

Application No: 11/0319C

Location: Land Rear Of 33 To 45, Mill Green, Congleton.

Proposal: Erection of Retirement Living Housing for the Elderly (Category II Type Accommodation), Communal Facilities, Landscaping and Car Parking

Applicant: McCarthy and Stone Retirement Lifestyles

Expiry Date: 12-May-2011

### **SUMMARY RECOMMENDATION**

**Approve subject to Section 106 Agreement and conditions**

### **MAIN ISSUES**

**Principle of Development**

**Housing Supply**

**Landscape**

**Accessibility and Car Parking**

**Contamination**

**Residential Amenity**

**Design**

**Flooding**

**Affordable Housing**

**Open Space Provision**

**Ecology**

### **REFERRAL**

The application has been referred to planning committee because it is for more than 10 dwellings and is therefore a major development.

### **1. SITE DESCRIPTION**

The application relates to 0.269ha of land located adjacent to Dane Bridge in Congleton. There are no buildings on the site, the former building has been demolished during the wider redevelopment of the industrial buildings on Mill Green to the east of the application site. The south western boundary fronts the River Dane which flows from east to west towards Dane Bridge. There are a number of trees along the riverbank notably a substantial copper beech tree next to the bridge.

The north western and north east boundaries front Mill Green which accesses the rest of the redevelopment to the east and Congleton Park. The South eastern boundary adjoins a terrace of three storey town houses numbered 33 to 45 whose back gardens abut the site.

A substantial block of five storey flats and commercial accommodation is located beyond the north eastern corner across Mill Green,

The site itself is fairly level with an embankment sloping down to the River Dane at approximately 3 metres below the nominal site level. The former mill stream (tail race) located to the north of the site has been filled in except for the last section where it reentered the river to the west.

## **2. DETAILS OF PROPOSAL**

The proposed development comprises 30 x 1 bedroom and 14 x 2 bedroom sheltered flats for sale to the elderly design to category II accommodation standards. The proposals will also feature house managers accommodation and communal facilities such as residents' lounge, laundry and emergency call alarm systems.

## **3. RELEVANT PLANNING HISTORY**

The wider site was the subject of a comprehensive redevelopment proposal under application reference no.32718/3. This was approved in January 2003 and was for 11 new houses, 35 new build apartments 53 apartments in extended and converted Roldane Mill, new 40 bedroom hotel and gross 650sq.m of commercial / employment units. All elements within this application have been implemented, apart from the hotel; the site of which is now the subject of this application.

A previous application for a similar development on the site (08/008/FUL refers), was refused in January 2009 for three reasons. Firstly, concern about the design of the proposal, secondly the lack of affordable housing provision, and thirdly concern about the impact on the amenities of local residents and 37, 39, 41 and 43 Mill Green.

## **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

### **Regional Spatial Strategy**

DP1 – Spatial Principles  
DP4 – Make best use of resources and infrastructure  
DP5 – Managing travel demand  
DP7 – Promote environmental quality

DP9 – Reduce emissions and adapt to climate change  
RDF1 – Spatial Priorities  
L4 – Regional Housing Provision  
EM1 - Integrated Enhancement and Protection of the Region's Environmental Assets  
MCR4 – South Cheshire

### **Local Plan Policy**

PS8 Open Countryside  
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  
GR17 Car parking  
GR18 Traffic Generation  
NR1 Trees and Woodland  
NR3 habitats  
NR5 Habitats  
H2 Provision of New Housing Development  
H6 Residential Development in the Open countryside  
H13 affordable Housing and low cost housing  
E10 Re-use and redevelopment of existing employment sites

### **Other Material Considerations**

Cheshire East Interim Housing Policy  
Cheshire East Interim Affordable Housing Policy

## **4. OBSERVATIONS OF CONSULTEES**

### **United Utilities**

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

- This site must be drained on a separate system, with only foul drainage connected into the foul sewer.
- Surface water should discharge to the soakaway/watercourse/surface water sewer
- If surface water is allowed to be discharged to the public surface water sewerage system the flow to be attenuated to a maximum discharge rate of 20 l/s as
- Several public sewers cross this site of which, they will not permit building over them and will require sufficient access strip widths upon each sewer for protection, maintenance or replacement measures.

## **Environmental Health**

No objection subject to the following

- Submission of contaminated land assessment
- Submission of air quality impact assessment
- Submission of air assessment of traffic noise and vibration
- 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

## **Highways**

- No objection

## **Environment Agency**

- Object because the application does not consider other sites available within the Borough at a lower probability risk of flooding. It is explained within the FRA that a detailed analysis of alternative sites, at lower flood risk, has not been made. The Sequential and Exception Tests will need to be carried out, considering other sites at lower risk of flooding.

## **5. VIEWS OF THE PARISH / TOWN COUNCIL**

- No objection provided highways check the junction for emergency vehicle access and any section 106 monies are allocated to the town for public realm.

## **6. OTHER REPRESENTATIONS**

Representations have been received from 7 Wood Street, 14 Mill Green 110 Mill Green 52 Mill Green and 45 Mill Green Congleton making the following points supporting the application:

- It will improve the general area and remove an eyesore from view.
- The changes to the original application are a significant improvement.
- The Development does not obstruct the view from Mill Building.
- When the site is completed it will be much better than the present squalor.
- The scheme will create jobs

However, the following concerns are also raised:

### ***Amenity***

- Plans are similar to last plan which was refused

- Height has not been dropped and is still too high
- Other retirement apartments are 2 storeys which is enough for the elderly if there is a fire or lifts not working.
- Could cause a loss of TV signal
- Would be better if 2 storeys at the edge and 3 in the middle.

### ***Concern about car parking on Mill Green.***

- Existing parked traffic that it is difficult for cars to get through. It would be difficult/impossible for ambulance or fire tender.
- The cars are parked either side of the road (there are no parking restrictions whatsoever) and frequently partially on the pavements. This means that pedestrians with buggies/wheelchairs etc have to use the road, which is a potential hazard.
- the Transport Statement indicates that there should be no increase in on-road parking as a result of the development but does mention that the use of controlled on-road parking is an acceptable solution to any overspill parking that may occur.
- None of the information submitted made any reference to the existing parking situation.
- There will be a reduction in the space available on Mill Green as the development entrance area will not be available.
- All the data submitted with reference to the number parking spaces and traffic movements is based on historical evidence from other McCarthy & Stone developments which may not apply in the future.
- The minimum age for ownership is given as 60 with 55 for a partner of someone who is 60 or older and the average age is just over 75. Many people in the future will still be working at this age and given the change in longevity/health improvements of an aging population this will increase car ownership.
- McCarthy and Stone state that couples with 2 cars were given a time limit during which they had to get rid of one car. Who ensures that this is done?
- Existing residents have 2 cars but only one space which means that they have to park on the road. Normally, this is fine but space is becoming limited due the patrons of Congleton Park in the nice weather. However, there is a good carpark for the park.
- There should be a residents parking permit scheme or can you confirm there will be adequate provision for parking?
- lack of car parking spaces for the residents has become a severe issue with the commercial units that are now occupied. An average unit employs between 7 – 10 staff and yet there are only one space for each unit
- The implementation of charging for parking in the town adds to the problems
- The addition of site traffic and workers vehicles on the road would cause some very serious highways issues and a further risk for pedestrians and for access for emergency vehicles that may need to pass along the road.
- Any additional traffic should therefore be contained within the proposed site area and vehicles attending the site should not be allowed to reverse on to Mill Green. All site traffic should be made to turn around in the site area and all workers should have a designated parking area within the site.
- The implementation of double yellow lines should also be a consideration along the road before work commences on the site and for the number of proposed homes and visitors this should also be considered post completion.

### ***Impact of Construction***

- The area is kept very clean and this should be maintained during construction.

- Local Businesses attract visitors from all over the UK and in some cases from Europe. These include large commercial organizations including Zurich, Aegon, Prudential and HBOS. Visitors of this nature should leave with a lasting impression of Congleton and a very clean and beautiful area and not one of a dirty building site.
- The site hours should be restricted on the grounds of noise.
- The developer should contribute or make their own arrangements to cleaning of adjacent office frontage every week or when requested to do so.
- Business premises leave their doors and windows open in the summer months to get air in to the office and they would ask that a contribution be made to any additional cleaning costs that we may incur.
- In this current economic environment they do not need to be distracted by these issues and as local businesses that supports the town centre we they ask for our concerns to be considered carefully.

## **7. APPLICANT'S SUPPORTING INFORMATION:**

### **Planning Statement**

- In providing much needed accommodation for the local elderly population, the proposed development will optimise the use of this vacant brownfield site that is ideally located for a higher density development, such as that typical of retirement living accommodation, and so consequently significant planning benefits will ensue.
- The provision of this specialised Category IOI type retirement living housing meets an acknowledged priority need, both locally and nationally, fulfilling the aims of both PPS3 and PPG13. The proposed development will optimise the use of this site that is ideally located for a higher density development and in order to serve the special housing needs of Congleton. Significant visual and environmental benefits will ensue. In short, the proposal fulfils the Government's Planning aims in respect of sustainable development
- There is no doubt that a high quality development including new hard and soft landscaping will make an effective and worthwhile use of this urban site to the enhancement of the locality. At the same time sheltered housing is acknowledged to be a passive use and an entirely sympathetic neighbour with extremely low levels of traffic generation. The development proposals will enhance both the character and appearance of the area and will provide much needed specialised accommodation for the elderly.

### **Transport Statement**

- The Category II type development proposal will continue to take vehicular access by way of the existing dropped crossing access into Mill Green. Hence, there will be no net increase in the number of accesses onto the local highway network as a direct consequence of the development proposal.
- The traffic generated by the proposed Category II type housing development on the application site will have no material impact upon the operation of the highway network.
- This Statement provides information on the nature of the development, access, traffic generation, parking demand and sustainability issues associated with the proposal. It clearly demonstrates that the development of this Brownfield site complies with

government policy, that the access onto Mill Green (by which it will be served) is safe and satisfactory, that it has sufficient on-site parking provision and that the traffic generated by it will have no adverse impact up on the operation of the adjacent highway network

- The site is located close to Congleton Town Centre, where there is a range of shops and services (including Tesco Morrisons and Aldi food retail stores) available to serve the daily needs of the residents of the Category II type housing development. It is also located adjacent to an existing bus route (On Mill Street) and Congleton Bus Station (on Market Street) with existing bus stops located within convenient walking distance of the application site.
- The proposed development of a Category II type housing scheme will make best use of a brownfield site. The site is in a highly sustainable location and the current proposed development is consistent with and will enhance the aims of current Government development sustainability policy
- It is concluded therefore, that there are no defensible highway reasons why the proposed Category II type housing development should not be acceptable or planning permission withheld.

### **Amenity Space Statement**

- McCarthy and Stone have been supported by numerous Inspectors who generally conclude that the use of amenity space standards is a crude and inappropriate method of assessing the amenity space needs of sheltered housing development. Indeed with the recent increase emphasis on making effective and efficient use of previously developed land, the application of such policies are considered to be outdated and contrary to national and regional planning policy and guidance.

### **Bat Survey**

- A thorough visual survey of all trees within the site and using ultrasonic detection equipment with data analysis was made on the dawn activity survey by experienced ecologists. No bat roosts were identified within the trees and no bats were observed either emerging or entering the trees.
- If the building works does not start within 12 months of the report then a further survey is recommended
- An appropriate type of lighting should be used to light the site during silent hours and any exterior lighting used during the building works should be angled downward where appropriate and switched off during periods of darkness when not needed
- The dark corridor along the River Dane should be protected with hoarding throughout the construction phase.

### **Phase 1 Habitat Study**

- A bat activity survey should be undertaken to map foraging and commuting activity within the site boundaries
- Precautions should be taken to protect the River Dane from pollution when works begin
- A dedicated Water Vole and Otter Survey is Required

- Bat and bird boxes should be included within the new building design and wherever possible wild flower seed mixed and native trees and shrubs used to landscape areas around the buildings.
- Himalayan Balsam has been found on the site, therefore a management plan will be required to prevent the spread of this invasive weed that ensure compliance with Schedule 9 of the Wildlife and Countryside Act
- No further survey is considered necessary unless changes are made to the development area over and above that indicated within the report.

### **Water Vole and Otter Survey**

- It is not possible to say that water voles are absent from the southern boundary bank side.
- Evidence of otter is present on the opposite bank of the river within the culvert behind the moored boat
- As it cannot be concluded that water voles are absent in respect of the river bank and otter are present directly opposite the site then following recommendations are made
  - o The southern bank structure should be protected from construction activities using suitable specified fence
  - o A Biodiversity Management Plan should be prepared for the buffer zone to ensure that its effectiveness as a riparian corridor is maintained into the future.
  - o All contractors should undergo an ecological induction prior to works commencing on site
  - o Prior to works commencing on site an otter mitigation plan should be prepared by a suitably qualified ecologist and recommendations implemented fully prior to development works commencing.

### **Sustainability Study**

- The study demonstrates that the site can provide a sustainable development; it falls within an established residential area. The development meets the requirements of the UDP
- Due to the inherent nature of this development, recycling and sustainability is the fundamental ethos behind this entire venture

### **Contaminated Land**

- The remediation / validation works have been fulfilled for this site in accordance with the Remediation Statement, with no further remediation works being required.

## **8. OFFICER APPRAISAL**

### **Principle of Development**

The application site is located within the Settlement Zone Line for Congleton, to the north of the Town Centre as identified in the adopted Congleton Borough Local Plan first review. Therefore, there is a presumption in favour of development.



The site is allocated as a mixed-use development site in the Local Plan. The site has been extensively marketed as a hotel development by Bovis Homes with no success. As such the proposed residential development is considered to be an appropriate alternative.

To east and north east of the site are residential properties; to the south is the River Dane, with Congleton Town Centre on the opposite side of the river; to the west is the junction of Rood Hill, Hill Fields and Mill Green. The site is a brownfield site that previously formed part of the Roldane Mill site and is within close proximity of Congleton Town Centre, which affords good access to public transport facilities. As such, it is considered that the site is a sustainable location for residential development by reason of its close proximity to the town centre and its re-use of previously developed land, in accordance with PPS1: Delivering Sustainable Development.

### **Housing Supply**

National policy guidance (PPS3) states that Local Authorities should manage their housing provision to provide a five year supply. It is acknowledged that the Council does not currently have a five year housing land supply and, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing. The proposal would assist the Council to meet its housing land requirements and would ease pressure on Greenfield sites elsewhere within the Borough.

### **Landscape**

As initially submitted the Senior Landscape Officer, was concerned about the proximity of the proposed building to the protected tree on the site. However, amended plans have been submitted, which show the building located 2m further away from the tree. Whilst, the building will remain very close to the tree, with branches immediately adjacent to windows and balconies, it is considered that the level of separation is now sufficient to avoid any damage to the tree during construction and any long term pressure to prune or remove the tree would be insufficient to sustain a refusal. Furthermore, protected trees did not form a reason for refusal on the previous scheme and the building as now proposed is located further away from the tree than would have been the case under that application. It will also be sited further away from the protected tree than the previously approved hotel. However it is considered that conditions should be attached requiring a scheme of tree protection and an arboricultural method statement to ensure that the requirements of policy NR1 are satisfied.

### **Accessibility and Car Parking**

Following an assessment of the application, the Highways Officer is satisfied that the scheme would be acceptable having regard to accessibility, traffic generation and parking and would meet the requirements of policies H4, GR3, GR17, GR18 and PPG13 particularly as the site lies within close proximity to Congleton Town Centre and has access to public transport.

Whilst concern has been raised about insufficient parking provision within the scheme, the Highway Officer is satisfied that the provision is acceptable and would not impact upon highway safety. Residents make reference to existing on-street parking problems at Mill Green. However, dangerously parked vehicles are a matter which can be dealt with by the police. Whilst new developments must not make the situation materially worse it is

unreasonable to require developers to make provision to remove existing problems. In the light of the information submitted with the application, the Highways Engineer is of the opinion that sufficient off street parking will be provided to serve the new development and on this basis it is not considered that a refusal on highway safety grounds could be sustained.

## **Contamination**

The developer has submitted with the application a ground investigation report which indicates that the site is likely to be contaminated as a result of its former industrial use and recommends a number of mitigation measures. A remediation validation report has also been provided which explains that these measures have now been carried out and that no further remediation works are required. Therefore the requirements of PPS23 'Planning and Pollution Control' have been met and a further condition requiring submission of further surveys is not required.

## **Residential Amenity**

The previous McCarthy and Stone application on this site was refused on the grounds that the scheme would have an unacceptable impact on the amenity, in terms of outlook, dominance and privacy, of residents living at numbers 35 to 43 Mill Green. These concerns were predicated on the height of the scheme and its massing, the fact it has adopted substandard interface distances (approximately 18m) and the fact habitable room windows would face directly onto habitable windows and rear gardens of properties within Mill Green. It was concluded that the application failed to meet the requirements of policy GR6 as a result of the negative effect it would have on amenity (loss of privacy and visual intrusion) and SPG2: '*Provision of Private Open Space in new Residential Development*', which states that elevations with habitable room windows should be separated by a minimum distance of 21.3m.

Under the revised proposals, however, the building will be located 21.3m from 35 to 43 Mill Green at the closest point. Elsewhere the separation distance will be greater. Furthermore, the overall height of the building at its western end has been reduced from 16.5m to 12.5m, which equates to 3.5 storeys. It is considered that with these modifications, the proposal will not have any adverse effect of the privacy and amenity of neighbouring occupiers and will meet the requirement of both policy GR6 and SPG2.

## **Design**

The second reason for refusal in respect of the previous application related to design. In particular, its overall height, the treatment and appearance of the upper floor and roof area and also the scale, mass and elevational treatment of the eastern gable facing onto no's 33-45 Mill Green.

Furthermore there was concern about the impact that the scheme would have on townscape character. The overall height of the scheme, coupled with the concerns over the upper floor and roof, would draw attention away from the primacy of an existing mill building northwest of the site which should clearly act as the focal point for the immediate context and which plays an important role in terms of townscape character. As a result the development proposed

would have undermined the primacy of this building to the extent that the scheme would harm the established townscape character.

As stated above, the overall height and massing of the building has been significantly reduced, particularly the eastern gable facing onto nos 33 to 45 Mill Green. The design has also been amended to omit the flat roofed sections, glazed corners, internal balconies, jettied upper floors and glazing to gables, and wood cladding finish, which gave the building a very modern appearance that would have been at odds with the traditional vernacular design of the adjoining residential development and mill buildings.

The revised proposal is of brick and tile construction, with projecting gable features. A number of vertical windows and projecting balconies have been incorporated to create the appearance of a former mill building. It is considered that this approach is more appropriate and will be in keeping with character and appearance of the surrounding townscape. It is therefore concluded that the previous reason for refusal has been overcome and that the proposal now complies with PPS 1 'Delivering Sustainable Development' and PPS3 'Housing' which seek to encourage high quality sustainable design and policies GR1 and GR2 of the Congleton Borough Local Plan which expects new developments to be of a high standard and to conserve or enhance the character of the area.

## **Flooding**

The Flood Risk Assessment has identified that the application site lies within Flood Zone 3 which is defined by Planning Policy Statement 25: Development and Flood Risk (PPS25) as having a high probability risk of flooding. Paragraph D.5 of PPS25 requires decision-makers to steer new development to areas as the lowest probability of flooding by applying a Sequential Test which considers other sites available within the Borough at a lower probability risk of flooding. In this instance, a detailed analysis of alternative sites, at lower flood risk, has not been made. Therefore the Environment Agency has objected because the application fails to demonstrate that the Sequential Test has been adequately applied. They recommend that this application should not be determined until the Sequential Test has been demonstrated because retirement housing is classified as 'More Vulnerable' development in table D.3 of PPS25 and as such, the Sequential Test must be applied.

The applicant has been made aware of this issue and submitted the required Sequential Test. This has been forwarded to the Environment Agency for comments, which were still awaited at the time of report preparation and therefore an update will be provided to Members prior to their meeting.

## **Affordable Housing**

There is a need for older persons 1 or 2 bed affordable housing in Congleton. The Strategic Housing Market Assessment 2010 (SHMA) identifies that in the former Borough of Congleton there is an annual requirement for 272 additional affordable homes including 57 which are 1 or 2 bed older person's accommodation. The SHMA splits the former Borough of Congleton down further into sub-areas the sub-area of Congleton where the proposed development is to be located has a requirement for an additional 33 affordable homes per year this includes a requirement for 15 no. 1 or 2 beds older persons affordable accommodation. In addition there are also currently 16 active applicants seeking affordable accommodation for over 55's in

Congleton. This shows documented and clear evidence of need for older persons affordable accommodation.

Congleton Borough Council adopted Supplementary Planning Guidance and the Cheshire East "Interim Planning Statement: Affordable Housing", both require requirement that all sites over 15 units have a minimum element of 30% of the units to be affordable housing, unless economics of provision arguments indicate otherwise. This is in line with PPS3.

The requirement on this site would be for 9 x 1 bed units and 4 x 2 bed units, the mix should be 65% social rent and 35% intermediate tenure which is the preferred tenure identified in the SHMA.

According to the Council's "Interim Planning Statement: Affordable Housing", there may be physical or other circumstances where an on-site provision would not be practical or desirable. Such circumstances might include where:

- the provision of the affordable housing elsewhere in the locality would provide a better mix of housing types
- management of the affordable dwellings on site would not be feasible
- it would be more appropriate to bring back existing vacant housing into use as affordable units
- the constraints of the site prevent the provision of the size and type of affordable housing required in the area

In this case, there would be a likely practical difficulty in the management of a small number of flats 'pepper-potted' in isolation within this block for a remotely operating Registered Social Landlord and the likely problems of dispute resolution within the block between the management company and the Registered Social Landlord. The service charge would also represent an additional on-going cost payable by the Housing Trust and this is likely to have an adverse impact upon the purchase prices to be paid by the any local Registered Social Landlord for the flats.

Furthermore, the site is located within the Congleton Town Centre area, where there is a greater than average percentage of affordable and low cost housing. Consequently it is difficult to argue that on-site provision of affordable housing is necessary in order to create a mixed and balanced community. Therefore, it is considered that in these particular circumstances it would be more appropriate to seek a commuted sum in lieu of on site affordable provision in this case.

The Interim Statement goes on to say that in such exceptional cases and entirely at the Council's discretion, developers may, in lieu of such provision, provide off-site affordable housing, or offer financial or other contributions towards the provision of affordable housing on an alternative site.

Where a financial contribution is offered, the amount of such contribution will normally be expected to reflect the cost necessary to facilitate an equivalent amount of affordable housing as

would have been provided on-site. The amount of any contribution will need to be agreed with the Council. Where off-site provision is made by the developer or as a result of any financial contribution, this should be in a location elsewhere within the Borough where there is an identified need.

The Applicant has submitted a HCA Toolkit Viability Appraisal and Affordable Housing statement as part of this application. The HCA Toolkit Viability Appraisal is the same model which has been used on similar schemes elsewhere in the Borough, where the Council has appointed a local firm of Independent Chartered Surveyors to undertake their own appraisal of the site and the development costs/residual values. The results of the Council's own independent appraisal have previously generally concurred with the Applicants Viability Appraisal, and therefore there is no reason on this occasion to doubt its contents.

These Viability Appraisal concludes that having regard to, inter alia, development economics, market conditions, the need for financing and the specialised nature of this kind of build project, which requires the whole building to be completed (and financed) before any revenue can be achieved that a total of £153,091 can be provided for all Section 106 contributions. This will not achieve the 30% requirement of the Councils affordable housing policy.

However, the viability of individual schemes is a material consideration in deciding planning applications, and as stated above, both the interim statement and local plan policy allow economics of provision arguments to be advanced. Since 2008 there has been significant downturn in the housing market and particularly on brownfield sites where costs of redevelopment are proportionally higher than greenfield sites. Developers have sought and continue to seek to negotiate a lower provision of affordable housing on the basis that the Council's normal requirements would render redevelopment unviable.

In addition, this stance has been upheld by Inspectors on a number of occasions at Appeal, who have determined that the regenerative benefits of bringing brownfield sites back into beneficial use, and the contribution to housing land supply, outweigh the need to provide the full policy requirement in respect of affordable housing.

It is also necessary to consider the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Mr. Greg Clark) which states that *"The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy."* It goes on to say that *"when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore, inter alia,*

- *consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;*
- *take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- *consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable*

*communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*

- *ensure that they do not impose unnecessary burdens on development”*

It will help to generate jobs and economic benefits. Furthermore, the proposal will help to maintain a flexible and responsive supply of land for housing, which is specifically identified above as a “key sector”. The proposal will also create jobs and economic growth in the construction industry and all the associated supply networks. However, if the development becomes unviable, due to the need to provide affordable housing the developer will not take it forward and these economic benefits will not be realised.

The Ministerial Statement carries a presumption in favour of development, except where this would compromise the key sustainable development principles set out in national planning policy. This proposal will bring a Brownfield site in a town centre location back into beneficial use and is therefore undoubtedly a sustainable form of development. It should therefore be looked upon favourably and failure to do so, as a result of insisting on the full policy provision of affordable housing, in the light of a robust viability appraisal could be construed as placing unnecessary burdens on development.

The Secretary of State for Communities and Local Government has made it clear that he will take the principles in this statement into account when determining applications that come before him for decision. In particular he will attach significant weight to the need to secure economic growth and employment. It is therefore considered that these issues are important material considerations which add to the material planning benefits of the proposal.

In summary, therefore, given the particular circumstances of this case at this time it is considered that seeking a commuted sum in lieu of affordable housing provision is acceptable and complies with the planning policy framework and all material considerations which require the Local Planning Authority to consider viability as part of the consideration of the application.

### **Open Space Provision**

Policy GR22 states that it is a requirement for residential development to provide adequate Public Open Space on site. In appropriate cases, the Borough Council may accept a commuted payment to provide or improve facilities in the locality in lieu of on-site provision. No on-site provision is proposed. However, the applicant has provided a Statement on Amenity Space Provision in respect of McCarthy and Stone Sheltered Housing Development. This provides evidence to show that the future elderly resident’s needs in terms of recreation space are limited and mainly involve the provision of sitting out areas and attractive outlooks. There is little, if any demand placed up on off-site recreation / public open space facilities. The Statement also includes a number of Appeal Decisions where Inspectors have supported this view.

Furthermore, as stated above, the viability appraisal indicates that there is a sum of only £153,091 available for all Section 106 contributions and therefore, if funds were diverted towards off site open space provision, there would be less money available for affordable housing. Given the information submitted by the applicant contained within the “Statement on Amenity Space Provision in respect of McCarthy and Stone Sheltered Housing

Developments” which indicates the limited demand for open space created by residents of such development and the evidence of demand for affordable housing outlined above, it is considered to be appropriate to direct all of the £153,091 towards affordable housing provision.

## **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- and provided that there is
- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection
- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and
- a licensing system administered by Natural England.

Local Plan Policy [insert policy number and summary of content as appropriate]

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

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

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

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

In this case, the Council's Ecologist has examined the application and is satisfied that there should be no adverse impact on designated wildlife sites and that the risk to legally protected and biodiversity target species is low, provided the recommendation of the supporting bat and water vole/otter survey reports are implemented in full.

## **9. CONCLUSION**

In summary, the principle of residential development on the site is considered to be acceptable, and will assist in meeting the Council's housing land supply requirements. Previous concerns in respect of amenity and design have been adequately addressed and the scheme is acceptable in terms of its impact on protected trees, ecology, highway safety and contaminated land.

Whilst the Council's preference is for the on-site provision of affordable housing, the Council's Interim Planning Statement makes provision for off-site contributions towards affordable housing. A viability appraisal, carried out using a toolkit and methodology which the Council has accepted on other similar sites elsewhere in the Borough has been submitted which demonstrates that the development can yield a contribution of £153,091 for all planning obligations. It is acknowledged that the amount being offered is below the necessary requirement, planning policy makes provision for such viability arguments to be advanced, and they have received the support of previous Inspectors at Appeal.

The proposal generates a policy requirement for the provision of on-site public open space or a contribution in lieu of such provision. However information submitted by the applicant contained within the "Statement on Amenity Space Provision in respect of McCarthy and Stone Sheltered Housing Developments" indicates that there is a limited demand for open space created by residents of such developments and the evidence of demand for affordable housing outlined above, it is considered to be appropriate to direct all of the £153,091, which is available for Section 106 contributions towards affordable housing provision

## **10. RECOMMENDATIONS**

**APPROVE subject to a Section 106 agreement to secure**

- **Provision of a commuted sum in lieu of affordable housing provision on site (£153,091)**

**And the following conditions:**

- 1. Standard**
- 2. Amended plans**
- 3. Age restriction – over 55 years only**
- 4. Submission of Materials**
- 5. Submission of Landscaping**
- 6. Implementation of Landscaping**



- 7. Submission of Tree Protection**
- 8. Implementation of Tree Protection**
- 9. Submission of Arboricultural Method Statement**
- 10. Provision of parking prior to occupation**
- 11. Scheme of Drainage to be submitted and approved**
- 12. No building over sewer**
- 13. Submission of air quality impact assessment**
- 14. Submission of air assessment of traffic noise and vibration**
- 15. The hours of construction to 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.**
- 16. Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved to be approved**
- 17. Development to proceed in accordance with the recommendations made in the submitted bats and water vole/otter reports to protect valued wildlife and the River Dane corridor.**
- 18. A detailed method statement covering the implementation of said recommendations to be submitted to the Council for approval prior to commencement of works.**

