approval for the detail of the play area or jeopardising the Council's position in respect of those on-going negotiations.

Ecology

This proposal lies close to Dane-in Shaw Pasture Site of Special Scientific Interest, which is west of the site and is alongside the Site of Biological Importance (Bath Vale Woods). Natural England is of the opinion that the proposal will not impact on the SSSI. Conditions attached, by the Inspector. To the outline permission required the submission of a Construction Environmental Management Plan to include the measures identified in the Construction Ecological Management Plan Scope of Works, submitted at the outline stage. In addition protected species surveys and mitigation measures were also required by condition.

These were submitted prior to the commencement of demolition works and the relevant conditions have been discharged. The conditions attached to the outline consent will ensure that the construction works continue to proceed in accordance with the recommendations of those reports. Following the recent clearance of the site it has been covered with freshly laid hardcore. Therefore, any potential habitats for protected species within the site have now

been removed. In the absence of any objection from Natural England or the Council's Ecologist it is not considered that the proposed detailed design will have any adverse effect on ecology within or surrounding the site.

Drainage and Flood Prevention

The outline approval established the acceptability of a development of this scale in this location, in terms of its impact on the potential for on-site and off-site flooding. However, the applicant has submitted with the application, a detailed Flood Risk Assessment. The Environment Agency and United Utilities have considered the report and have continued to raised no objections subject to the imposition of appropriate planning conditions. They have also had the opportunity to examine the detailed layout plans and this also has not provoked any concern. Therefore, it is not considered that a refusal on flood risk or drainage grounds could be sustained.

Concerns have been raised in respect of the proximity of the sewerage pumping station to the brook. The applicant's engineer has responded by stating that the foul pumping station is proposed to be adopted by United Utilities. It will incorporate telemetry monitoring that will automatically dial out to United Utilities (or the applicant's maintenance contractor until adoption) for an Engineer to attend site if there are any breakdowns or high levels in the wet well. The pumping station also incorporates sufficient storage to allow time for an Engineer to attend site before it fills up. These pumping stations are standard on developments where a gravity outfall is not available. The foul pumping station is located outside the recognised flood plain for the 1 in 100 year flood event so there should not be any issues with it flooding. These issues have been taken into account on the siting of the foul pumping station and on this basis it is considered to be acceptable.

With regard to conditions, the Environment Agency have requested that their previous planning conditions and informatives relating to 08/1317/OUT are included on the decision notice for this reserved matters application. These included provision for a surface water regulation system and a scheme for the restoration of Timber Brook. They also included minimum levels for buildings, roads, parking areas and pathways. These conditions should also meet the requirements of United Utilities as set out in their consultation response. Given that the reserved matters are only operative by virtue of the outline consent, it is not considered necessary to reiterate those conditions.

Highways

The outline consent established the acceptability of the access arrangements, via Bath Vale, and the impact of the additional traffic on the local highway network. This application does not, therefore, present an opportunity to re-examine those matters. The highway issues in respect of this application are the acceptability of the detailed layout and design of the roads and footways within the development.

The Strategic Highways Manager has examined the plans and negotiated a number of improvements, including the priority change at the main access junction. He is now satisfied with the layout, which embraces Manual for Streets Principles and has raised no objections, subject to a condition, requiring the provision of an amended plan showing various agreed design details and the adoptable boundary of the highway. It is also considered that there is adequate parking provision throughout the development. On this basis the proposal complies with Policy GR9 of the adopted Congleton Borough Local Plan First Review.

Tree Issues

There are extensive areas of woodland and some scattered trees in the vicinity. The woodland areas to the south, east and north of the site form Bath Vale Woods Site of Biological Interest and are listed in Natural England's National Woodland and Trees Inventory, with the woodland to the north and north-east also being classed as Ancient Semi-Natural Woodland according to the Ancient Woodlands Inventory. Several trees within the site are protected by the Bath Vale, Congleton Tree Preservation Order 1984 - a group of trees adjacent to the Dane-in-Shaw Brook to the north of the site by plots 1-3 and an area of trees to the east of the brook on the side of the proposed play area.

The Senior Landscape Officer has commented that there are three Tree Constraints Plans (JMK 5800.01.01- 1/3: S2/3: and S3/3), but no accompanying tree survey report. Only three trees are shown on the site layout, located by the main access point and indicated by green circles, two of which have dashed lines. These significant mature trees are subject to TPO protection. Questions have been raised in the past concerning the health of these specimens. There is no indication that any other trees in the area would be retained, including the area of protected trees on the POS or trees in the wooded areas. She has therefore commented that tree retention / removal needs to be clarified and justified.

In response the applicant has provided a full Tree Survey which covers all trees that could impact on the 'development area'. The two mature *Fagus* trees on the entrance to the development have been assessed, and categorised under the BS Category Grading as C2 trees. Based on this grading and their Age Classification they have been retained within the development. As part of arboricultural enabling works the applicant proposes to carry out some works to this tree as recommended in the report. The report also justifies the removal of the 13 individual trees and 2 tree groups within the development area.

The areas of woodland outside the 'development area' will be covered by a separate Woodland Management Plan. The timing and the production of this Management Plan is set out in Condition 6 of the Outline Planning Permission. Any tree work or removal proposed in the Woodland Management Plan will be as part of the woodland management and not to facilitate the development. The scope and aims of the Woodland Management Plan will be agreed with the Council prior to commencement of work on the report.

Similarly, tree protection measures, an arboricultural method statement and restoration of water courses were also conditions of the outline permission and these details will need to be submitted to and approved in writing by the Local Planning Authority.

With regard to concerns about *the separation between proposed specimen tree planting and plots 24-30 & 78-83*, *the applicant has stated that this appears to have been incorrectly plotted and an amended drawing* which accurately shows the tree canopy after 25 years on the Tree Canopy Sketch has been provided. They state that they have carefully selected the trees for this location given their close proximity to the proposed build and to the highway. *Sorbus aucuparia* 'Streetwise' was selected for its neat compact upright habit.

The Senior Landscape Officer has examined the additional information and commented that she is satisfied that in principle, and subject to conditions relating to an Arboricultural Method statement, tree protection, tree works, woodland management etc. prominent trees and woodland in the vicinity can be retained successfully.

She recommends that Permitted Development rights be removed for any areas of the site adjacent to retained trees. It is not clear whether the parcel of land at the entrance to the site where the mature Beech trees would be conveyed a plot. I consider it essential that this part of the site be retained open in character.

The separation between proposed specimen tree planting and plots 24 – 30 and 78-83 has been improved on revised layout plan COBW/PC/200D. (The Landscape Proposals Tree Canopy adjustment plan COBS-03-109 does not match this revised layout and the detailed landscape scheme will need updating).

Landscape Matters

The Senior Landscape officer has examined the proposals and commented that they are generally acceptable with the exception that there are no landscape proposals provided for the play area. However, the unilateral undertaking only requires the Reserved Matters Application to make provision for the public open space. Any details for laying out and equipping, which would include landscaping and boundary treatment, are to be agreed separately with the Local Planning Authority pursuant to the S106 rather than any condition attached to the planning permission.

The provision of boundary treatment information relating to the properties themselves was not a condition on the outline application, as it would normally fall within the remit of landscaping, layout and appearance. It is not possible to accurately assess all proposed boundary treatments on the 1/500 site layout plan provided with the reserved matters application and therefore it is recommended that a condition be added to the reserved matters consent to require full details of boundary treatments to be submitted and approved. This is considered to be a suitable approach as Circular 11/95, The Use of Conditions in Planning Permission, permits the addition of conditions to reserved matters applications, which relate to the reserved matters under consideration, which in this case include, landscaping, layout and appearance.

Affordable Housing

The permission is the subject of a unilateral undertaking dated 27th March 2009, which requires 5% of the residential units to be provided as subsidised housing and to comprise 2 bedroomed terraced houses. These are appropriately identified on the submitted plans. In addition, condition 20 of the outline permission requires that the scheme submitted for a approval of reserved matters shall include the provision of 25% of the dwellings as low cost market houses. These are houses sold at open market value, with no element of subsidy, but which are within the lowest quartile of house prices. These are also shown on the layout.

The submitted details have been forwarded to the Council's Housing Section and they have commented that the size, type and location of the properties are acceptable. They have commented that the tenure of the dwellings should be 50% social rented and 50% intermediate housing. However, the unilateral undertaking specifies that the affordable housing should comprise 50% social rented and 50% discounted for sale housing. Therefore this issue cannot be revisited.

Section 106 Matters

The original unilateral undertaking included a requirement for the applicant to enter into a Section 106 undertaking as part of the reserved matters to include provision for public open space and affordable housing. This needs to be reiterated in the resolution.

10. CONCLUSIONS

The proposed development will provide 126 dwellings within the site which was granted outline planning permission at appeal. It will provide a development which will not detract from the character and appearance of Bath Vale. The development will ensure safe vehicular access to dwellings and adequate parking within the site. It will ensure that appropriate landscaping is provided to compensate for trees removed. Subject to safeguards imposed through the use of conditions, the siting, size and scale of dwellings proposed not considered to adversely impact on residential amenities at adjoining dwellings. The development complies with the requirements of the outline consent in terms of landscaping and the provision of affordable housing, drainage and ecology.

The proposal does not comply with the Council's Supplementary Planning Guidance in respect of space between dwellings within the new development. However, it is considered that, in this case, in order to achieve an efficient use of the site and a high quality of urban design, a deviation from these standards is justified.

It therefore complies with the relevant local plan policies as set out above and having due regard to all other material considerations, it is recommended for approval subject to conditions as set out below.

11. RECOMMENDATION

APPROVE subject to completion of a Section 106 Agreement to:

- 1. Make provision for the Public Open Space within the Application Site**
- 2. Make provision of the Subsidised Housing in a location within the Application Site to be previously approved in writing by the Council. Provided always that the Subsidised Housing must be developed as a integral part of the overall scheme**

And

The following conditions

- 1. Standard**
- 2. Plans**
- 3. Materials**
- 4. Boundary Treatment**
- 5. Play Area Specification**
- 6. Plan showing the specific details of the internal layout with Regard to Manual For Streets Principles and the extent of the adoptable boundary to include full service strip provision.**
- 7. Arboricultural Method statement to include Tree protection, Implementation of tree protection Tree works and Woodland management**
- 8. Updated Landscape Proposals Tree Canopy adjustment plan**
- 9. Updated detailed landscape scheme**

10. Implementation of landscaping

11. Removal of Permitted Development Rights

Location Plan

