

Application No: 13/2954C

Location: HAWTHORN COTTAGE, HARVEY ROAD, CONGLETON, CW12 2PS

Proposal: Proposed outline application for the demolition of Hawthorne Cottage, Canal Side Farm, and gaining the consent for the principle of up to 49 no. dwellings. The formation of a new vehicle and pedestrian access from the existing Goredale Close carriageway

Applicant: Dr David Poyner, Davico properties UK Ltd

Expiry Date: 30-Dec-2013

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

Green Belt - Whether the proposal represents “inappropriate development”, and if so, whether there are any “Very Special Circumstances” which clearly outweigh the harm caused by inappropriateness, and any other harm identified

Planning Policy and Housing Land Supply- is the lack of a 5 year housing land supply sufficient to be the ‘very special circumstances’ necessary

Sustainability of the proposals

Affordable Housing Provision – level of contribution

Design, Scale and Impact upon the Canal Conservation Area – Impact upon setting of the Conservation Area

Highway Implications – Design of access and general highways matters in the area

Loss of Agricultural Land – lack of information

Amenity Open Space and Childrens Play Space Provision on site – level of provision necessary and required commuted sums

Trees and Hedgerows – impact upon protected trees at access point, impact upon Ancient Woodland Adjoining site and adequacy of information submitted with respect to trees and hedgerows

Landscape Impact – Impact upon sensitive viewpoints

Ecology - Impact upon protected species

Residential Amenity

Flood Risk and Drainage

Education – required mitigation

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it relates to a major development which is departure in the Congleton Borough Local Plan.

1. DESCRIPTION OF SITE AND CONTEXT

This 2.6 ha site is located circa 2 miles from the town centre of Congleton and is currently laid to pasture, with a dwelling and agricultural buildings to the south east boundary. These buildings comprise a two storey detached dwelling (Hawthorn Cottage, an inhabited dwelling occupied by people who are not associated with this application) and a variety of separate agricultural buildings which are presently unused.

The site is bordered by mature vegetation with trees and hedgerows forming a strong boundary edge to the site's northern curtilage, hedgerows and trees on the southern boundary (part of which borders properties in Swaledale Avenue and Gordale Close), hedgerows along the eastern boundary (adjoining the canal towpath), and extensive tree cover to the west (sloping down to the River Dane). The vegetation makes a significant contribution to the character of the site.

Four trees to the south western boundary of the site on the boundary with Gordale Close are subject to TPO protection; The Congleton Borough Council (Goredale Close) TPO 1983.

The application site abuts the Macclesfield Canal Conservation Area, one of the earliest linear conservation areas in the country. The eastern side of Congleton is located at the Peak fringe resulting in the sloping topography within the application site. The canal forms the eastern boundary of the site, occupying the high point in relation to the site, which slopes steeply away to the west and north. The canal is set higher above the site in its south eastern corner where the land slopes down to the public right of way to the south of the site. An overhead power line traverses the centre of the site.

The site is wholly contained within the designated Green Belt. A bridleway linking Swaledale Avenue and the canal towpath adjoins the southern boundary of the site.

1. DETAILS OF PROPOSAL

This is an outline planning application for 49 dwellings as originally submitted. This was then revised to a description of 'up to 49 units' and an indicative layout provided with 42 units. Access is to be determined at this stage, with all other matters reserved. The proposal also includes the demolition of the existing Hawthorn Cottage and other buildings associated with the former agricultural use of the site.

The site is intended to be accessed via Goredale Drive. Two grade B TPO Ash trees would be removed to accommodate the access point at Gordale Drive.

The revised layout plan has been provided which indicates no build buffer zones to the boundaries with the canal of 10.5 m depth, and to the ancient woodland area to the north and western boundaries of the site of 15m depth.

2. RELEVANT HISTORY

There are no relevant previous planning applications relating to this site.

3. POLICIES

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

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plans (January 2004).

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy
PS4 - Towns
PS7 - Green Belt
GR21- Flood Prevention
GR1- New Development
GR2 – Design
GR3 - Residential Development
GR4 – Landscaping
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
NR4 - Non-statutory sites
NR5 – Habitats
H2 - Provision of New Housing Development
H6 - Residential Development in the Open countryside
H13 - Affordable Housing and low cost housing

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land
Congleton Town Strategy
Core Strategy Pre-Submission Document

4. CONSULTATIONS (External to Planning)

Environment Agency: The Environment Agency has no objection in principle subject to conditions but would like to make the following comments:

The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. If a single rate of discharge is proposed, this is to be the mean annual run-off (Q_{bar}) from the existing undeveloped greenfield site. If surface water is to discharge to mains sewer, the water company should be contacted for confirmation of the acceptable discharge rate. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.

The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SuDS). SuDS, in the form of grassy swales, detention ponds, soakaways, permeable paving etc., can help to remove the harmful contaminants found in surface water and can help to reduce the discharge rate.

United Utilities: No objection subject to conditions

- The site must be drained on a separate system with only foul drainage connected into the public sewerage system
- Surface water should discharge to the soakaway/watercourse/surface water sewer and may require the consent of the Local Authority. If surface water is allowed to be discharged to the public surface water sewerage system we may require the flow to be attenuated to a maximum discharge rate determined by United Utilities.

Canal and River Trust : The application site lies below the level of the adjacent Macclesfield Canal and its towpath, which is retained by a small embankment on the edge of the site. The Trust is keen to ensure that the development does not result in any risk of damage to the embankment, which could result in a collapse of the towpath or, in the worst case scenario, cause a breach of the canal itself. Such a breach would clearly result in extensive damage to the canal infrastructure and cause significant flooding of the development site and the wider area. In addition to the risk to the embankment during the construction works, future occupiers of the dwellings could inadvertently cause damage to the embankment by carrying out building or landscaping works within their gardens. The erection of boundary fencing could also impede access to inspect and maintain the embankment.

The Trust would therefore advise that no built development should take place on the sections of embankment on the eastern boundary of the site, and these areas should be excluded from the garden areas of the proposed dwellings.

Cheshire Fire and Rescue: Access and facilities for the fire service should be in accordance with the guidance given in Document B of the Building Regulations 2000

The applicant is advised to submit details of the water main installations in order that the fire hydrant requirements can be assessed. Would advise consideration be given to the design of the refuse storage areas to ensure it is safe and secure. If this cannot be achieved means for securing wheelie bins against the building should be provided. If planning approval is granted, the applicant should be advised that means of escape should be provided in accordance with

current Building Regulations. Recommend fitting domestic sprinklers to reduce the impact of fire on people, property and environment and to avoid impact on business continuity.

Strategic Highways Manager: The layout does not comply with Manual for Streets principals and the access point is over-engineered. Scheme is of poor design quality in highways terms and information within application is contradictory. Information is lacking in terms of sustainable links in terms of the submitted Transport assessment. Recommends refusal on grounds of insufficient information.

Strategic Housing Manager: No objection subject to a provision of 30% affordable housing in a 65% (affordable or social rent) : 35 % (intermediate) split.

Environmental Health: No objection subject to conditions relating to construction hours, piling hours, dust mitigation, noise mitigation and a residential travel plan, scheme for car charging points.

Public Open Space (Amenity Greenspace) and Children's Play Space – The proposal will result in deficiency in provision locally. On site provision for both open space and play space to an adoptable standard will be required with associated commuted sum payments for future maintenance.

Public Rights of Way (Countryside Access Team): A Public Right of Way, namely Public Footpath No. 58 and Public Bridleway Congleton No. 34 adjoin the site.

The proposal to repair, resurface and improve Congleton Bridleway No. 34 between the canal and Harvey Road is welcomed as the current surface of the route may not be considered fully accessible to all users.

The revised application detail refers to the south east edge of the site including an 'improved pedestrian connection with bridleway and canal side pathway. It should be noted that the Public Bridleway and the canal towpath to which it links are both available to and used by cyclists. Therefore the proposed link to the development site could also be anticipated to be used by cyclists and designed accordingly.

Education: The development of 49 units would generate 9 primary aged pupils and 6 secondary aged pupils. There is sufficient capacity within the secondary school sector however local primary schools will be over subscribed. The 5 primary schools within a 2 mile radius have 157 unfilled places, though this falls as low as 91 by 2016. On the basis of the applications approved or with resolutions to approve in Congleton then the forecast surplus has been considered as used by these approved applications. 9 pupils equates to a sum of £97,617 (9 x 11919 x 0.91). There would be a pro-rata reduction in the numbers of places required should the number of housing units be reduced.

5. VIEWS OF THE PARISH COUNCIL

Congleton Town Council: Object to the proposal on the following grounds:

- Proposal is not in accordance with policy PS7 or H6 of the development plan

- Contrary to the Emerging Strategy – no land is allocated in this area for residential development

6. OTHER REPRESENTATIONS

The Woodland Trust have commented that there should be a 15m buffer with no development between ancient woodland and any development.

Over of 170 letters have been received in response to the original and the revised application. The grounds for objection are summarised as follows:

- This is a Green Belt site
- Proposal is contrary to local policy and the NPPF
- Proposal is contrary to the Congleton Town Strategy
- There are no special circumstances to justify the development and is therefore inappropriate
- Proposal would not make a substantial contribution to the Council's housing shortfall
- Other Brownfield sites should be used
- The development appears to be much higher density and not in keeping with the existing estate
- There are already vacant properties which cannot be sold in the area
- Would result in the loss of a green space
- Loss of protected trees
- Would impact detrimentally on the character and appearance of the area
- Impact of protected species and local ecology
- Swallows, bats, badgers and other wildlife regularly use the site
- The site is prominent from the adjacent canal
- Disturbance to neighbouring amenity during building
- Site is elevated above adjoining properties on Swaledale Close and will look directly into those properties
- Schools in the locality are oversubscribed
- Doctors and dentists are full
- Loss of trees and hedgerows
- Lack of local amenities and infrastructure
- The site is overlooked by public footpaths
- Loss of privacy, overshadowing and extreme overlooking from potential dwellings on higher ground in relation to existing properties
- Swaledale and Goredale Close are steeply sloping junctions – ignored by the Transport Statement
- Information regarding bus service is incorrect. Bus 99 (Appendix C of Transport Statement) was withdrawn in September 2013. Services to Congleton centre, Biddulph, and Macclesfield, are now scheduled hourly, and Service 39 is proving unreliable. There are no bus services outside of office hours.

APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement inc Landscape and Visual Assessment
- Arboricultural Assessment
- Transport Assessment

- Extended Phase 1 Habitat Survey
- Planning Statement
- Flood Risk Assessment
- Design and Access Statement
- A indicative Layout showing an indicative layout of 42 units with access via Goredale Close, buffer zones to the Canal and woodland boundaries of the site
- Planning Application forms describing the development as 'up to 49 units'

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principle of Development

The site lies in the Green Belt, as designated in the Local Plan, where policy PS7 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a "departure" from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*".

Green Belt Issues

The proposed site is located within the Green Belt. Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of the green belt are their openness and their permanence.

Paragraph 89 of the NPPF echoes the advice contained within PS7 of the Congleton Local Plan First Review. Para 89 advises:

'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- *buildings for agriculture and forestry;*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which*

would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The proposed development does not fall into any of these exceptions, and therefore has to be regarded as “inappropriate” development in principle.

Paragraph 87 advises:

“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.

Paragraph 88 goes on to state:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

Policy PS7 of the Local Plan, which restricts inappropriate buildings accords with paragraph 89 of the NPPF, and therefore should be given full weight in accordance with Para 215 of the Framework, which states;

“due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”

The planning policy is up to date and in line with the NPPF. Policy PS7 therefore can be accorded very considerable weight in this determination.

PS7 does consider ‘limited infilling’ of brownfield land (excluding residential garden areas) which does not have any greater impact upon the openness of the green belt as being appropriate development, as the NPPF does. However, this development would not constitute limited infilling and would materially impact upon the openness of the green belt in this location. This proposal cannot therefore be regarded as ‘limited infilling’.

The supporting information submitted with the application contains no analysis of the ‘very special circumstances’ that the applicant considers would justify a departure from the normal planning policy pertaining to the green belt in this case. The Applicant’s justification appears to rely entirely upon the site’s inclusion in the SHLAA as the reason for the proposal.

Accordingly, in order to consider whether very special circumstances exist to justify development within the Green Belt it will be necessary to consider if the harm caused by reason of inappropriateness is outweighed by other considerations. These are considered below.

Planning Policy and Supply of New Housing

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government's overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011, a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved. In December 2012 the Cabinet agreed the Cheshire East Local Plan Development Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, following a phased approach, increasing from 1,150 dwellings each year to 1,500 dwellings.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base

In terms of the existing supply the Inspector found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

The NPPF clearly states at paragraph 49 that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*

To assess the contribution to housing land supply, it is therefore necessary to assess if this development could be regarded as being a sustainable form of development in order to engage Paragraph 14, and if this is so; within the overall planning balance, would the engagement of Paragraph 14 outweigh the fact that specific Green Belt policy within the Framework indicates that the development should be restricted.

Sustainable Development

In addressing sustainability, members should be mindful of the key principles of the National Planning Policy Framework. This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world.”

The site is considered by the SHLAA to be ‘suitable with a policy change’ for the development of 59 units, within years **6-10**. The site is therefore not considered to contribute to housing land supply within years 1 – 5 of the SHLAA. The policy change necessary would be the alteration to the green belt boundary in this location by removing the site from the green belt, which is not proposed within emerging policy or Development Strategy. The SHLAA does not define this development as being sustainable.

Clearly therefore the site is not relied upon to deliver the 5 year housing land supply and that position in policy terms is unlikely to change in emerging policy.

The applicant has put this site forward for inclusion within the SHLAA in the first instance and holds great faith in the reference of the site to being ‘suitable’ within the SHLAA, indeed this seems to be the whole basis for this application. However, this is not the same as being sustainable.

Accessibility is a key factor of sustainability that can be measured. A methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature

(WWF). The Checklist has been specifically designed for this region and can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to locational accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The toolkit sets maximum distances between the development and local amenities. These comprise of:

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).

In this case the development meets the standards in the following areas:

- a local shop - Co-op St Johns/ Wharfdale Rd junction(500m),
- post box - opposite Co-op St Johns/ Wharfdale Rd junction(500m),
- bus stop – St Johns Road/ Wharfdale Rd - outside Co-op (bus 99 hourly , no Sunday service to Macclesfield and Biddulph) (500m) – limited hourly service 09:35 to 16.15 daily with additional bus at 07.35, 17.45 and 19.00

A failure to meet minimum standard (with a significant failure being greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m) exists in respect of the following:

- primary school – Havannah Primary School Malhamadale Road (840m)
- playground / amenity area - childrens play ground Llttondale Road(600m),
- post office / bank / cash point - counter/bank machine inside Havannah Street Londis convenience store (1200m)
- pharmacy Havannah Street (1200m)

- medical centre – Lawton House surgery Bromley Road (1868m)
- leisure facilities – Leisure Centre Worrall St (2170m)
- public house – Church House Buxton Road (1200m)
- public park – Congleton Park (2300m)
- child care facility – Old Hall Private nursery, Spragg Street (2000m)
- railway station (2900m)

Clearly, this site is located on the urban fringe so the same distances would apply to the existing residents in the area. However, public transport accessibility to the site is rather poor with the bus service being hourly but none on Sundays at all. Even this limited analysis demonstrates, for day to day services and facilities that any resident would need, the site fails more criteria than it passes and locationally must be regarded as being generally unsustainable. However, it is acknowledged that these facilities are available within the town and Congleton is a principal town in Core Strategy where we can expect development to occur on the periphery.

Development on the edge of a town will always be further from facilities in town centre than existing dwellings but, if there are insufficient development sites in the Town Centre to meet the 5 year supply, it must be accepted that development in slightly less sustainable locations on the periphery must occur.

Similar distances exist between the town centre and the existing approved sites and proposed local plan allocations at the north of Congleton.

There are, however, three dimensions to sustainable development -: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, an environmental role in protecting and enhancing the natural environment, reducing energy

consumption through sustainable design, and assisting economic growth and development. The proposal would also generate Government funding through the New Homes bonus

The Design and Access Statement and the Transport Statement do not provide any indication as to how principles of sustainable development / energy reduction would be met within the development. The Transport Assessment provides no indication as to how the development would contribute to sustainable transport options. Nevertheless, this is an outline application and a detailed scheme to achieve reduced energy consumption could be secured through the use of conditions, although it is less clear how this scheme would be designed to, or what commitment the Applicant has to encourage sustainable transport options. The Strategic Highways Manager has commented upon this failure separately, however, this is a significant failing within the context of whether this is a sustainable development.

No economic benefit analysis has been provided as part of the application, however, it is accepted that the construction of a housing development of this size would bring the usual economic benefit to local shops for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new residents spending money in the area and using local services and as a result of the New Homes Bonus.

To conclude, the benefits include the need to provide people with places to live and 30% affordable housing, which is in great need, however, these do not outweigh the harm to the local environment by virtue of the loss of important protected trees, without justification and the unknown impact upon protected species by virtue of the general paucity of information submitted in support of this application.

Further, it is considered that the harm caused outweighs any benefits of the scheme that might accrue by virtue of the delivery of housing supply including affordable housing, at 30%, of the total housing numbers and the economic benefits that the development and new residents would bring.

Affordable Housing

This application is for up to 49 dwellings, the affordable housing requirement would be 30% which equates to 15 units of affordable housing in a 35%:65% split between affordable or social rent and intermediate properties.

Congleton is located in the Congleton sub-area for the Strategic Housing Market Assessment 2010 (SHMA) and the SHMA Update 2013, which shows that for the sub-area there is a net requirement for 290 new affordable units between 2013/14 and 2017/18, this equates to a net requirement for 58 new affordable units per year made up of 27 x 1bed, 10 x 3bed, 46 x 4/5bed and 37 x 1 bed older persons units. (There is an oversupply of 2 bed accommodation).

There are currently 610 active applicants on the Cheshire Homechoice housing register who require social or affordable rented housing and have one of the Congleton re-housing areas as their first choice, these applicants require 207 x 1 beds, 227 x 2 bed, 116 x 3 beds, 11 x 4 beds and 1 x 5 bed (48 applicants have not specified how many bedrooms they require).

The Interim Planning Statement on Affordable Housing (IPS) states that the tenure split the Council would expect is 65% rented affordable units (either social rented dwellings let at target

rents or affordable rented dwellings let at no more than 80% of market rents) and 35% intermediate affordable units. The affordable housing tenure split that is required has been established as a result of the findings of the SHMA. This would equate to 10 rented units and 5 intermediate units on this site on a total of 49 units. A lesser number of units would result in a pro-rata reduction in the affordable provision at 30%.

The Applicant has confirmed that his expectation is for any planning consent to include an appropriate condition setting out the Local Authority's requirement regarding affordable housing and low cost housing provision.

As well as the tenure split required as highlighted above the affordable housing will need to be delivered in accordance with the Council's Interim Planning Statement on Affordable Housing. This will include a requirement to provide the following: -

- Pepper-potting the affordable units.
- The tenure proposals for the affordable units including social or affordable rent and which intermediate tenure. As well as demonstrating how the affordable units for sale will be at affordable levels in perpetuity.
- Confirmation that the affordable units are tenure blind and the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.
- Confirmation that the affordable units are constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).
- The IPS states that no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.

As this is an outline application with only the principle of 'up to 49 units' being applied for, and the applicant has confirmed that he would accept a planning condition for 30 % affordable housing provision this matter could be dealt with by condition as requested by the Applicant, although it is generally the preference of the Council to enter into a S106 Agreement.

Design – Scale of development and Impact upon the Canal Conservation Area

The application is outline form with details of scale, layout, appearance and landscaping to be determined at a later date. In effect, only access is being applied for in conjunction with the principle of development.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

This is also important within the context of the sloping nature of the site and the relationship of the site with the Canal Conservation Area.

An originally submitted indicative layout indicated a modern estate layout to all corners of the site, in a plot ratio similar to the surrounding estate.

However, the applicant, to address issues raised by Officers regarding trees, ecology and impact upon the Canal Conservation area, has revised their indicative plan to introduce areas of buffer zones to the outer boundaries of the site where they state that no 'buildings will be developed'. This is insufficient. For ecological and tree reasons these buffer zones should also be outside of garden areas. Indicatively, on the revised plan received on 9 January 2014, there are a number of plots to the northern boundary (plots 10 -17) which fail this criteria. Conditions could be imposed that could ensure the buffer zones are outside gardens, however, given the site constraints it is not considered that the scale of development as applied can be achieved without adverse impact upon the Conservation Area or the ecological buffer zone has sufficient information to demonstrate that the scheme would deliver a design of sufficient quality to justify approval.

In addition, throughout the application supporting information, the Applicant refers to a development 'up to 49 units' and has removed reference to the numbers of bedrooms each unit would have, however, the revised indicative layout indicates 42 units which, in itself, is not considered appropriate to deliver the necessary buffer to the important boundaries. A condition could be imposed to impose the necessary buffers to contain no development whatsoever. This would impact upon the scale of the development achievable.

Whilst an indicative layout has been provided, some practical issues with that indicative design are noted, not least the housing fronting onto the rear gardens of neighbouring housing (and the associated exposed rear gardens with the access road behind) and impact on plot sizes. It is accepted that the revised layout is illustrative, however, this is the basis on which the number of houses being proposed 'in principle' is being evidenced as a testing layout in meeting the site's constraints and opportunities.

Overall, the indicative design is over-engineered, fails to properly address the sites constraints and is of insufficient quality to justify approval. Furthermore, given the site constraints identified the proposed density and indicative layout is considered to be unacceptable.

Landscape Impact

The site lies within the open countryside and is governed by Policy PS8 of the Congleton Local Plan. This seeks to restrict development within the countryside apart from a few limited categories. One of the Core Planning Principles of the NPPF is to *"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it"*.

Policy PS8 accords with the NPPF desire to recognise the intrinsic character of the countryside. The application, by developing and hence eroding an area of open countryside conflicts with Local Plan Policy PS8.

The application site is bounded by the canal and towpath, which are elevated above the site. The site levels generally fall from a high area adjacent to the canal boundary towards the western, southern and northern boundaries. The gradient shelves steeply towards the northern boundary where there's an area of unimproved grassland. The site is accessed via a narrow, unmade private road to the south which is a bridleway that joins the canal tow path via a flight of steps. The canal towpath is a public right of way

The vegetation on and around the boundaries encloses and screens the site. There is a hedge with protected trees on the boundary with Gordale Close, the Dane Valley woodland, a hedgerow with trees to the north and a tall hawthorn hedgerow along the entire eastern Canal boundary.

The application includes a Landscape Appraisal and with regard to the existing landscape character of the site it states:

The site is in an urban fringe location but has the character of an attractive, self contained and discrete site, well contained by the existing landform and by hedgerows and trees. Because of this the effect is to have a limited effect on the overall wider landscape.

The Councils Landscape Architect would broadly agree with this statement. The development site is largely contained and would have little impact on the character of the wider landscape but it would have an adverse impact on the rural, tranquil character of the adjacent Canal Conservation Area. This would be particularly relevant should housing back onto the Canal tow path and future occupiers punch access through the hedgerow, as has happened on Harvey Road and over which there would be no planning control.

Public views of the site are limited. There are filtered views from Gordale Close and some views from other residential properties in the vicinity. The site is visible from a short section of the bridleway to the south. It is not visible from the canal towpath during the summer months but in winter there are some filtered views through the hedge. There are unlikely to be longer distance views from the A54 to the east or from the A 536 Macclesfield road to the west due to the undulating landform and the Dane Valley woodland.

The visual impact on the existing residential areas and the short section of bridleway would be fairly minor. However, it is likely that any proposed houses located on the higher, eastern side of site would be visible above the hedge from tow path which could adversely affect views from the tow path.

This would be a sensitive viewpoint which would urbanise an essentially rural aspect presently. It would also be difficult to control the height and retention of the boundary hedge in the longer term if it was owned by numerous potential dwellings backing on to the canal. It would therefore be important that any dwellings should not back onto the canal frontage of the site.

A series of existing and proposed cross sections through the site and canal bank would have assisted to assess the visual impact on the canal tow path. Cross sections would also help to assess the impact of levels changes (i.e. cut and fill across the site to accommodate the development) on the boundary woodland, trees, hedgerows and areas of ecological importance. No such details have been submitted. The applicant has been given extensive feedback during the application stage, their firm view is that this application seeks only the principle of development for up to 49 units and the Council could impose conditions.

With regard to the revised site layout, the drawing notes state that there would be no buildings within the proposed buffer areas but it is not clear whether these areas would remain unchanged in terms of levels.

These buffers could be subject to levels changes up to the boundaries and some areas could potentially be within private gardens, as indicated in the revised plans. The proposed additional planting to reinforce the canal boundary hedge would be beneficial but, there could be issues with long-term retention if the hedge and additional planting were within private gardens. The indicative revised plan denotes a buffer zone adjoining the sensitive Canal hedge boundary but only refers to 'no buildings'. This does not address gardens associated with dwellings which may be developed to the detriment of the rural character of this landscape. In landscape terms the proposed 15m buffer along the SBI woodland, in the revised scheme is too narrow to be a useful POS/play area.

Overall, it is considered that the landscape impact could be controlled by condition and further considered as part of any reserved matters however, this is likely to further limit the area of the site which would be suitable for the residential development, including residential garden areas without having a detrimental impact upon the landscape from the most sensitive receptor, the towpath.

Impact Upon Trees

Four trees to the south western of the site on the boundary with Gordale Close are subject to TPO protection; The Congleton Borough Council (Goredale Close) TPO 1983.

The submission is supported by a Tree survey and Arboricultural constraint report dated August 2013. Tree constraints are illustrated on a copy of the topographic survey. The report identifies a grade A Oak tree on the site boundary at the end of Gordale Close, 7 grade B trees, distributed between the south west and the northern boundaries, 3 Grade C trees and one Grade U tree.

The report indicates that for the new entrance to the proposed development, trees T 1 & 2 in the survey, (grade B trees) and T3 in the survey (a grade A Oak) may have to be removed. The report then recommends that the grade A Oak be retained, together with Grade B trees where possible, and that protective measures be provided for all retained trees.

BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations now places an emphasis on 'evidence based planning' and accords with standard RIBA work stages. The standard now requires higher levels of competency and a more precautionary approach to tree protection.

The tree survey and constraints report/plan does not encompass all the tree cover on /adjacent to the site. In particular it excludes trees around Hawthorn Cottage and Canalside Farm, and trees to the north and west, all of which could influence or be impacted by the development.

The British Standard identifies at para 5.2 *Constraints posed by Trees* that all relevant constraints including Root Protection Areas (RPAs) should be plotted around all trees for retention and shown on the relevant drawings, including proposed site layout plans. Above ground constraints should also be taken into account as part of the layout design.

At Gordale Close, two grade B TPO Ash trees would be removed to accommodate the proposed access. These are high quality trees. This is a material consideration.

Further, taking into account levels changes on site and likely associated engineering works, without detailed information it is not possible for the Tree Officer to ascertain from the submission if there would be impact on any retained TPO tree in the vicinity of the access.

Whilst it is noted indicative buffer zones are shown on the proposed site layout Rev A, this is not an indicative site layout. The applicant has not provided (despite this being requested):

- Tree and site survey extended to cover all trees.
- Tree constraints shown on an indicative site layout for the whole site.

The Woodland Trust have indicated the presence of Ancient Woodland to the west of the site and recommend a 15m undeveloped buffer (including this being outside garden area). The Tree Officer would support this principle and it should be noted this would have significant impact on the site's ability to accommodate 49 units as applied for in this application.

Overall the Tree Officer considers inadequate information has been provided that would demonstrate that the scale of development proposed could be accommodated without harm to trees.

It is also considered that the removal of the 2 TPO trees at Gordale Close to accommodate the access is not justified in the planning balance and would be detrimental to the visual amenity and landscape character of the area.

This is reason to refuse this application.

Highways Implications

A Transport Assessment (TA) has been provided and has been considered by the Strategic Highways Manager. This is over analysis for this scale of development and in fact national guidance does not require technical assessment for developments below 50 units.

Nonetheless the TA is acceptable in terms of: trip rates and traffic impact. The TA recognises that the existing roads on the approach to the site are of sufficient standard to serve the proposed number of units and this agreed by the Highways Manager. It also quotes the NPPF with regard to the definition of severe impact and the S.H.M. agrees that this is also correct.

In terms of sustainable modal choice the TA does not offer any specific proposals to enhance or improve local options and bus facilities are at or just beyond the preferred maximum walking distance from the centre of the site. The national document: Guidance on Transport Assessments requires developers to provide for and encourage the use of sustainable transport options and this proposal does not do that.

Indeed the access to bus services in particular is highlighted as an issue locally as the nearest bus stops are located outside the desirable maximum walking distances from the site (400 metres), at over 600 metres. In addition the elevated nature of the site and sloping topography to

and from the shelters is not flat and involves a number of significant inclines which is therefore less attractive to pedestrian access.

The proposed development does not offer any incentives to sustainable transport options.

The TA states that the internal layout will be designed to Manual for Streets (MfS). The revised plan shows a 5.5m wide carriageway which is over-designed for the number of units and the Highways Manager would want that reducing in accordance with Manual for Streets guidance.

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

Paragraph 32 of the National Planning Policy framework states that:-

'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.*
- *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

The impact of this site is modest on the local road network. This is mainly due to the location of the site and the positioning of the access.

In summary, the level of development trips generated is not considered a severe impact as set out in the NPPF policy test) to mitigate for the impacts of the proposal on the local highways network, the Strategic Highways Manager, whilst he considers the indicative access to be over-engineered and not in compliance with Manual for Streets principles, raises no safety or capacity objections to the application. The Strategic Highways Manager also raises concern that the indicative layout is of poor design quality in Manual for Streets terms.

Whilst the highways impact is not severe in NPPF terms, so as to justify refusal in highway safety terms, the indicative layout's failure to comply with Manual for Streets principles is another indication of the poor design quality of this scheme. Additionally the lack of any assessment of sustainable transport options results in the Strategic Highways Manager recommending refusal on the grounds of insufficient information.

Loss of Agricultural Land

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this instance, whilst no information has been submitted in the form of any assessment of the agricultural land quality, the land was last used as horse grazing, indeed some of the buildings on site are stables, it is not known whether the quality of the land is the best and most versatile agricultural land. The size of the site is very small, steeply sloping and is constrained in any ability to extend by the canal, the houses and the woodland.

It is therefore considered that the proposal would not break up a viable agricultural holding or holdings, and given that only a very limited amount of land is involved and that Inspectors have previously attached only very limited weight to the matter of agricultural land, it is not considered that an additional reason for refusal on these grounds could be substantiated.

Ecology

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

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

(b) no satisfactory alternative and

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

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

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

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

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to

grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

Incomplete Ecological Assessment

Part of this site, located near the south-west boundary has not been surveyed as part of the submitted ecological assessment. This part of the site includes buildings which may have potential to support roosting bats and barn owls. To enable the Council to make a fully informed assessment of the potential impact of the proposed development the Council's ecologist advises that the entirety of the site must be subject to a detailed ecological survey. Further, in the light of legal judgements, this should be before the determination of the application, not, as requested by the applicant dealt with by condition.

Local Wildlife Sites /Sites of Biological Importance(SBI)

The proposed development is adjacent to the River Dane SBI on its north-west boundary. The SBI supports ancient woodland habitats. The proposed development will not result in the direct loss of habitat within the ancient woodland or SBI. However the proposed development has the potential to have an adverse impact upon the ancient woodland in a number of ways, including:

- The tipping of garden waste from adjacent residential properties.
- Direct loss of habitat due to the unauthorised extension of gardens into the woodlands.
- The introduction of non-native invasive species from adjacent gardens.
- Contamination resulting from garden pesticides and herbicides.
- Disturbance associated increased public access.
- Disturbance associated with increased road traffic.
- Increased predation from domestic cats.
- Light pollution.
- Disturbance impacts occurring during the construction phase.
- Pruning of trees due to issues of shading.

The applicant has submitted a revised plan which refers to there being '**no buildings**' within a 15m buffer adjoining the woodland. Based on current best practice and Natural England guidance, an entirely undeveloped buffer zone of 15m, consisting of semi natural habitats/informal open space is required between the woodland and the development. Additionally, the layout must avoid any residential properties backing onto the wildlife corridor. The indicative layout as revised fails to accomplish this.

The indicative layout plan could be further amended to reflect the required undeveloped buffer and that the provision of the buffer be secured by means of a planning condition , but this would have considerable implication for the potential density of the site and further demonstrates that this site would struggle to accommodate the 42 units indicatively shown on the revised layout received 9 January 2014 whilst also ensuring the buffer zones are left clear of any residential development, including garden space.

Habitats

Unimproved grassland

This habitat, which is a UK biodiversity action plan priority habitat and hence a material consideration has been identified in the north eastern corner of the proposed development site. It is highly likely that this proportion of the site would qualify for designation as a Local Wildlife Sites. I advise that the loss of this habitat to development would represent a significant loss of biodiversity interest from the site.

The submitted ecological assessment acknowledges the value of this habitat and recommends that the area of unimproved grassland be retained and enhanced as part of the proposed development.

The revised plan refers to there being 'no buildings' within an area along the north section of the site which possibly includes the identified area of unimproved grassland. The Council's Ecologist advises that simply avoiding any buildings within this area would fail to safeguard the nature conservation value of unimproved grassland as this habitat would be lost if gardens, open space, play areas associated with a modern estate etc. were to be constructed in this area.

Semi-improved neutral grassland

This habitat covers much of the remainder of the application site. Based upon the species recorded it is possible that this habitat could also qualify for designation as a Local Wildlife site. However, no information has been provided as to the abundance of the various plant species recorded from this habitat which makes an accurate assessment of its nature conservation value difficult.

Clarification has been sought as to which species were recorded from both the unimproved and semi-improved grassland habitats and whether they hold any additional information on the abundance of the various plant species recorded. Any further information will be presented in an update report.

Hedgerows

Hedgerows are a biodiversity action plan priority habitat and hence a material consideration. Based upon the submitted illustrative layout it appears likely that much of the existing hedgerows can be retained as part of the proposed development. The Ecologist advises that any losses of hedgerow must be compensated for through the creation of additional native species hedgerows as part of any detailed landscaping scheme for the site. This could be resolved by condition.

Protected Species

Great Crested Newts

A pond which has potential to support great crested newts has been recorded at a distance of 300m from the proposed development. The submitted ecological assessment recommends that this pond be subject to a detailed great crested newt survey. No such survey has been submitted. The applicant has failed to provide the information as recommended by his own Consultant.

Common Toad

This UK BAP priority species has been recorded just outside the application site boundary. Considering the distance from the nearest pond it is unlikely that the proposed development would have a significant adverse impact upon this species.

Bats

Trees identified by target notes 6 and 13 on the submitted habitat plan have been identified as having potential to support roosting bats. Whilst a number of trees appear to be retained under the submitted illustrative layout the submitted ecological assessment states that some trees would require removal.

Trees identified on the submitted Habitat Plan by target notes 6 (over mature ash) and target note 13 (mature oak and ash) have been identified by the submitted ecological appraisal as having potential to support roosting bats. The submitted ecological appraisal recommends that any trees to be lost or pruned as a result of the development must be subject to a detailed bat survey. No such survey has been provided

It is likely that the tree at target note 6 will be retained as part of the development however two trees at target note 13 (T1 and T2 on the tree report) will be lost as a result of the proposed access.

In law in order for the Council to determine this application in accordance with its policy and statutory obligations in respect of protected species a detailed bat survey of these trees is required prior to the determination of this application. The lack of such information is a reason to refuse this application.

Breeding birds

If planning consent was granted standard conditions would be required to safeguard breeding birds.

Badgers

A number of badger setts have been recorded around the site. The submitted report recommends the incorporation of wildlife corridors and buffer zones around the boundary of the site to mitigate any direct impact on the setts and also to ensure badgers are able to move freely between the setts. A license from Natural England would need to be obtained if any works are undertaken within 10m of the identified setts.

Overall, the proposed mitigation is broadly acceptable to address the potential impacts of the development upon badgers however to ensure that the proposed mitigation is enforceable the ecological report would need to be amended to include a specification for the width of the proposed wildlife corridors. In addition, whilst the revised plan refers to there being “no buildings” within the 15m “protection area” on the western boundary and “no buildings” on the steep embankment at the northern end of the site. The Ecologist advises that merely avoiding the construction of any buildings in these areas (as indicated by the indicative layout plan) would be inadequate to ensure that there is no disturbance of the setts and to ensure the continued free movement of badgers around the site.

The badger corridor must be free of any form of development, such as garden fences, access roads etc. and must include additional screening planting to act as a deterrent to any potential interference with the setts.

A condition could be imposed to ensure that the buffer does not include garden areas, however, this has implications for the layout of the site and further reduces the area of development and limits density. This has knock on effects for the design and setting out of development within this constrained site.

Education

Primary schools within a 2 mile radius of the centre of the site and secondary schools within a 3 mile radius of the centre of the site have been considered for capacity.

The schools considered are Buglawton, Daven, Havannah, Marlfields, Mossley, St Marys, Congleton High, Eaton Bank. A development of 49 dwellings will generate 9 primary aged pupils and 6 secondary aged pupils.

Based on current forecasts and taking into account development in Congleton the education service will require a contribution towards primary education within a 2 mile radius of the site, however a secondary contribution will not be required.

9 pupils equates to a sum of £97,617 ($9 \times 11919 \times 0.91$) as mitigation for the impacts of the development.

This sum would need to be secured via a S106 Legal Agreement, this would be pro-rata.

Amenity Open Space and Childrens Play Space Provision on site

Amenity Open Space

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development was for 49 units there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. In accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements the amount of New Amenity Greenspace required would be 1910m². This could be required by condition to be detailed as part of reserved matters .

However, in addition to the on site provision of public open space, that open space will need to be adopted by the Council. Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions for maintenance of the open amenity space sought would be £14,071.75 via S106 Agreement.

Children and Young Persons Provision

Following an assessment of the existing provision of Children and Young Persons play Provision accessible to the proposed development, if the development were to be 49 units were to proceed there would be a deficiency in the quantity of play provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. The play area should be of a LEAP size and should include at least 5 items of equipment. This could be controlled by condition.

A buffer zone of at least 20m from residential properties facing the play area should be allowed for, within any design with low level planting to assist in the safety of the site. A zone adjoining the woodland to the Goredale Road part of the site has been submitted.

Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions for the maintenance of the play space sought from the developer would be £35,521.50 via S106 Agreement based on 49 units.

The revised indicative layout includes reference to a play area within the western buffer zone. The financial contributions necessary for future maintenance of the public amenity space and childrens play space would be pro rata based on the numbers of units/bedrooms contained within each unit. The views of the Greenspace Manager concerning the appropriateness of the steeply sloping area of the site as public open space will be reported via the update report.

Any legal agreement would need to be formula based in line with the SPD for Open Space and Childrens Play Space

Residential Amenity

According to Policy GR6, planning permission for any development adjoining or near to residential property or sensitive uses will only be permitted where the proposal would not have an unduly detrimental effect on their amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, and noise. Supplementary Planning Guidance Note 2 advises on the minimum separation distances between dwellings. The distance between main principal elevations (those containing main windows) should be 21.3 metres with this reducing to 13.8 metres between flanking and principal elevations.

The layout and design of the site are reserved matters but will need to take account of the buffer zones that have been incorporated and the elevated nature of the site above the adjoining dwellings.

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. The indicative layout indicates that this can be achieved for a layout of 42 units, however, significant concern is raised should the density increase. Care would also be needed with regard to levels differences within the site and the adjoining dwellings. However, this could be conditioned.

It is therefore concluded that the although the proposal seeks only the principle for development, a reserved matters layout could demonstrate that the proposed development could be accommodated in amenity terms to satisfy Policy GR1 of the Local Plan.

Flood Risk and Drainage

The majority of the application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. The Environment Agency and United Utilities recommends standard conditions and on this basis there are no objections.

LEVY (CIL) REGULATIONS

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

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

The development would result in increased demand for primary school places in Congleton where there is very limited spare capacity. In order to increase capacity of the school(s) which would support the proposed development, a contribution towards primary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

The future maintenance of public amenity space and play space within the site as required and the required mitigation is directly related to the development and is fair and reasonable.

On this basis and for the purpose of any appeal, the S106 for the scheme is compliant with the CIL Regulations 2010.

HEADS OF TERMS FOR APPEAL PURPOSES OR IF PERMISSION IS TO BE GRANTED

The applicant has submitted no draft head of terms for a s106 legal agreement. The applicant has suggested that he would be willing to accept a planning condition to provide the appropriate level of affordable and low cost housing.

The following matters would also need to be incorporated if permission is to be granted

A financial contribution of £35,521.50 for maintenance of a LEAP (5 pieces of equipment on site) and £14,071.75 for the maintenance of amenity space (public open space) to be provided on site for the development of 49 units or in accordance with the formulae as defined by the Congleton Borough Council Supplementary Planning Document for Public Open Space Requirements for New Residential Development 2008

The payment of £97,617 in lieu of primary education provision based on 49 units or (for a reduced number of units) in accordance with the formula for calculating education contributions

Payment of the commuted sums in full would be required prior to first occupation of the proposed development.

CONCLUSIONS AND REASON(S) FOR THE DECISION

Green Belt policy within NPPF strongly indicates that permission should be resisted in principle. It is considered that the NPPF and Local Planning policy are consistent with each other and the green belt policy within the Local Plan can be afforded very significant weight.

It is considered that the harm caused to the Green Belt by this development is not outweighed by other considerations in the form of any benefit to the housing land supply and therefore there are no very special circumstances to justify this development.

Whilst the site does meet some of the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, the other distances do not, in the main, constitute significant failures as expressed in the Checklist. However, the locational accessibility is but one element of sustainability and the Applicant has provided no details about the economic benefits or energy efficiency measures/contribution to sustainable transport choices to be utilized to contribute to the reduction in carbon emissions.

The proposal would be environmentally harmful to protect species and result in the un-necessary removal of important protected trees. Any benefit in the form of additional housing would be outweighed by that environmental harm. Overall, the proposal is not considered to constitute a sustainable form of development. The benefits to the housing land supply, including affordable housing does not outweigh the harm caused.

This proposal will result in the direct loss and the threat to the continued well being of trees protected by a Tree Preservation Order that contribute to the amenity of the area and are designated heritage assets. The scheme fails to demonstrate that there would be adequate mitigation for the loss of trees, how the rooting and soil environment of retained trees can be adequately protected from damage, and that the health, long term viability and safe well being of these trees can be maintained. In addition, the loss of protected trees adds to the environmental harm caused by the proposal.

It is considered that insufficient information has been submitted to demonstrate that the development of the site would not be harmful to the character and appearance of the area and given the need for significant areas of the site to be free from any form of development, including gardens, there is no indication that the development of site could realistically be achieved without adverse impact upon the adjoining Canal Conservation Area and the wider area. The indicative layout as submitted is over engineered in terms of site access and design, is an over-development of a highly constrained site, and provides insufficient assessment of the impact upon protected species.

There is insufficient information submitted in respect of protected species. Information that is required in law prior to determination of any application which affects European Protected Species.

There is insufficient information with regard to sustainable transport choices and how any development would contribute to sustainable transport choices

It is acknowledged that the Council cannot demonstrate a 5 year supply of housing, however, for the reasons previously identified the use of the site is not considered appropriate in terms of the NPPF, nor in Local Planning policy terms and there are no interests of acknowledged importance which would outweigh the presumption against the inappropriate development in the green belt. Accordingly, a recommendation of refusal is made.

11. RECOMMENDATIONS

Refuse for the following reasons:

1 The proposal is an inappropriate form of development within the Green Belt, as defined by the Development Plan. The development is therefore contrary to policy PS7 of the Congleton Borough Local Plan First Review and would cause material harm to the openness of the Green Belt. The proposed development by reason of inappropriateness would be contrary to nationally established policy as set out in NPPF, and as a result would cause harm to the objectives of this guidance. There are no very special circumstances to outweigh this harm.

2 The proposed development, notwithstanding the contribution to economic and social activity associated with new residents, by virtue of its locational characteristics, impact upon trees and lack of information concerning protected species will cause environmental harm and thereby comprises unsustainable development contrary to the NPPF.

3 The proposed development by virtue of its size and siting of the proposed access would result in the direct loss of existing trees which are the subject of the Gordale Close are subject to TPO protection; The Congleton Borough Council (Goredale Close) TPO 1983. The loss of these trees is considered to be unacceptable because of the impact upon the general amenity and character of the area in which the application site is located contrary to Policy NR1 of the Congleton Borough Local Plan First Review and the provisions of the National Planning Policy Framework.

4 The application fails to provide sufficient information to quantify and mitigate any impact on species protected under the Wildlife and Countryside Act 1981 and Habitat Regulations in accordance with Policies NR3 and NR4 of the Congleton Borough Local Plan First Review and the provisions of the National Planning Policy Framework

5 Insufficient information has been provided to demonstrate that the proposed development can achieve an adequate quality of design to justify approval of planning permission. In reaching this conclusion regard was had to the indicative design and layout including the width of access and the characteristics of the site, contrary to the Policy GR1, GR2, GR3 and GR9 of the Congleton Borough Local Plan First Review and the provisions of the National Planning Policy Framework.

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

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning

Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

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