

Application No: 14/0617M

Location: BOLLIN HEY, COLLAR HOUSE DRIVE, PRESTBURY, CHESHIRE,
SK10 4AP

Proposal: Demolition of the existing property and construction of 5no. apartments
with under-croft parking and associated landscape works

Applicant: P Hughes, P H Property Holdings Ltd

Expiry Date: 23-Apr-2014

Date Report Prepared: 06 May 2014

SUMMARY RECOMMENDATION

Approve, subject to conditions.

MAIN ISSUES

- The principle of the development;
- The principle of the development (*character and appearance of the area*);
- Highways Access, Parking, Servicing and Pedestrian Safety Issues;
- Residential Amenity Issues;
- Arboricultural and Landscape implications;
- Ecological implications;
- Drainage Matters; and
- Other Material Planning Considerations.

REASON FOR REPORT

The application has been requested to go to Northern Committee by Councillor Findlow (*Prestbury Ward*) for the following reasons:

- Gross over development of a single house with five apartments;
- Violation of a low density area, on a road which has already been subject to excessive development in recent years;
- Balconies at the rear overlooking and infringing on the amenity and privacy of neighbours; and
- Exacerbating ingress/egress issue from Chelford Drive.

Subject to the recommended conditions, the proposal is considered to be acceptable for the reasons set out in the appraisal section of this report.

DESCRIPTION OF SITE AND CONTEXT

The application site is situated within a residential area characterised by large dwellings and a care home facility set in significant plots that are subordinate to the mature planting and landscaping. The age and style of the properties vary significantly, with several examples of recently completed extensive modern developments.

The application site currently contains one large private dwelling which is currently vacant. The dwelling sits on a sloping site off Collar House Drive in Prestbury and is approximately 0.39Ha in size. In close proximity to the site, Prestbury village centre provide numerous shops, banks and other facilities, with local schools in the area also. Collar House Drive is located off Chelford Road.

The existing building is accessed via a long driveway from Collar House Drive, with a large parking area and extensive gardens. Bollin Hey house is presently relatively hidden from the road due to a number of mature trees. Situated on a site sloping away from Collar House Drive towards the stream at the bottom of the site, the existing dwelling is currently a split-level family home. Located centrally within the site, it occupies three floors of accommodations, as well as roof space.

The site has previously gained planning consent for the demolition of the existing property, but this has not yet been undertaken.

DETAILS OF PROPOSAL

The application seeks planning permission to demolish the existing building and to replace it with a three storey building of 5 (three bed) apartments.

The new residential block would be on a similar location to the existing dwelling, however repositioned to fit into the plot. The principle of the design is such that the building appears as one large house.

The proposed development seeks to retain and utilise the site's current access from Collar House Drive. Undercroft parking for 10 cars and 4 visitor spaces are proposed. As access to the building will largely be by car, lift access is provided from the basement car parking through to the top floor. The scheme also proposes associated landscaping.

RELEVANT HISTORY

Following a review of the Council's records the following planning history on the site is considered relevant:-

- Planning permission was originally refused on the site in October 2003 for a six bedroom house on three storeys, under reference 03/2371P;
- Planning permission was then approved in November 2004 for a revised scheme proposing a three storey replacement dwelling, under reference 04/1656P;
- A planning application to amend the design of the replacement dwelling was withdrawn in June 2005, under reference 05/1087P;

- Planning permission was then approved in September 2005 for a further redesign of the replacement dwelling on the site, under reference 05/1754P;
- Planning permission was granted on 4 June 2007 for a further redesign of the replacement dwelling, under reference 07/0864P;
- An extension of time limitation for this final design of the replacement dwelling (07/0864P) was approved on 21 June 2010, under reference 10/1142M;
- **This permission, for a replacement dwelling on the site (*six bedroom house on three storeys with four storey tower*) remains extant until 21 June 2015.**

There is no other relevant planning history for the site.

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 Plan (January 2004).

Local Plan Policy:

The application site lies within 'Low Density Housing Area' in Prestbury, therefore the relevant Macclesfield Local Plan policies are considered to be: -

- Policy H4: Housing Sites in The Urban Areas;
- Policy H12: Low Density Housing Areas;
- Policy H13: Protection of Residential Areas;
- Policy BE1: Design Guidance;
- Policy NE11: Nature Conservation;
- Policy DC1: New Build;
- Policy DC3: Amenity;
- Policy DC6: Circulation and Access;
- Policy DC8: Landscaping;
- Policy DC9: Tree Protection;
- Policy DC38: Space, Light and Privacy; and
- Policy DC41: Infill Housing Development or Redevelopment.

It is noted that Policies H4, H13, BE1 and NE11 are not being saved within the Cheshire East Local Plan.

Cheshire East Local Plan Strategy – Submission Version (CELP)

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28 February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

Replacing MBLP policies H4, H13, BE1 and NE11 (CELP) policies CS8, CS9, CS10, CS11, SE1, SE3, SE12 and SD2, which are summarised below: -

- Policy SE1: sets out requirements for design;
- Policy SE3: which seeks to protect and enhance biodiversity and geodiversity;
- Policy SE12: Pollution and Unstable Land ensures that development protects amenity; and
- Policy SD2: sets out sustainable development principles.

Other Material Considerations

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight.

Supplementary Planning Documents:

Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- Prestbury Supplementary Planning Document - Prestbury Village Design Statement (adopted 2007).

CONSULTATIONS (External to Planning)

Highways: No objection.

Environmental Health: No objection subject to conditions.

United Utilities: No objection subject to conditions.

Public Rights of Way: No objections.

VIEWS OF THE PARISH / TOWN COUNCIL

Prestbury Parish Council:

The Parish Council would like to register an objection to this application on the grounds that this application is an; -

- Over-development of the site replacing one house with five flats, in a low density area (contravenes H12) which is already in an overdeveloped area;
- Adds to existing access problems onto Chelford Road; and
- The location of the balconies overlooking neighbouring properties which the neighbours have expressed concern about.

REPRESENTATIONS

The application has been duly advertised on site by the means of a site notice and six neighbouring properties have been written to directly.

Five letters of objections were received from four neighbouring residents and their comment can be summarised as follows: -

PRINCIPLE OF THE DEVELOPMENT:

- The site lies within an area covered by policy H12 – long regarded as protected Green Belt but subject to much development in Collar House Drive;
- This site is within a Low Density Housing Area (Policy H12). The proposal to demolish one house and build 5 flats thus increasing the human population and traffic five-fold would seem to infringe this policy;
- Policy H12 calls for low density housing in this area. Even though the development is intended to look like one very large house it is in fact 5 houses joined together as flats which sounds like a high density development;
- The developable area is considerable less than the 0.39Ha quoted in H13; and
- Accept that something obviously needs to be done with this plot, but a fifteen bedroom block would be overbearing on such a small steep site.

COMMENTS OF SUPPORTING DOCUMENTS:

- There has not been a service bus on Chelford Road since shortly after the WW2;

- Prestbury Park is a ring of bungalows at the nursing home, and is not opened to the public for walks. The nearest public park is over 1 km away; and
- The existing house comprises of three floors of occupation which include the roof space, not as well as a roof space as indicated by the applicant's architects.

HIGHWAY CONCERNS:

- Speeds are usually well in excess of 20 mph as stated in the supporting statement and are likely to increase now that the drive surface has been repaired;
- Know of at least three 'damage only' accidents rather than 'injury accidents';
- To replace one property with 4/5 flats could lead to an increase in numbers of people and vehicular movements and service traffic;
- There is room for only four visitor parking bays, so when the contract gardener's van and a couple of cleaner's cars are there, there will be little room for other visitors; and
- Who is going to bring the five wheelie bins up the very steep drive? Probably the maintenance man, whose van will occupy the last remaining visitor's space.

DESIGN & CHARACTER CONCERNS:

- It is consider the proposed building is overbearing, too high, too large and out of character to the rest of Collar House Drive and surrounding properties;
- The developer claims the ridge height of the proposed building is the same as the existing house. The new elevations submitted show no dimensions but certainly look significantly higher;
- The proposed building clearly has a footprint several times larger than the current house and the gaps to nearby buildings would be closed significantly; and
- The proposed building is 4 storeys high to the north elevation and will dominate the skyline from the southern aspect of gardens on Birchway and Rowanside.

AMENITY CONCERNS:

- The new building will from a high position and dominate the properties and gardens to the rear, particularly No 10. Birchway;
- The developer also suggests that the new building will be well screened by the existing trees. As the vast majority of these trees are deciduous, there will be little or no screening from autumn to spring;
- The proposed footprint of the building is approximately 2-3 times the existing dwelling and closer to the boundary of No. 9 Birchwood;
- The number of large windows and balconies to the north will result in significant overlooking and loss of privacy to me when the trees are not in leaf (May to November) to No. 9 Birchwood;
- The proposed building is 4 storeys high to the north elevation and will dominate the skyline from the southern aspect of No. 9 Birchway and others in Birchway and Rowanside;
- The proposal to fell conifers G1 (protected by TPO 39-036, 1994) will reduce the screening of this dwelling from the adjacent public footpath, which is a further reduction to the public amenity;
- Concerned about increased noise and vehicle exhaust from 10 vehicles plus visitors accessing the east entrance to the undercroft parking as this entrance is a few metres away from the much used public footpath running from Castleford Drive to Collar House Drive; and
- Welcome Environmental Health comments regarding working hours, but would request

that all contractor vehicles are accommodated within the site.

OTHER MATTERS:

- There is a restrictive covenant on Bolin Hey for the benefit of Wentworth Cottage. This covenant states not to construct on Bolin Hey for more than one single private dwelling for occupation of one family only. The previous owner of Bolin Hey is aware of this covenant and has previously been asked to release this and has been rejected.

DRAINAGE AND FLOODING ISSUES:

- The garden of No. 10 Birchwood suffers from severe service water flooding in 2013, will this application impact on that; and
- The sewer pipes from Collar House Drive run through 9 Birchwood and occasionally need to be cleared via a manhole. I am concerned about any increased load from this building into the sewer system.

A full copy of all the comments made by the local resident toward this application as summarised above, can be viewed on the electronic file on the Council's public access website.

APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted a Design and Access Statement, Transport Statement and Arboricultural Assessment, details of which can be read on file.

OFFICER APPRAISAL

The principle of the development:

The application site lies within the village envelope of Prestbury and is allocated as Predominantly Residential Area. The proposed dwelling also lies within a Low Density Housing Area (Policy H12) where particular attention should be given to scale, design and general impact of the dwelling on the area

The proposed site is considered as previously developed and to be in line with Policy H5 of the Local Plan and paragraph 14 of the NPPF as the site utilises a brown field site, within a recognised urban settlement in a sustainable location.

The planning history of this site demonstrates that the principle of the demolition of a single house and the erection of a large replacement dwelling is acceptable in principle.

However, there is no presumption that land that is previously developed is not necessarily suitable for housing development nor that the whole of the curtilage should be developed. Therefore, whilst the principle of residential development on this site is acceptable, development on this site should be assessed against any harm caused to the character or appearance of the area.

Part of Prestbury, including this site, has been defined as a Low Density Housing Area through Policy H12. The criteria in these areas, generally seek to maintain the existing character of that designated area. A development proposals and any remaining plot, should be

approximately 0.4 hectares. That being said, it is not considered that this policy precludes flatted developments in these areas in principle, provided the character is protected.

Policy H12 states that:

WITHIN THE LOW DENSITY HOUSING AREAS, DEFINED ON THE PROPOSALS MAP, NEW HOUSING DEVELOPMENT WILL NOT NORMALLY BE PERMITTED UNLESS THE FOLLOWING CRITERIA ARE MET:

- 1) THE PROPOSAL SHOULD BE SYMPATHETIC TO THE CHARACTER OF THE ESTABLISHED RESIDENTIAL AREA, PARTICULARLY TAKING INTO ACCOUNT THE PHYSICAL SCALE AND FORM OF NEW HOUSES AND VEHICULAR ACCESS;
- 1) THE PLOT WIDTH AND SPACE BETWEEN THE SIDES OF HOUSING SHOULD BE COMMENSURATE WITH THE SURROUNDING AREA;
- 2) THE EXISTING LOW DENSITY SHOULD NOT BE EXCEEDED IN ANY PARTICULAR AREA;
- 3) EXISTING HIGH STANDARDS OF SPACE, LIGHT AND PRIVACY SHOULD BE MAINTAINED;
- 4) EXISTING TREE AND GROUND COVER OF PUBLIC AMENITY VALUE SHOULD BE RETAINED.

AND

- 5) IN PRESTBURY BOTH THE NEW HOUSING PLOTS(S) AND THE REMAINING PLOT SHOULD BE APPROXIMATELY 0.4 HECTARES (1 ACRE)
- 6) IN THE EDGE, ALDERLEY EDGE, BOTH THE NEW HOUSING PLOT(S) AND THE REMAINING PLOT SHOULD BE APPROXIMATELY 0.3 HECTARES (0.7 ACRE)
- 7) IN POYNTON PARK, POYNTON
 - a) ALONG THE WEST SIDE OF ANGLESEY DRIVE, THE EXISTING REAR BUILDING LINE SHOULD BE MAINTAINED, AND
 - b) ALONG SOUTH PARK DRIVE, THE EXISTING FRONTAGE BUILDING LINE SHOULD BE MAINTAINED.

- 1) *The proposal should be sympathetic to the character of the established residential area, particularly taking into account the physical scale and form of new houses and vehicular access;*

The existing site slopes steeply from the Collar House Drive down to the stream below, across from which lie other dwellings of Rowanside and Birch Way. The existing dwelling is a split-level dwelling located centrally within the site, such that it is not prominent when viewed from Collar House Drive. The existing dwelling occupies three floors of accommodation, making use of the roof space. It is considered that the dwelling, while imposing has limited architectural quality.

The proposed layout follows the footprint of the original building and is not larger than the extent permission on the site. The geometry of the building shifts slightly to address the path of the sun and to minimise overshadowing of the site and is now positions squarely on the site.

The existing dwelling on the site measures approximately 15m by 18m and is 6.5m high at the front and 9 metres high at the rear. The extant permission is measures approximately 18m by 13m and is 9.75m high at the front and 12.25 metres high at the rear. The proposed dwelling measures approximately 20m by 19m and is 10.25m high at the front and 13 metres high at the rear.

Utilisation of the roof space mimics the accommodation arrangements of the current building and minimises the mass of the proposal on the site. Single storey balcony elements are largely orientated to the front elevation and again reduce the visual massing impact on the site.

Under croft basement car parking has been proposed. The advantage of this is that it makes use of the contours of the site to limit the scale and mass visible above ground. The ridge height of the extant permission has been maintained and is proportionate to surrounding properties, particularly at the boundaries.

The proposed layout maintains the use of the existing access onto Collar House Drive. Vehicles will largely will be hidden within the basement car parking so that they are not visible as part of the street scene. The basement car parking is contained within the footprint of the overall building and is accessed via the driveway from Collar House Drive.

Overall it is considered that the proposed apartment block, whilst larger than the existing dwelling on site, does not have a significantly greater mass or scale the extant permission on the site.

The principle of the design is such that the building appears as one large house, rather than presenting the huge mass of an ostentatious apartment block. The proposal offers five apartments over 3 stories, thus reflecting the scale of the existing and neighbouring dwellings.

Within the overall scale of the building, a number of building elements and balconies have also been used to break the scheme massing down visually. A variety of window details have been incorporated to form a visual hierarchy and form a sympathetic approach to its external appearance.

1) The plot width and space between the sides of housing should be commensurate with the surrounding area;

The existing dwelling is 4 metres (at its closest point) to the adjacent boundary of Meadowstream to the east. The existing dwelling is also 5.3 metres (at its closest point) to the boundary of No3, Collar House drive to the west.

The extant permission is 3 metres (at its closest point) to the adjacent boundary of Meadowstream to the east. The extant permission is also 4 metres (at its closest point) to the boundary of No3, Collar House drive to the west.

The application proposals are 3 metres (at its closest point) to the adjacent boundary of Meadowstream to the east. The extant permission is also 4 metres (at its closest point) to the boundary of No3, Collar House drive to the west.

2) *The existing low density should not be exceeded in any particular area;*

Clearly the application contains one dwelling and the extant permission is for one dwelling. 5 apartments on this site would increase the density of this site.

3) *Existing high standards of space, light and privacy should be maintained;*

A detail assessment of the amenity implications of the application proposals are reviewed later in this report.

4) *Existing tree and ground cover of public amenity value should be retained.*

Properties in this area are set within a mature landscape; this is particularly the case at the site where it has substantial, and dense, planting to the front, sides and rear. There is a variety of building styles in the area and it is considered that there is, therefore, no unifying design element in the area. The application proposals retain the existing trees cover and provide additional landscaping.

5) In Prestbury both the new housing plots(s) and the remaining plot should be approximately 0.4 hectares (1 acre)

The application site is approximately 0.39 hectares in size, therefore even with one dwelling, the site cannot accord with 0.4 hectares parameters stated in Policy H12.

The general intention of the Low Density Housing Policy addresses the sub-division of plots in this part of Prestbury, both host and that remaining being required to maintain the low density nature of the area. Whilst a flatted proposal on this site would increase the density within this area, it would largely reflect the footprint and massing of the extant permission. Overall it is considered that the scheme is in keeping with the previously accepted character of the areas and does not cumulatively harm the existing high quality residential areas.

Housing Land Supply:

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the 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 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.”

Appeal decisions in October 2013 concluded that the Council could not conclusively demonstrate a five year supply of deliverable housing land. This was founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013.

In response, in February 2013 published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31 December 2013. The approach taken to the Statement has been informed by policy requirements and by consultation with the Housing Market Partnership.

The Position Statement set out that the Borough's five year housing land requirement as 8,311. This was calculated using the 'Sedgefield' method of apportioning the past shortfall in housing supply across the first five years. It included a 5% buffer, which was considered appropriate in light of the Borough's past housing delivery performance and the historic imposition of a moratorium.

A standard formula of build rates and lead-in times was applied to most housing sites, unless more detailed site-specific information is available. Those considered deliverable within the five year supply were 'sense-checked' and assumptions altered to reflect the circumstances of the particular site. The Criticisms made of the yields from certain sites in the recent appeals, particularly those in the merging Local Plan, were also been taken on board.

Sources of supply included sites under construction; sites with full and outline planning permission; sites awaiting Section 106 Agreements; selected Strategic Sites which are included in the emerging Local Plan; sites in adopted Local Plans; and small sites. This approach accorded with the National Planning Policy Framework, existing guidance and the emerging National Planning Policy Guidance at that time.

A discount was been applied to small sites, and a windfall allowance included reflecting the applications which will come forward for delivery of small sites in years four and five.

A number of sites without planning permission were identified and could contribute to the supply if required. However, these sites were not relied upon for the five year supply.

The current deliverable supply of housing was therefore assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the 'Sedgefield' methodology and a 5% 'buffer' the Five Year Housing Land Supply Position Statement demonstrated that the Council has a 5.87 year housing land supply. If a 20% 'buffer' was applied, this reduced to 5.14 years supply.

Notwithstanding this, however, the recent appeal at Elworth Hall Farm, Sandbach (11 April 2014) determined that the Council had still not evidenced sufficiently the 5 year supply position, although the Inspector declined to indicate what he actually considered the actual supply figure to be.

Members should note, however, that the Elworth Hall Farm inquiry took place shortly after the publication of the Position Statement with only very limited time available to evidence the case. Since that time, the housing figures have been continuously refined as part of the preparation of evidence for further public inquiries which have taken place during March and April 2014 and are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 5.83 year housing land supply with a 5% buffer or 5.1 year housing land supply with a 20% buffer.

Following the release of the Planning Practice Guidance (PPG), which now proposes that Council's include development which falls into the C2 Use Class category (i.e. care homes, halls of residence etc.) when considering housing land supply figures, the requirement provisionally drops to 6,496 (due to increased delivery in previous years) and the supply is elevated to 10,514. This equates to 7.9 years supply.

At the time of the Elworth Hall Farm inquiry the PPG was only in draft form, and although the Inspector gave consideration to the potential contribution of C2 accommodation to supply, the full implications of its inclusion were not known at that stage. The Inspector considered that the Council had a record of under-delivery and expressed the view that a 20% buffer would be appropriate. However, the inclusion of the C2 consents takes away the suggestion of persistent under supply.

The Elworth Hall Farm inspector also criticised assumptions which the Council had made around build rates and lead in times, which he considered to be overly optimistic. In response Officers have been reworking the supply figures using longer lead in times, and on build rates which do not assume that on large sites there will be two or more developers except where there is the actual site specific evidence. Whilst this clearly reduces the overall supply, this is balanced out by the inclusion of the C2 permissions, and (subject to confirmation) the most recent figures still indicate that the Council can demonstrate a 5 year supply of housing land.

In the light of the above the Council considers that the objective of the framework to significantly boost the supply of housing is currently being met and accordingly there is no justification for a departure from Local Plan policies and policies within the Framework relating to housing land supply, settlement zone lines and open countryside in this area.

Additionally, the adverse impacts in terms of conflict of this proposal with the emerging draft strategy of releasing this site for housing development would, in the planning balance, outweigh the benefits of the proposal in terms of housing land supply, since the site is not relied upon with the emerging Core Strategy or the Assessed Housing land supply.

Therefore, the site is not required for the 5 year housing land supply plus buffer.

Highways Access, Parking, Servicing and Pedestrian Safety Issues:

The site is accessed from Collar House Drive. This is an unadopted road which is some 3.5 metres wide with no footways. It provides access to around 10 private dwellings and a large care home. Collar House Drive leads to Chelford Road.

The junction of Collar House Drive with Chelford Road has visibility of around 2.4 x 20 metres for a vehicle waiting to emerge from the junction although drivers approaching along Chelford Road have visibility of any vehicle waiting to emerge from Collar House Drive. Chelford Road has no footways or street lighting and a carriageway width of some 5 to 6 metres which varies along its length.

The site access currently has restricted visibility caused by overgrown vegetation on both sides of the access. This can be removed as part of the development proposals. Visibility of 2.4 by 22 metres would provide ideal visibility for traffic speeds of up to 20mph and the proposed access details provide visibility in excess of this requirement, with a minimum of 2.4 x 25 metres to the south and in excess of 30 metres to the north.

The access would be gated, with separate pedestrian and vehicle gates. These gates are shown to be set back a minimum of 7.0m from the carriageway of Collar House Drive and will allow a vehicle to wait clear of the road.

Car parking is to be provided at a rate of two spaces per apartment and four visitor spaces are included in the layout.

It is considered that given the large plot there are no internal highway concerns regarding the development, the visibility issues at the access point have been addressed in a revised plan where the visibility splays in both directions have been shown. The application proposes provided 200% parking available on the site

Although Collar House Drive is narrow the addition of four units in regards to the additional traffic would not produce a material impact. Additionally, although the junction at Chelford Road has limited visibility there have been no injury accidents recorded at this junction for the last five years and therefore it would very difficult to support a severe impact reason for refusal based on the usage of an additional four units

Therefore, The Strategic Highways Manager raises no objections to the application.

A Construction Management Plan condition is suggested to ensure that all construction traffic can be accommodated within the site.

Amenity issues

Policy DC3 seeks to prevent development which would cause a significant injury to amenity through issues such as overbearing impact, loss of light and loss of privacy. Policy H12 seeks to retain existing high standard of amenity in Low Density Housing Areas. Policy DC41 seeks to prevent the overlooking of existing private gardens in a housing redevelopment. Policy DC38 sets out the standards for space, light and privacy in new housing development.

More than adequate distances are maintained between the proposed building and nearby buildings to ensure adequate space and light. The key issue to consider is whether adequate privacy is maintained to the adjoining residential properties.

Although main window openings are orientated front and back, the proposed building does include windows and balconies on the side elevations which serve habitable rooms. Revised plans have been requested which will address the key overlooking concerns (with features such as balcony screens), and subject to those revisions it is considered that privacy will be adequately protected. Balcony elements are largely orientated to the front and rear elevations and again reduce the visual massing impact on the site.

The proposed apartments are positioned 55 metres from Collar House Drive. Policy DC38 requires a minimum distance of 28 metres from a three storey property to the front of other buildings containing habitable rooms. The occupiers of Wentworth Cottage and other properties facing Collar House would not suffer a material loss of privacy or overshadowing, having regard to that distance and the lower level of the proposed building.

The proposed apartments are positioned approximately 77 metres from Nos. 9 and 10 Birchwood. Policy DC38 requires a minimum distance of 39 metres from a four storey property to the back of other buildings containing habitable rooms. The occupiers of Nos. 9 and 10 Birchwood and other properties on Birchwood would not suffer a material loss of privacy, having regard to that distance and the existing landscaping. The views of the people inside these houses would be reduced significantly by that distance.

The residential apartment block is located 3 metres from the western boundary of the site. A property known as Meadowstream is located on this western boundary, in a similar position within its plot to the application site and it is located 5 metres from the side elevation of the proposed scheme.

The residential apartment block is located 4 metres from the eastern boundary of the site. No3. Collar House Drive is located on this eastern boundary. The block has a separation distance of some 15 metres at an oblique angle as No3 is located towards the front of the site.

It is not considered that and front or side windows on the ground floor will cause any loss of privacy to the adjacent properties.

Given the position of Meadowstream and the oblique angle to No3, there will be a minimal impact on potential overlooking from the two balconies on the first floor front elevation.

There is a dining room for each apartment that has a side window on the first floor. It has been agreed to change these to a high level window to minimise overlooking.

There are two small windows to a bedroom for each apartment on the first floor. It has been agreed to change the window to this bedroom for each apartment to a corner window to minimise overlooking.

Additional screening to the rear balconies on the first floor is proposed. Given the existing boundary treatments and the inter relationship with the adjacent properties is not considered that overlooking to the bottom of both adjacent properties would be significant.

A side window proposed for the lounge for the apartment on the second floor has been removed to minimise overlooking. Sufficient light will be gained to this room from the balcony to the front.

A side window to a utility room on the second floor would be obscured.

The two rear balconies for the second floor apartment have been amended to reduce the width so that overlooking sideways would be minimised. A screening of landscaping condition for these balconies is also considered.

The application site is in proximity to existing residential properties and whilst other legislation exists to restrict the noise impact from construction and demolition activities, this is not adequate to control all construction noise, which may have a detrimental impact on residential amenity in the area. A condition should be imposed to control hours of demolition and construction works in the interest of residential amenity. A condition should also be imposed in the event that piled foundations and floor floating are necessary. A condition to minimise dust emissions arising from demolition / construction activities is also suggested.

In respects of amenity, the proposal is fully compliant with policies DC3 and DC38. There is arguably a degree of conflict with policies H12 and DC41 due to a degree of potential overlooking from the side elevations into the garden areas of the adjoining properties. However, with the proposed revisions secured any levels of overlooking will be kept to a minimum. Sufficient distance, site screening and the extant permission are all considerations which make this proposal acceptable and the high standard of amenity presently enjoyed by occupiers of adjoining property will be adequately safeguarded in the future.

Arboricultural and Landscape implications:

The Council's Arboricultural Officer has raised no objections to the identified tree losses and the position of the proposed new apartments. Concerns were raised in relation to the visitor parking bays identified as bays 3 & 4 and the widened driveway may have a detrimental impact on the large mature protected Oak T3. However, a Method Statement for the construction of the driveway and parking bays that takes into account the topography of the land has been submitted and would be condition as part of any approval.

The council's arboricultural officer has raised no objections as the removal of the identified visibility splay vegetation retaining mature trees (except one which has recently failed). landscaping to the rear of the new splay should reflect the need for a specimen scheme.

The majority of the existing site is currently laid to lawn, with specimen plants of a modest, domestic scale which are to be largely retained. Due to the minimal amount of surface car parking, plus the retention of the existing driveway location, changes to the current site landscape will be minimal. The existing mature boundaries will be maintained. Landscape and boundary treatment conditions are suggested to ensure these provisions.

Ecological implications

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) maintenance of the favourable conservation status of the species and (iii) that the development is of overriding public interest. Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

Current case law instructs that if it is considered clear, or very likely, that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable “other imperative reasons of overriding public interest” then planning permission should be refused. Conversely if it seems that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

No evidence of roosting bats was recorded and the house subject to this application appears to have quite limited potential to support them. The Council's Ecologist has advised that roosting bats are unlikely to be present or affected by the proposed development and no further action is required in respect of this protected species.

Evidence of badger activity has been recorded on site however no sett was identified on or adjacent to the site. The Council's Ecologist has advised that the proposed development is unlikely to pose a significant risk to badgers. The submitted ecological survey report does however include some precautionary mitigation measures and so a condition is suggested to ensure that (during the construction process) all trenches and pits are to be covered overnight or fitted with ramps to allow any wildlife that inadvertently falls into them to exit.

There is a stream located on the northern boundary of the application site. The Council's Ecologist has recommended that in order to safeguard the stream, a condition is imposed to secure an 8 metre undeveloped bufferzone adjacent to the stream located on the northern boundary of the application site during construction.

A condition is also suggested to safeguard breeding birds and to ensure some additional provision is made for breeding birds on the site.

Drainage matters:

It is considered that the scheme will not adversely affected drainage in the area as a water supply can be provided. A condition is suggested to control surface water discharge matters, due to the presence of the stream to the rear of the site and due to the site's topography.

This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Permission would be required from United Utilities regarding connection to the water mains/public sewers therefore a planning condition would not be required. There is a public sewer that crosses site and this would need to be diverted before work would commence on site. A condition is suggested to control the drainage easement on the site.

Other material planning considerations:

The application proposals seek permission for five residential apartments; therefore this is no requirement for affordable housing, public open space or education provision.

A restrictive covenant is not a material consideration for the Local Planning Authority to take into account when considering a development proposal. Planning permission does not override the restrictive covenant in itself however, and neither is the granting of planning permission the dominant consideration for the Lands Tribunal, when assessing an application for the discharge or modification of a restrictive covenant Under Section 84 of the Law of Property Act 1925. Put simply, the relevance of a restrictive covenant in deliberations on a planning application is that, for all practical purposes, the existence or absence of a restrictive covenant is of no relevance whatsoever and must play no part in their decision making processes.

There is a public right of way that runs along the east boundary of the site. However this footpath is outside the ownership of the application site and the application proposal will not have an effect on this public right of way. An informative is suggested to be placed on any approval that informs the development of the protection of public rights of way.

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The Contaminated Land team has no objection to the above application as there is no history of contamination on the site. An informative is suggested to be imposed on any permission that requires the Local Planning Authority be informed immediately if any unforeseen contamination is encountered during the development.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The site is within the settlement boundary of Prestbury on previously developed land, in a sustainable location close to existing services, community facilities and public transport links.

At the heart of the National Planning Policy Framework is a **presumption in favour** of sustainable development. Paragraph 14 of NPPF states that decision takers should be approving development proposals that accord with the development plan without delay; and

- 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 this Framework taken as a whole
- The proposal accords with relevant policies of the Development Plan and therefore, should be approved without delay.

As such Members should only be considering a refusal of planning permission if the disbenefits of the scheme significantly and demonstrably outweigh the benefits of approval.

It is considered that in the specific circumstances of this case, objective argument can be made that this proposal (based on a division of the site area and the number of units of accommodation within a replacement building) reflecting a largely existing footprint and massing of an extant which maintains the space about it would comply with Local Plan Policies. Whilst a scheme of this nature does conflict with one criteria of policy H12 (existing density exceeded), an argument to support this scheme is forthcoming given the guidance contained in the NPPF regarding the presumption in favour of sustainable development.

* * * * *

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 Interim Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Northern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Application for Full Planning

RECOMMENDATION: Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A23MC - Details of ground levels to be submitted
4. A02EX - Submission of samples of building materials
5. A01TR - Tree retention
6. A02TR - Tree protection
7. A05TR - Arboricultural method statement
8. A07TR - Service / drainage layout
9. A02LS - Submission of landscaping scheme
10. A04LS - Landscaping (implementation)
11. A12LS - Landscaping to include details of boundary treatment
12. A08MC - Lighting details to be approved

- 13.A22GR - Protection from noise during construction (hours of construction)
- 14.A23GR - Pile Driving
- 15.A23GR_1 - Floor Floating Concrete
- 16.A30HA - Minimising Dust
- 17.A32HA - Construction Management Plan
- 18.A07HP - Parking Areas Laid Out
- 19.A08HA - Gates set back from footway/carriageway
- 20.A04HP - Provision bin storage of cycle parking
- 21.A04NC - Details of drainage
- 22.A06NC - Protection for breeding birds
- 23.all trenches and pits are to be covered overnight
- 24.8m bufferzone adjacent to the stream

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