

Application No: 14/0616C

Location: Land Off Brook Street Phase 2, BROOK STREET, CONGLETON, CHESHIRE

Proposal: Proposed residential development of 16 no dwellings to vacant land north of Brook Street, Congleton. Proposed development is an extension to the existing approved scheme which has been designed to facilitate future access.

Applicant: Mrs Nichola Burns, Morris Homes North Ltd

Expiry Date: 12-May-2014

#### **SUMMARY:**

The proposed development seeks to utilise a previously developed site within the settlement zone line for Congleton and therefore benefits from a presumption in favour of development under local plan policy PS4 which is further supported by para 14 of the NPPF which aims to deliver sustainable development . Whilst the proposals would result in the loss of an employment site, it has been demonstrated that the site is no longer suitable for economic use and owing to cost of remediating the site, it has been demonstrated that the site can only bear a reduced quantum of affordable housing (2 units) with no other financial commitments.

The proposal would be acceptable in design and landscape terms and as such the scheme would not harm the character or visual amenity of the area. There would be no adverse impact on trees or wildlife habitats subject to enhanced wildlife and habitat creation as part of the scheme and retention of an existing building (The Wheelhouse).

The proposal would not materially harm neighbouring residential amenity and would provide sufficient amenity for the new occupants. The applicants have demonstrated general compliance with national, regional and local guidance in a range of areas including design, flood risk, ecology and highway safety and the application is therefore recommended for approval.

#### **RECOMMENDATION:**

APPROVE subject to conditions and S106 Agreement

## **PROPOSAL:**

Full planning permission is sought for the erection of 16 dwellings on land to the north of Brook Street / Mill Street in Congleton. The scheme comprises the second phase of development to a scheme for 54 units which is nearing completion.

## **SITE DESCRIPTION:**

The application site is located within Buglawton, in close proximity to Congleton Town Centre. The site comprises 1.6 ha of partly previously developed land. The Dane-in-Shaw Brook runs along the southern boundary of the site before merging with the River Dane, which travels along the western and northern boundaries of the site.

The site hosts a large number of trees, the majority of which line the banks of the River Dane and Dane-in-Shaw Brook. Pedestrian and vehicular access to the site can be gained from Mill Street.

The surrounding area is characterised by long established industrial uses to the north and east, by residential to the south (including phase 1 of the development) and Congleton Park to the west although this is separated from the site by the River Dane. Small pockets of existing residential development do exist to the southeast along Bridge Row and Mill Street.

Due to the site's proximity to both the River Dane and the Dane-in-Shaw Brook the site is identified, to varying degrees, within flood risk zones 2 and 3.

## **RELEVANT HISTORY:**

08/1236/OUT - Outline application for residential development, close care/retirement units and care home with access sought for approval at the outline stage – Resolved to Approve subject to conditions and S106 agreement (2<sup>nd</sup> February 2011)

12/0410C - Residential Development off Brook Street, Congleton for 54 no. Residential Dwellings With Public Open Space And A New Footbridge Crossing Over River Dane To Congleton Park – Approved subject to conditions and S106 agreement (27<sup>th</sup> August 2013)

## **NATIONAL & LOCAL POLICY**

### **National Policy:**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 7, 14, 17, 34, 47, 49, 55 and 173.

### **Development Plan:**

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review (2005), which allocates the site within the settlement boundary of Congleton under Policy PS4.

The relevant Saved Policies are: -

PS4	Towns
GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR14	Cycling Measures
GR17	Car Parking
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
H2	Provision of New Housing Development
H4	Residential Development in Towns
H13	H13 Affordable and Low Cost Housing
NR1	Trees & Woodland
NR2	Wildlife & Nature Conservation
NR3	Habitats
NR4	Non-Statutory Sites
SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments

The relevant saved Local Plan policies are consistent with the NPPF and should be given full weight.

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy:

Policy SD 1 Sustainable Development in Cheshire East  
Policy SD 2 Sustainable Development Principles  
Policy SE 1 Design  
Policy SE 3 Biodiversity and Geodiversity  
Policy SE 5 Trees, Hedgerows and Woodland  
Policy SE 9 Energy Efficient Development  
Policy IN 1 Infrastructure  
Policy IN 2 Developer Contributions  
Policy PG 1 Overall Development Strategy  
Policy PG 2 Settlement Hierarchy  
Policy SC 4 Residential Mix

### **Supplementary Planning Documents:**

Interim Planning Statement: Affordable Housing (Feb 2011)

## **CONSULTATIONS:**

### **Environmental Health:**

No objection to the proposed development on the grounds of contamination, noise or air quality subject to the imposition of a number of conditions.

### **Highways:**

No comments received.

### **Green Spaces (Ansa: Environmental Operations):**

There has been found to be a surplus in the quantity of provision for Children and Young Person's Provision accessible to the proposed development. However, a qualitative deficit has been identified giving the opportunity to enhance and upgrade facilities in Congleton Park to increase its capacity and cater for a wider range of age groups. The financial contributions sought from the developer are;

Enhanced Provision: £ 6,409.90

Maintenance: £ 20,895.00

The response identified a surplus of amenity Greenspace within the area and advised that the provision of on-site Greenspace was therefore unnecessary. However, they also noted that the proposed POS formed an important part of the strategy to ensure flood protection for the site.

### **Education:**

No contribution is required as there is sufficient provision

### **United Utilities:**

No objection provided that the proposed development is drained on a separate system with only foul drainage connected to the main sewer. UU also noted that existing sewers run across the site which would need to be either diverted or protected by an easement.

### **Environment Agency:**

No objection to the development subject to the imposition of conditions. They advise that they are satisfied that the applicants have successfully demonstrated the site can be given an adequate level of protection from fluvial flood risk associated with the River Dane and Dane-in-Shaw Brook.

### **Natural England:**

No objection, but advise that consideration should be given to the incorporation of features within the scheme which are beneficial to biodiversity.

### **Cheshire Fire & Rescue:**

No objection provided development complies with building regulations and provided further advice regarding fire hydrants and carrying out a fire risk assessment.

## **VIEWS OF THE CONGLETON TOWN COUNCIL**

No objection

**REPRESENTATIONS:**

None received.

**APPRAISAL:**

The key issues are:

Principle of Development  
Housing Land Supply  
Loss of Employment Land  
Affordable Housing  
Viability and Deliverability  
Design & Layout  
Highways  
Drainage and Flood Risk  
Trees and Landscaping  
Ecology  
Public Open Space Provision  
Residential Amenity  
Environmental Health Considerations

**Principle of Development**

The principle of residential development on the site has been accepted previously by the council's resolution to approve an outline application for 'residential development, close care/retirement units and care home with access' (planning ref; 08/1236/OUT). Planning permission has already been granted and partly implemented for the erection of 54 no. residential units under planning ref; 12/0410C.

This application seeks full planning permission for the erection of a further 16 no dwellings as part of a second phase. This second phase would replace the close care/retirement units and care home that were initially put forward under the outline proposals.

Notwithstanding the previous resolution, as a site within the settlement zone line for Congleton, the principle of residential development on the site is acceptable under local plan policy PS4 subject to other material considerations. The applicants must address a host of other issues including demonstrating that the development is appropriate in design terms, that loss of employment land would avoid detrimental impact to the local economy and that the site can be adequately protected against flood risk.

The proposals seek to utilise previously developed land, inside the settlement zone and in close proximity to Congleton Town Centre which offers a good range of shops and services and transport links. Further, the delivery of a footbridge linking the adjoining development to Congleton Park provides a direct pedestrian link to such services and facilities as well as recreational provision.

On that basis, the application performs well in terms of locational sustainability and adheres with para 14 of the National Planning Policy Framework (NPPF), which states that at the

heart of the framework there is 'a presumption in favour of sustainable development'. It goes on to state that proposals that accord with relevant policy should be approved without delay 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'.

Further, the NPPF reiterates the requirement to maintain a 5 year rolling supply of housing in order to significantly boost the supply of housing. This proposal would help to deliver an additional 23 no. dwellings within the plan period in a sustainable location within the settlement boundary of one of the Key Service Centres for the Borough. Further, the proposal would utilise partly 'previously developed land' which is supported by one of the core principles of the NPPF, which states that Local Planning Authorities 'encourage the effective use of land by reusing land that has been previously developed'.

Whilst the proposal would result in the development of land that was previously in employment use, it has already been demonstrated and accepted that this vacant site is no longer suitable for employment uses and in its present form represents inefficient use of land. As such, the scheme is found to comply with Local Plan Policy E10.

This advice is largely supported by the relevant Local Plan Policies contained within the Congleton Borough Local Plan as well as the emerging Cheshire East Local Plan Strategy Submission Version. Thus, subject to compliance with other material planning considerations, the principle of the development is considered to be acceptable.

### **Affordable Housing**

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population of more than 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size.

The IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

The application includes an undertaking for the provision of 16 homes within the site of which only 12.5% (2 units) would be affordable. The tenure split being offered is 50% social rent and 50% intermediate tenure housing.

The Housing Manager has stated that the proposal does not provide the required level of affordable housing. The level to be provided would be 5 units short of the 7 required. However, the Housing Manager has stated that they would be satisfied with this level of provision provided that there are genuine viability issues and consequently, the applicant has submitted a detailed viability assessment.

### **Viability and Deliverability**

The applicants state that the site is subject to a number of abnormal costs and as such, the application is subject to a financial viability appraisal. The abnormal costs identified within the financial viability report are surface/foul water drainage, bridge construction, site clearance, foundations, remediation and demolition.

Whilst it is clearly unfortunate that a higher level of affordable provision and public open space contributions cannot be secured in accordance with the usual requirements, policy H13 and the Interim Housing Policy and Public Open Space Policy do advise that the Council will consider the economics of provision when assessing affordable housing provision.

Furthermore, the guidance contained within 'Planning for Growth' and National Planning Policy Framework (para 173) makes it clear that Councils will be expected to consider the impact of planning obligations on the viability and deliverability of development and that such issues amount to important considerations. The NPPF states that:

*"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*

The reports submitted to support the applicant's case have been prepared on behalf of DTZ. The reports reach the conclusion that the site abnormal costs and the assumed Gross Development Value would be such that in order to achieve a 20% increase over and above the existing use value, they cannot realistically provide any affordable units and no other financial commitments to reflect the minimum enhancement a landowner would reasonably expect to release the land for much needed housing.

The Council's Financial Viability Consultant has confirmed that on the whole, the figures contained within the updated Viability Appraisal are considered to be reasonable. However, the Consultant has confirmed that whilst the development cannot bear the expected quantum of affordable housing and any other commuted sums usually expected by policy, the scheme can support 12.5% affordable housing provision (2 affordable units).

This figure reflects the accepted industry standard of 17.5% - 20%, a figure used within the majority of viability models and which is supported by the guidance published by the Homes and Community Agency. Without such reduction, pressure would be placed on other positive planning benefits such as the provision of much needed sustainable housing making use of land which is presently in inefficient use.

Provided that the developers and the Registered Social Landlord chosen to manage the affordable units enter into a Section 106 Agreement securing the provision and retention of the affordable housing, it is considered that this renders the proposal acceptable in terms of the provision of affordable housing.

### **Public Open Space Provision**

The Greenspaces section have confirmed that the site has access to a sufficient level of amenity Greenspace but that the upgrade of the existing play equipment at Congleton Park

as well as a financial contribution towards its future maintenance would be desirable. However, such comments were based on an earlier scheme for 23 units. This amended scheme is only for 16. The trigger for considering public open space provision is for 15 units and therefore only exceeded by 1 unit on this scheme. Owing to the abnormal site costs, viability and deliverability issues identified, it is not considered that this scheme can support such provision.

## **Design Considerations**

The proposal offers an attractive layout focusing on an area of open space, which would provide an attractive outlook over soft landscaping and views over the River Dane. The site would serve to continue the development to the south (Phase 1) by continuing the access limb into the site across the Dane-in-Shaw Brook which separates both sites.

In general terms, this proposed layout would encourage views to terminate on active frontages and would reduce the need for long stretches of blank boundary walls except on the private side of the development.

The house types would vary in terms of their architectural detail but would all be of a similar character and style and would serve as a welcome continuation of the development to the south. The units positioned towards the north of the site would be larger detached units to help assist with the transition with the areas of open space and views across to Congleton Park to the north and the west.

Overall, the proposed development would complete the development of this part of Congleton. As the surrounding development is mixed in terms of its design and style, the proposal would not materially harm the character or appearance of the area and would be acceptable as viewed from the adjacent River Dane and Dane-in Shaw-Brook. This is subject to the use of good quality materials, and high quality boundary treatments. The scheme is therefore deemed to comply with local plan policy GR2.

## **Trees and Landscape**

The site has no landscape designations. Housing development on this site would obviously change the character of the site itself; however, given the context and the prominence of urban development adjacent to the site it is not considered that the proposal would not have any significant impacts on the character of the wider landscape or have any significant adverse visual impacts.

The submission includes a tree survey and arboricultural implications assessment and method statement with proposed tree protection measures. The report acknowledges that the high proportion of tree coverage on this site will result in some degree of tree loss to facilitate any future development. It suggests that foremost consideration should be given to the retention of riverline trees along the waterways which are viewed as visually and ecologically important to the local landscape, perform specific screening functions and are largely irreplaceable in the short to mid-term. The report states that their incorporation into future development will serve to provide an immediate sense of maturity and increased amenity. As such, subject to protection measures and a detailed landscaping scheme, which can be secured by condition, there are no landscape or tree issues.



## **Highways**

The Head of Strategic Infrastructure (HSI - Highways) has not commented on this application. However, the application will be served by continuing the spinal road into the site from the recently constructed development to the south. This proposal would utilise the existing access serving the adjoining development which is taken directly off Brook Street. The said access that has been created for the Phase 1 scheme but additionally has been designed and constructed to accommodate the vehicle movements associated with this development also, which was assessed when it was resolved to approve the original outline scheme ref; 08/1236/OUT. Sufficient parking would be provided for each unit. As such, the scheme is deemed compliant with Local Plan Policy GR9.

## **Ecology**

The ecological assessment of the site concluded that the range of habitats across the site is of low diversity. There are a number of areas that contain invasive species such as Japanese knotweed, Himalayan balsam, which will require a method statement for removal. During an earlier survey in 2008, a bat roost was identified within a derelict wheel house building to the north of the site in 2008. As such, it has been recommended that the wheel house either be retained or a new roost constructed. At present the proposals show the retention of the wheel house with the demolition of the adjoining buildings.

Evidence of otter has been found adjacent to the wheel house (spraint and resting place). In accordance with the ecologists recommended mitigation measures, this area must be avoided and a stock-proof fence erected to prevent access. Accordingly, subject to such provisions including retention of the wheelhouse, which could be secured by condition, it is considered that the proposed development would not harm species protected under the Wildlife and Countryside Act 1981.

Two non native invasive plant species, Japanese Knotweed and Himalayan Balsam are present on site. It is recommended that if planning consent is granted a planning condition is attached requiring the submission of a method statement detailing proposals for the eradication of these two species.

Subject to these recommendations being implemented, the requirements of local plan policy NR2, NPPF and the EC Habitats Directive are satisfied.

## **Residential Amenity**

In respect of the residential amenities afforded to neighbouring properties (including those on Bridge Row and those within phase 1 of the development to the south), the proposals would achieve the minimum interface distances advised within SPG2. The scheme would not give rise to any direct overlooking or significant loss of sunlight or daylight to these neighbouring properties.

With regard to the amenities of the occupiers of the proposed units, the dwellings have been configured and arranged so as to ensure that there is no direct overlooking of principal windows, overshadowing, or visual intrusion. Each dwelling unit would benefit from its own

rear garden and it is considered that the amenity space provided as part of the development would be acceptable for the size of units proposed. Subject to the removal of permitted development rights, the proposal is found to be acceptable in terms of residential amenity.

### **S106 contributions Levy (CIL) Regulations:**

Policy GR19 of the Local Plan advises that the Local Planning Authority may impose conditions and/or seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It is advised that such provision may include on site facilities, off site facilities or the payment of a commuted sum.

Policy IN1 of the Cheshire East Local Plan Strategy – Submission Version, advises that the Local Planning Authority should work in a co-ordinated manner to secure funding and delivery of physical, social, community, environmental and any other infrastructure required to support development and regeneration.

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

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

The Council's Strategic Housing Officer, has advised that the proposed development will need to address a need for affordable housing by providing 7 units on site. Without such, the scheme would exacerbate the need for affordable housing. However, as discussed, this development can only bear the provision of 2 affordable units. This is necessary to help meet an identified need, and is directly and reasonably related to the scale of development.

### **Planning Balance & Conclusions**

The proposed development seeks to utilise a previously developed site within the settlement zone line for Congleton and therefore benefits from a presumption in favour of development under local plan policy PS4 which is further supported by para 14 of the NPPF which aims to deliver sustainable development. Whilst the proposals would result in the loss of an employment site, it has been demonstrated that the site is no longer suitable for economic use and owing to cost of remediating the site, it has been demonstrated that the site can only bear a reduced quantum of affordable housing (2 units) with no other financial commitments.

The proposal would be acceptable in design and landscape terms and as such the scheme would not harm the character or visual amenity of the area. There would be no adverse impact on trees or wildlife habitats subject to enhanced wildlife and habitat creation as part of the scheme and retention of an existing building (The Wheelhouse).

The proposal would not materially harm neighbouring residential amenity and would provide sufficient amenity for the new occupants. The applicants have demonstrated general compliance with national, regional and local guidance in a range of areas including design,

flood risk, ecology and highway safety and the application is therefore recommended for approval.

On the basis of the above, it is considered that the proposal is acceptable subject to the imposition of appropriate conditions and the necessary Section 106 contributions.

## **RECOMMENDATION**

**APPROVE subject S106 Agreement making provision for:**

**Affordable Housing comprising:**

- **2 units on site 1 for social rented and 1 for shared ownership**

\* \* \* \* \*

**In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Planning and Enforcement Manager, in consultation with the Chair (or in his absence the Vice Chair) of Northern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.**

**Should this application be the subject of an appeal, authority be delegated to the Planning and Enforcement Manager in consultation with the Chairman of the Northern Planning Committee 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.**

Application for Full Planning

**RECOMMENDATION: Approve subject to a Section 106 Agreement and the following conditions**

1. Standard time limit 3 years
2. Development in accordance with submitted plans
3. Hours of construction restriction – construction including delivery vehicles.
4. Hours restriction - piling activity
5. Updated Contaminated land Phase 1 to be submitted
6. Landscape scheme and Management Plan to be submitted
7. Landscaping to include native species for ecological value
8. Implementation of landscaping
9. Survey for breeding birds and protection during breeding season
10. Incorporation of features into the scheme suitable for use by breeding birds
11. Incorporation of features into the scheme suitable for use by bats

12. Submission/approval and implementation of a programme of remedial works to retained trees
13. Levels to be submitted
14. Materials to be submitted to and approved
15. Detailed scheme for dust mitigation during demolition and construction
16. Details of external lighting strategy to be submitted and agreed
17. Retention of Wheel House Building
18. Detailed Tree Protection Scheme to be submitted, agreed and fully implemented
19. Scheme for watercourse protection during construction including 8m buffer strip and wildlife corridor to be retained
20. Development to be carried out in accordance with Flood Risk Assessment
21. Site Waste Management Plan to be submitted and agreed
22. Precise details of all boundary treatments within the site to be agreed to include public open space and riverside areas or footpaths
23. Method statement detailing proposals for the eradication of Japanese Knotweed and Himalayan Balsam
24. Details of bin storage to be submitted to and approved
25. Removal of PD classes A-E



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