

Application No: 14/4938C

Location: LAND WEST OF GOLDFINCH CLOSE, CONGLETON, CHESHIRE

Proposal: Outline application for erection of up to 220 dwellings, access, open space and associated landscaping and infrastructure- resubmission of 13/3517C

Applicant: Seddon Homes Limited

Expiry Date: 16-Feb-2015

SUMMARY:

The proposal is contrary to development plan policies PS8 (Open Countryside) and GR5 (Landscape) therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration in this case is the NPPF which states at paragraph 49 that 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 and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development

It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes "sustainable development" in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case, the development would provide market and affordable housing to meet an acknowledged shortfall. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

The proposed development would provide a safe access and the development site from the existing streets in Goldfinch Close and the Moorings. In terms of Ecology, the development would not have a detrimental impact upon the conservation status of protected species. There would be an adequate level of POS on site together with a LEAP which would require 5 pieces of equipment to comply with policy.

Subject to a suitable Section 106 package, the proposed development would provide adequate public open space, the necessary affordable housing requirements, monies towards the future provision of primary school education over and above the existing 80 units that have an extant permission on this site and the requirement for the future maintenance of the open space and playspace on site

The proposal is considered to be acceptable in terms of its impact upon residential amenity and drainage/flooding. Conditions could be imposed to ensure this. It therefore complies with the relevant local plan policy requirements for residential environments.

Whilst the site does not meet all the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be locationally sustainable. The Inspector accepted the site to be generally sustainable.

Balanced against these benefits must be the loss of a significant area of best and most versatile agricultural land. All of the site will be lost from agriculture, whether built upon or subject to open space. However, much of Cheshire East comprises best and most versatile land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, previous Inspectors have attached very limited weight to this issue in the overall planning balance.

Previous highways and urban design concerns have now been resolved and can be addressed through appropriate conditions and contributions, and it is no longer considered that these provide sustainable reasons for refusal.

It is also necessary to consider the negative effects of this incursion into Open Countryside by built development particularly given the concerns over the landscape impact. However, the change in the housing land supply position and the uplift in housing numbers to 36,000 significantly alters the way in which this should be viewed in the overall planning balance. It is not considered that in this case there is sufficient, either individually or when taken cumulatively with the other negative aspects of the scheme to be sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.

On the basis of the above, it is considered that the proposal represents sustainable development and paragraph 14 is engaged. Furthermore, applying the tests within paragraph 14 it is considered that the adverse effects of the scheme are significantly and demonstrably outweighed by the benefits. Accordingly it is recommended for approval subject to a legal agreement and conditions.

SUMMARY RECOMMENDATION:

APPROVE subject to conditions and Section 106 Agreement.

PROPOSAL:

This application seeks outline planning permission with all matters reserved except for access, for:

“The erection of up to 220 dwellings, access, open space, and associated landscaping and infrastructure”.

Although detailed consideration is limited at this stage to means of access, the proposal seeks agreement in principle for residential development, including up to 30% affordable housing, with associated parking, open space and infrastructure.

Planning permission for up to 230 dwellings on the same site was refused on 16 May 2014 (Application reference: 13/3517C). This application addresses those reasons for refusal.

Indicative information has been provided in respect of the scale, layout, landscaping and general appearance of the development but at this stage, consideration of detail is limited to the proposed means of access.

The application proposes a comprehensive development of up to 220 dwellings including up to 66 affordable homes (30%). However, within the application site sits two parcels of land, known as 'Land off The Moorings' and 'Land off Goldfinch Close and Kestrel Close', which already benefit from outline planning permission for up to 80 dwellings, which was granted on appeal.

This application therefore seeks planning permission for the additional 140 homes only (as 80 already have planning permission), bringing the total number of houses to be delivered on the site to 220.

An indicative mix of property types and sizes has been included within the submitted Design and Access Statement and on the indicative site layout, which includes the two parcels of land that already benefit from outline planning permission. The detailed design of the proposed development will be addressed at the reserved matters stage.

SITE DESCRIPTION:

The application site is some 13.72 hectares of land to the east of Goldfinch Close and Kestrel Close, the Moorings, south of Lamberts Lane and the north of Howey Lane, wrapping around the cemetery. The application is submitted with the access points submitted at this stage (via Goldfinch and Kestrel Close and the Moorings) but with all other matters reserved for future determination.

This application is accompanied by an Environmental Impact Assessment.

The application site is surrounded by open countryside to the north, south and west and by residential properties to the east, with Goldfinch Close and Chaffinch Close forming cul de sacs adjacent to the eastern boundary of the site, both roads lead to Canal Road further to the east. To the south, Lambert Lane (Bridleway 1, Congleton), a bridleway track that emerges from Canal Road further to the east in the southern urban part of Congleton and crosses over the Macclesfield Canal Conservation Area before finally emerging at Fol Hollow, just to the south of Astbury Mere to the west, a total distance of just under two kilometres; apart from a short section through the urban outskirts of Congleton to the east, almost the whole of the route is located within open countryside. Lambert's Lane also links into the wider footpath network that extends into the wider countryside.

The site has a network of existing hedgerows and trees and agricultural fields, of greater or lesser use (the area directly to the rear of Goldfinch/Kestrel Close has been left to nature and

has become overgrown, although the other parts of the site have agricultural appearance and have been used as such during the time that Officers have been visiting the sites.

RELEVANT HISTORY:

12/3025C - Land off Goldfinch Close and Kestrel Close, Congleton

Outline permission granted on appeal 3 February 2014 for erection of up to 40 dwellings, open space, associated landscaping, infrastructure and access

12/3028C - Land off The Moorings, Congleton

Outline Permission Granted on Appeal 3 February 2014 for erection of up to 40 dwellings, open space, associated landscaping, infrastructure and access

13/3517C - Land West of Goldfinch Close, Congleton, Cheshire

Planning permission for up to 230 dwellings on the same site was refused on 16 May 2014. Appealed scheduled for September 2015. The initial housing land supply reason was removed at SPB in February 2015, so the remaining reasons subject to the appeal are as follows:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance.*
- 2. The proposal would result in loss of the best and most versatile agricultural land. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.*
- 3. The proposed residential development, by virtue of the adverse impact that the proposals would have on the local landscape character within a historic finger of countryside close to the town centre and failing to recognise the intrinsic character and beauty of this site is contrary to Policies GR5, GR3 of the Congleton Borough Adopted Local Plan First Review 2005 and policies SE4, SE5 and SE6 of the emerging Cheshire East Local Plan Strategy – Submission Version and the provisions of Paragraph 17 of the National Planning Policy Framework.*
- 4. The proposal, by virtue of the increased activity and traffic would lead to severe highways harm, at the junction of High Street/Lawton Street and Albert Place where no further capacity exists, furthermore insufficient information concerning mitigation for impacts elsewhere upon the network has been submitted. Accordingly the proposal would be detrimental to the safe operation of the public highway contrary to Policies GR9 of the adopted Congleton Borough Local Plan First Review 2005, result in severe harm contrary to Paragraph 32 of the NPPF and contrary to Policy CO1 of the Cheshire East Local Plan Strategy – Submission Version.*

NATIONAL & LOCAL POLICY

National Policy

National Planning Policy Framework

Local Plan policy

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).

Policies in the Local Plan

PS3	Settlement Hierarchy
PS6	Settlements in Open Countryside
PS8	Open Countryside
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
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
GR23	Provision of Services and Facilities
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
NR1	Trees & Woodland
NR4	Nature Conservation (Non Statutory Sites)
NR5	Maximising opportunities to enhance nature conservation

National Policy

National Planning Policy Framework

Other Material Policy Considerations

Interim Planning Statement: Affordable Housing (Feb 2011)
Strategic Market Housing Assessment (SHMA)
Strategic Housing Land Availability Assessment (SHLAA)
North West Sustainability Checklist
Article 12 (1) of the EC Habitats Directive
The Conservation of Habitats and Species Regulations 2010.

Cheshire East Local Plan Strategy – Submission Version

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

PG2 – Settlement Hierarchy
PG3 – Proposed Green Belt
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC3 – Health and Wellbeing
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 - Design
SE2 - Efficient Use of Land
SE3 – Biodiversity and Geodiversity
SE4 - The Landscape
SE5 – Trees, Hedgerows and Woodland
SE9 –Energy Efficient Development
IN1 - Infrastructure
IN2 – Developer Contributions

CONSULTATIONS:

United Utilities - no objection to the proposed development provided that conditions are attached to any approval requiring a scheme for the disposal of foul and surface waters for the entire site to be submitted and approved. Surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems.

Highways – No objection subject to:

- Travel Plan to be submitted prior to occupation
- Highway Improvements to be constructed prior to occupation
- Construction Management Plan
- Provision of 2No. Quality Bus Stops

County Archeologist: No objection is raised subject to a condition that the site should be subject to a scheme of archaeological mitigation in the form of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Rights of Way: The development is to affect **Public Bridleway No.4 Congleton**, as recorded on the Definitive Map of Public Rights of Way held at this office. The development is also adjacent to **Bridleway No.1 Congleton**.

Please note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights of way exist which have not been recorded, and of which we are not aware. There is also a possibility that higher rights than those recorded may exist over routes shown as public footpaths and bridleways.

The PROW Unit expects that the Planning department will ensure that any planning conditions concerning the right of way are fully complied with. In addition, the normal advisory notes should be added to the planning consent to ensure there is no obstruction of the PROW.

NHS - NHSE and other health stakeholders will identify a schedule of capital projects in the emerging strategic health infrastructure delivery plan. This will recognise the impact of committed housing sites and strategic sites allocated in the Cheshire East Council Local Plan Strategy and are subject to necessary developer financial contributions which are fairly related to the direct impact of each development on health infrastructure in the Congleton locality.

This application relates to additional developments on unallocated sites which will further impact on health infrastructure.

Should this application be approved, mitigation of these significant and substantial impacts are requested through a financial contribution towards healthcare infrastructure provision in this locality through an appropriate planning agreement, which is currently understood to be Section 106 Town and Country Planning Act 1990.

This is currently estimated at a minimum cost of additional health infrastructure solely for the application site of £223,000 and minimum developer contribution towards such costs of £145,000 which excludes the cost impact relating to the 80 houses previously approved.

Environment Agency: no objection in principle to the proposed development but we would like to make the following comments.

Flood Risk

The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. In the first instance percolation tests should be undertaken in order to confirm whether surface water may be disposed of via infiltration. If surface water is to be disposed of via watercourse, and a single rate of discharge is proposed, this is to be the mean annual runoff (Q_{bar}) from the existing undeveloped greenfield site. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.

The submitted Flood Risk Assessment (FRA) and Drainage Assessment prepared by Atkinson Peck (both dated April 2013, ref: JSD/C15639) suggest that surface water may be discharged to the ordinary watercourse located in the north of the site post development. As recommended in paragraph 13.6.6 of the FRA, this should be investigated further to determine the route, condition and outfall of the watercourse and subsequently the suitability of this watercourse for the disposal of surface water from the developed site.

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. As such we request that the following planning condition is attached to any approval as set out below.

- scheme to limit the surface water runoff generated by the proposed development,

- a scheme to manage the risk of flooding from overland flow of surface water,
- a scheme for the provision and management of an undeveloped buffer zone (at least 5 metres wide) between the watercourse running through the site (from south to north) and any built development

Flood Risk Manager: No objection in principle on flood risk grounds to the proposed development, the site has implications for a number of main and non main (ordinary) watercourses and culverts within the identified site boundary and/or in the immediate proximity to the site as identified in the Flood Risk Assessment (FRA) and Drainage Assessment prepared by Atkinson Peck, reference JSD/C15639 dated April 2013.

Any proposed surface water discharges from this site must be limited to the undeveloped greenfield equivalents to mimic current surface water runoff and discharges from the site and taking account of soil permeability established from detailed site investigation. Discharges above this allowable rate must be safely attenuated to the 1% or 1 in 100 year annual probability event including current allowances for climate change.

Any proposed discharges to statutory Main River will require approval and consent from the Environment Agency under Water Resources Act 1991. Surface water discharges to any other non main river (ordinary) watercourses will require approval from Cheshire East Council as a Lead Local Flood Authority. The applicant will be required to demonstrate that any proposed discharges will not exacerbate flood risk in receiving watercourses and discharges may be subject to formal consent under Land Drainage Act 1991. Concurs with the required conditions suggested by the Environment Agency.

Education: Confirm that no contribution is required from this application.

Environmental Health: Suggest Conditions in relation to hours of operation, environmental management plan, external lighting, noise mitigation measures (to protect future residents from noise from the public house), travel plan, dust control and contaminated land (phase I report).

In terms of air quality, after initially recommending refusal on grounds of insufficient information, following the receipt of updated information conditions are requested in terms of electric car charging points and travel planning and dust mitigation during construction.

Natural England: The site is located close to the Dane in Shaw Pasture Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application

Public Open Space:

Amenity Greenspace

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficit 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. Based on the Council's Guidance Note on its Draft Interim Policy

Note on Public Open Space Requirements for New Residential Development the amount of formal Public Open Space required in the form of Amenity Greenspace would be 5520m"

It is recommended these areas of POS be transferred to a management company

Children and Young Persons Provision

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission 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 Children and Young Persons Play Provision to meet the future needs arising from the development.

This should be in the form of a LEAP (Locally equipped area of play) including at least 5 items incorporating DDA inclusive equipment, using play companies approved by the Council. As with the Amenity Greenspace it is also recommended that the children's play area is transferred to a management company.

Ramblers Association: Objection on grounds that the PROW in the area to be developed is not shown on the plans and the plans do not indicate how the Prows will be respected before during and after the development of the land. Also concerned that the development will adversely affect the status of Lamberts Lane, which runs along the edge of the site.

Sustrans: Have the following comments

- 1) The design of the estate should include connections for both pedestrians and cyclists away from vehicular traffic to Howey Lane and Lamberts Lane (both SE and SW of site).
- 2) The main pedestrian routes shown through the site should be constructed for shared pedestrian/cycle use.
- 3) We would like to see the measures outlined in a potential s106 agreement include improving access into and across the town centre for cyclists from this site.
- 4) The design of the estate should restrict vehicle speeds to less than 20 mph.
- 5) We would like to see travel planning set up for the site with targets and monitoring.

Congleton Town Council objects on the following grounds:

The proposed development fails to comply with the CBC saved policies on a number of grounds and should be refused

1. PS8 Open Countryside

The proposed development is an inappropriate form of development within the Open Countryside and can only be permitted if it satisfies one or more of the eight criteria mentioned under policy PS8. The applicant may argue that the development satisfies PS8 (IV) which refers to controlled infilling, but, to meet this criteria also requires satisfying policy H6. Policy H6 states that new residential development will not be permitted unless it meets one or more of the criteria within this policy. The applicant may argue that it satisfies H6 (V) but this refers to limited development within the infill boundary line. A proposal for 220 dwellings cannot be described as infill, nor does it meet the criteria laid down for affordable housing H6 (VI) and H14

2. GR 19 Infrastructure

The proposed development would be contrary to the interests of highway safety as it would result in additional traffic using Canal Street which is already used at unacceptable levels. Indeed the policy requires applicants to make adequate provision for any infra-structure requirements which arise directly from the proposed development, but, has made no provision for improving the congestion being experienced in Canal Street which will be exacerbated by increased volumes of traffic emanating from the proposed development.

3. Repeat Application

The application is a repeat application.

REPRESENTATIONS:

Objections have been received raising the following points;

Principle of the development

- Loss of Greenfield land
- Loss of open countryside
- the local plan has excluded these sites for development (Area F was not included in the Congleton Town Strategy. The preferred sites for Congleton's growth are all located in the north of town together with a planned Link Road to current motorway networks and associated infrastructure.
- Proposal does not contribute to the 3 strands of sustainability within the NPPF

Highways

- Increased traffic congestion
- Parking problems
- Highway safety
- The proposed Urban Realm High Street improvements miss the point of the Urban realm Strategy and is unsafe

Infrastructure

- Existing schools are full
- Doctors and local dentists are full

Ecology

- Impact upon protected species
- Loss of habitat
- Impact upon wildlife
- The Howty and adjacent area is a protected wildlife corridor. This should not be developed. Our native trees should not be felled, houses built and then areas replanted with non-native trees. Too late, the wild life will have disappeared

Amenity

- The development would have a negative impact on the quality of life of the existing populations

- Overlooking from new houses to existing houses
- Quality of life will be severely affected during construction
- The extensive footpath and bridleway area around Lambert's Lane, an ancient sheepdrover route, and a haven for wildlife, will be forever spoilt for the people of the town.
- There can be few green spaces in England so close to a town centre. The open space is an amenity that needs to be safeguarded for future generations of Congleton's inhabitants.
- Screen planting will take many years to establish and is no justification for the visual impact upon the countryside which is a amenity to residents

Other issues

- No demand for new houses
- The sustainability credentials are over stated
- Increased flooding from the site

APPRAISAL:

There are 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 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

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

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

SOCIAL SUSTAINABILITY

The first dimension to sustainable development is its social role. In this regard, the proposal will provide up to 118 new family homes, including 30% affordable homes.

Housing Land Supply

Paragraph 47 of the National Planning Policy Framework requires that Council's identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.

The calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing sites that will help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

Following the suspension of the Examination into the Local Plan Strategy and the Inspectors interim views that the previous objectively assessed need (OAN) was ‘too low’ further evidential work has now taken place and a fresh calculation made.

Taking account of the suggested rate of economic growth and following the methodology of the NPPG, the new calculation suggests that need for housing stands at 36,000 homes over the period 2010 – 2030. Although yet to be fully examined this equates to some 1800 dwellings per year.

The 5 year supply target would amount to 9,000 dwellings without the addition of any buffer or allowance for backlog. The scale of the shortfall at this level will reinforce the suggestion that the Council should employ a buffer of 20% in its calculations – to take account ‘persistent under delivery’ of housing plus an allowance for the backlog.

While the definitive methodology for buffers and backlog will be resolved via the development plan process this would amount to an identified deliverable supply of around 11,300 dwellings.

This total exceeds the total deliverable supply that the Council is currently able to identify – and accordingly it remains unable to demonstrate a 5 year supply of housing land.

Affordable Housing

The Strategic Housing Market Assessment (SHMA) Update 2013 shows that for the sub-area of Congleton there is a net requirement for 58 new affordable units per year, made up of a need for 27 x 1 bed units, 10 x 3 bed units, 46 x 4+ bed units and 37 x 1 bed older persons units. The SHMA Update 2013 shows an oversupply of 2 bed general needs and older persons units.

In addition to the information from the SHMA Update 2013, Cheshire Homechoice is the choice based lettings system used to allocate social housing in Cheshire East. There are currently 637 applicants on the housing register who have selected one of the Congleton rehousing areas as their first choice. These applicants require 381 x 1bed, 135 x 2 bed, 79 x 3 bed, 26 x 4 bed and 16 x 5 bed.

The Affordable Housing IPS also 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 Update 2013. This equates to up to 69 affordable units, with 45 as social or affordable rent and 24 as intermediate tenure.

Public Open Space

Amenity Greenspace

There would be a deficit 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. Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the amount of formal Public Open Space required in the form of Amenity Greenspace would be 5520m²

With reference to page 47 of the Design and Access Statement the amount of Public Open Space proposed is 3.4 Hectares or 34,000m² which would incorporate formal and informal Open Space. SUDS would integrate grassy swales, detention ponds and soakaways (Page 43 of the D&A Statement) with the Public Open Space

Whilst it is appreciated this promotes bio-diversity and complies with regulatory requirements it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas. Therefore it is recommended these areas of POS be transferred to a management company

Children and Young Persons Provision

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission 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 Children and Young Persons Play Provision to meet the future needs arising from the development.

This should be in the form of a LEAP (Locally equipped area of play) including at least 5 items incorporating DDA inclusive equipment, using play companies approved by the Council. We would request that the final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved, in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the Amenity Greenspace it is also recommended that the children's play area is transferred to a management company.

Health Impact of the Development

NHS England advises that existing health infrastructure in Congleton is already operating above capacity and cannot absorb the planned developments in the Emerging Strategy. This

site, together with its sister site, are not one of the planning sites. The NHS requires a commuted sum of £145,000 to mitigate for this development. However, in the light of the recent Holmes Chapel Road Appeal decision, where the Inspector determined that the NHS had provided insufficient evidence as to how the contribution would be spent given that they had no definite infrastructure delivery plans in place, it is not considered that such a contribution would be CIL compliant.

Education

The Council's Education Officer, in response to a consultation has confirmed that there is adequate capacity in local schools to cater for the development and therefore no contribution is required in this case.

ENVIRONMENTAL SUSTAINABILITY

Landscape

This is an outline application for up to 220 dwellings, apart from access all matters are reserved. An updated Indicative Masterplan has been included with the application, this illustrative layout identifies open space and associated landscaping and infrastructure.

As part of the application a Landscape and Visual Impact Assessment has been submitted, this indicates that it has been prepared in accordance with the 'Guidelines for Landscape and Visual Impact assessment' (GLVIA), Third Edition, 2013, Landscape institute and the Institute of Environmental Management and Assessment.

The application site is located to the south of the centre of Congleton at the very southern end of Howey Lane. To the east of the application site are the residential areas of The Moorings, Goldfinch Close and Kestrel Close, to the north and north west are the residential properties located along Howey Hill, Tudor Way and Howey Lane. To the south the application site is bound by Lambert's Lane a bridleway track (Bridleway 1, Congleton), that emerges from Canal Road further to the east in the southern urban part of Congleton and crosses over the Macclesfield Canal Conservation Area before finally emerging at Fol Hollow, just to the south of Astbury Mere to the west, a total distance of just under two kilometres; apart from a short section through the urban outskirts of Congleton to the east, almost the whole of the route is located in open countryside. Lambert's Lane also links into the wider footpath network that extends into the wider countryside.

To the west and south west of the application site is the wider open countryside of Cheshire, to the south of Lambert's Lane is Astbury Golf course. Lambert's Lane also marks the northern boundary of the Green belt to the south of Congleton.

The application includes a baseline description of the landscape context and character, this includes the national, regional and local character areas, namely the Lower Farms and Woods Brereton Heath Character Area (LFW2) and the Cheshire Plain in the Congleton Landscape Character Assessment of 1999. The assessment also offers commentary on the local site context, acknowledging that the site, along with fields to the west are identified in the Cheshire Historic Environment record as medieval town fields, and that many of the

hedgerows within the site represent the remnants of this historic field pattern. All but three of the fifteen fields within the application site are currently still used for agricultural purposes.

It is agreed that this is a landscape of medium sensitivity and that the trees and hedgerows within the site are also of medium sensitivity and that this landscape is principally viewed from the footpath network, by users deemed to be of high sensitivity. It is also agreed that the change brought about by this development to the landscape character of the Brereton Heath Character Area as a whole will be negligible. However, Council Landscape Officer's do not agree that the magnitude of change will be low for landscape character on and around the site. Consequently the significance of effect on the landscape character of the site and immediate area will be greater than identified in the assessment, and that it will in reality be greater than slight adverse.

With reference to landscape features, it is quite clear that the agricultural use of much of the application site will cease and that the historic hedgerow network of hedges will be altered in places and some sections will be removed, and although the proposals do include the provision of new landscape features it is felt that the overall the effects on the landscape features will be adverse, rather than moderate beneficial for the existing features and field pattern.

With reference to the visual assessment, it is broadly agreed that the construction effect for some of the receptors as shown on Table 5.1, although it is likely it would be greater for a number of receptors, while the residual effects as shown in the assessment, Table 5.1, are over optimistic and that the residual visual effects would remain more adverse for most receptors.

The assessment identifies that Policy GR5 landscape is relevant to this application. Policy GR5 states that 'development will be permitted only where it respects or enhances the landscape character of the area' and notes the importance of such areas and that particular attention will be paid towards the protection of features that contribute to the setting of urban areas. It would appear that the predicted adverse impacts would also indicate that this application is contrary to Policy GR5, since it is agreed that there will be an adverse impact on landscape character and the proposals will also lessen the visual impact of landscape features when viewed from areas accessible to the public.

The Pre-Submission Core Strategy (November 2013) recognises in Policy SE4 the high quality of the built and natural environment is recognised as a significant characteristic of the Borough and that all development should conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes.

The additional information submitted with this application has reduced Officers concerns over the impact on the landscape, however the acknowledged impact on landscape and visual effects will still be contrary to policy SE4 and will weigh against the sustainability of the proposals in the overall planning balance.

Amenity

The Environmental Health Officer has requested a condition in relation to noise during construction, pile driving and contaminated land. In terms of Air Quality, conditions concerning electric vehicle charging and travel planning are requested these conditions could be attached if planning permission were.

The Congleton Borough Council Supplementary Planning Document, Private Open Space in New Residential Developments, requires a distance of 21m between principal windows and 13m between a principal window and a flank elevation to maintain an adequate standard of privacy and amenity between residential properties.

The layout and design of the site are reserved matters. However, given the size of the site the indicative layout demonstrates that up to 230 units could reasonably be accommodated on the site given the appropriate mix of flats and smaller units within the overall scheme, whilst maintaining these minimum distances between existing and proposed dwellings and the open spaces

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. This would be a matter of detail dealt with at reserved matter stage. It is therefore concluded that the proposed development could be accommodated in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

Ecology

Congleton Wildlife Corridor

The proposed development is located adjacent to, but outside the boundary of the Congleton wildlife corridor. The proposed development is unlikely to have a significant adverse impact upon the wildlife corridor.

Broad Habitat Value

The habitats present on site are for the most part are of relatively low nature conservation value. The tall ruderal vegetation habitats are likely to support a number of common species, but this habitat is common and widespread in the county.

The field identified as being "Improved grassland" supports a small number of species (meadow butter cup and common birds foot trefoil) which are indicative of better quality grassland habitat however the grassland are unlikely to be of sufficient value to qualify for designation as a Local Wildlife Site.

The Council's Ecologist is of the opinion that the grassland habitats on site are of low value and do not present a significant constraint upon development. The development proposals however may still result in an overall loss of biodiversity.

The ecologist recommends the applicant undertakes and submits an assessment of the residual ecological impacts of the proposed development using the Defra 'metric' methodology.

An assessment of this type would both quantify the residual ecological impacts of the development and calculate in 'units' the level of financial contribution which would be required to 'offset' the impacts of the development to enable the total ecological impacts of the development to be fully addressed in a robust and objective manner. Any commuted sum provided would be used to fund habitat creation/enhancement works locally.

Bats

Bat activity surveys have been undertaken on site. The surveys have identified a low level of bat foraging activity around the site. A tree has been identified on the submitted habitat plan as having potential to support roosting bats. It appears likely that this tree could be retained as part of the development of this site. On this basis, the proposed development is unlikely to have a significant adverse impact upon bats.

Badgers

A number of badger setts have been recorded on or adjacent to the proposed development site.

The identified main sett is located outside of the application boundary and would not be directly affected by the proposed development. The outlier sett and day nest recorded as being present on site would however be lost as a result of the proposed development. To mitigate any risk of badgers being injured or disturbed during the works the applicant is proposing to close the outlier sett under the a Natural England license. The construction of an artificial badger sett is proposed to compensate for the loss of the existing sett.

The proposed development would result in the loss of a significant area of habitat suitable for foraging by badgers, however only relatively limited foraging activity appears to be taking place on site.

The Ecologist advises that the loss of badger foraging habitat would be at least partially compensated for through the provision of the proposed open space areas on site. He advises that the proposed mitigation and compensation for badgers is in accordance with current best practice however the submitted ES acknowledges that there may potentially be a long term reduction in the size of the badger social group as a consequence of the proposed development.

Great Crested Newts

A detailed great crested newt survey has not been completed in support of this application. A pond located approximately 134m from the proposed development (located at SJ85796198) was recorded in 2007 as supporting a small population of great crested newts.

The revised ecological assessment which now includes an assessment of the development upon this known great crested newt population assesses the impacts of the proposed development as being low.

Based upon the distance of the pond from the development, the high quality of terrestrial habitat close to the pond, the partial isolation of the development from the pond and the low quality of terrestrial habitat on the application site, the Ecologist concurs with the applicant's ecologists assessment of the level of impacts.

To mitigate the potential impacts of the proposed development the applicant's ecologist is proposing three nights terrestrial search of the site prior to the erection of an amphibian fence to prevent newts from entering the site prior to the commencement of development.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

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

1. 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
2. no satisfactory alternative and
3. 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.

It is the view of the Councils Ecologist that if planning consent is granted the proposed mitigation/compensation for the loss of grassland habitat is required. However, in this case whilst there is considered to be some harm to the landscape character and there is an alternative, i.e. to not develop the site, given the benefits in terms of housing land supply, the first 2 Tests of derogation are therefore now met.

Urban Design

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided.

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.”

The main urban design concerns are related to the landscape qualities of the site, how the area contributes to the wider setting of Congleton and how this should be utilised to both integrate development and to maximise the rural qualities presented by the site and its surroundings.

A revised Design and Access statement sets out how the revised proposals respond to the concerns expressed in relation to the original submission. The scheme has been amended to include the following:

- A reduced projected number of units to 220 in the parameters plan which equates to a net density of 25 dph (24 dph in the western half of the site, 27dph in the central portion and up to 30dph in the eastern part of the site). This has been indicated but not formally changed in the description of development.
- Retention of the entire field W4 as the location of a LEAP and with additional woodland planting
- 10 metre woodland buffer to the bridleway BR4; 5-10 metre buffer around the west and southern boundaries of the Cemetery and woodland buffer planting along part of Lamberts Lane, with a 25 metre building set back of the southern edge of development in field W16
- View corridors west to east set out in the block and street arrangement (to capture views of Bosley Cloud)
- Character principles identifying 4 main character areas, linked to housing density and landscape character

Development areas to the east of the site have been enlarged, compared to the originally submitted proposals, which has quite significantly reduced the width of this area of open space to the east of the cemetery.

A parameter has been included on the Parameter Plan that, at its narrowest point, would provide an offset of 30-60 metres between development and the cemetery with woodland buffer planting in this area. It is likely that this gap would be closer to 30m as opposed to 60m, unless there is some technical constraint that renders land un-developable.

The revised plan illustrates the extent of change in the distribution of open space. Much of the open space lost in the valley area has been reallocated to the western part of the site, mainly to provide the buffers and the enlarged green space in the south western corner of the site. It could be argued that this has eroded the potential landscape quality of the valley area in order to achieve landscape/open space benefits elsewhere. However, within the urban design context the priority should be to achieve a sense of landscape continuity to the south of the site to Lambert's Lane.

The principle consideration as identified is the impact of the development on an attractive and important landscape to the town of Congleton. Consequently, the key issue to comment upon is whether the proposed changes overcome the concerns relating to the loss of the open space connection between the town and the wider countryside to the south, and, the associated issue of impact upon the landscape character of this part of the town's setting.

Whilst the revisions create a larger area of open space in the south western corner, the quantum of development remains largely unchanged (a reduction of 10 units from the maximum originally proposed). It has been merely re-distributed elsewhere. Although it is acknowledged that the re-distribution of open space has helped ease the relationship with the bridleway and Lambert's Lane, and created an enlarged area to the south west of the site, the development still largely disconnects and infill's the countryside between the cemetery and Lambert's Lane, disrupting the wedge of green that penetrates into the heart of Congleton from the countryside to the south.

The attractiveness and quality of the countryside, in determining the development philosophy of the site should be focused upon maintaining a sense of landscape quality and also a sense that the countryside still permeates to the heart of Congleton. Even with the benefits of the revisions, there remain some concerns whether the right balance is being achieved effectively.

Given the existing hedgerow pattern, it is considered that this could be achieved by removing development in the fields W5, W7 and southern most part of W2. This would further enlarge the green space to the south of the site and would create a more meaningful green connection between the cemetery and Lamberts Lane and the woodland and countryside to the south.

Urban Design Implications of the Highways Mitigation

To address highways capacity and safety issues as a direct consequence of this development, a scheme of improvement has been put forward.

Lawton Street and High Street constitute most of the medieval core of Congleton. The area of the proposed highway works is situated within the Moody Street Conservation Area, which was reviewed in 2010 and a character appraisal and management plan prepared. The site of the

works is also immediately outside the Town Hall, a grade II* listed building. The street environment is especially important to how the listed building is viewed within the public realm, the approach to its main entrance and consequently acts as its civic foreground and therefore has a significant bearing upon the setting of the heritage asset.

In the summary of interest, the appraisal identifies the importance of the Town Hall and significant views along Lawton Street and High Street.

The appraisal identifies in the section relating to problems, pressures and capacity for change that:

“A Congleton Town Centre Plan has been adopted as an interim document and will be developed and consulted on further over the coming months, with the aim of gaining Area Action Status.⁹ Proposals include improvements to the public realm, particularly shop fronts in parts of the current Conservation Area; improved public squares at the road junctions; and improvements and new walking routes to the green spaces identified within this document.”

In the summary of issues section, it identifies as one of the potential threats to the character of the Conservation Area

- *“Work proposed within the Congleton Town Plan on the public realm which could diminish the area’s significance if carried out insensitively.”*

Proposal 4 of the Management Plan identifies that important visual axes will be preserved and enhanced including High Street (in both directions along its length).

In respect to both the Conservation Area and the Town Hall, it is considered that the engineered character of the proposed highway works would be detrimental to their respective heritage significance. This would lead to harm that would be considered less than substantial in scale.

Para 132 of the NPPF requires that in considering impact on designated assets, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight. It advises that harm can result as a consequence of works to the heritage asset or development within its setting and that any harm or loss requires clear and convincing justification. Para 134, requires that where less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

A public realm strategy was produced by the Congleton Partnership, Cheshire East Council and the Town Council on behalf of the Congleton Community, both businesses and residents. This was adopted by the stakeholders in 2011.

As part of the public realm framework, it identifies the creation of a new public square in the location of the proposed highway works. This is further set out in the Coding and Detailing section of the strategy under key projects, the text extract is provided below (and the associated visualisations attached to this email). It states:

“The High Street is an important traffic and bus route. As a result of that it will not be possible to pedestrianise the area. The area is currently dominated by traffic and has very narrow footpaths.

A shared surface solution will enable the continued use of the route by vehicles while giving pedestrians a higher priority. This will create a more enjoyable and leisurely retail experience and emphasise the number of attractive buildings outlined in the conservation area appraisals.

The core of this scheme will focus on a new shared space in front of the town hall including Albert Place and Canal Street. The town hall will be linked with the pedestrians area through wider pavements. Street furniture, trees and cycle parking will create a vibrant retail area with a strong character. Parallel parking spaces and vehicle lanes with reinforced pavements allow for loading. This scheme will also contribute towards delivering the shopping and cultural circuit shown in Chapter 4."

Whilst the public realm strategy is not a formal Supplementary Planning Document it still carries some material weight in the consideration of any proposals to changes to the public realm of the town centre. Although the information contained within it is a concept level of detail, it sets the vision for delivering the public realm strategy, which certainly did not envisage an engineered solution such as that being proposed.

The previous proposal created concerns for both highways and design/conservation in attempting to create the right balance between functionality and character. The previous engineered solution would have caused harm to the significance of the Town Hall and the Moody Street Conservation Area. It would significantly and unacceptably erode the objectives of the public realm strategy, which could set an unfortunate tone for compromising the implementation of the strategy in the future. It was considered that such proposals would be contrary to both para 132 of the NPPF and policies in the Local Plan and also policy SE7 of the Local Plan Strategy Submission Version.

Consequently, this formed a reason for refusal of the previous application. However, further discussions have taken place and having regard to the technical and safety considerations, it has been established that, based on current circumstances, it would not be possible to deliver a full shared surface approach in this area as advocated by the Public realm strategy. Consequently, the general principle of the revised street alignment and principles as set out in Appendix 6 would be considered acceptable in urban design terms, albeit the detail of the entry calming feature on Albert Place would be considered inappropriate and should be modified to achieve a high quality palette of materials and specification.

In regard to the overall acceptability of the proposals in the context of their impact upon the character and appearance of the conservation area and the setting of the concentration of listed buildings in the area, there will be a requirement for a high specification in the finer detailing and the palette of materials, in order to preserve or enhance this setting. The ES suggests that these highway improvements will have benefits for the conservation area. It is considered that the impact to be neutral, but only if the palette of materials is appropriate in quality and detailing terms. If the palette of materials were not of this quality then it would erode the character and appearance of the conservation area and the setting of listed buildings in the area (in other words, a high quality palette will compensate for a more engineered street form but also the increased vehicular activity in this part of the conservation area).

The approach set out would help to deliver the spirit of what the public realm strategy was aiming to achieve in this area – a character of streetscape more in tune with the historic setting and one that provided better and more attractive conditions for pedestrians.

The main principles can be summarised as follows:

- High quality natural stone materials for pavements
- Natural stone (granite surfacing) for the road surface in front of the Town Hall
- Creation of a natural stone shared surface area on Albert Place adjacent to the garden/park (where pavements are at their narrowest).
- Entry thresholds in natural granite
- Minimise signage and road markings
- Keep kerb heights to a minimum and use natural stone, conservation kerbing
- Blacktop for other sections of street, where natural stone is not advocated

On the basis of the principles and materials specification set out above, the objection on urban design/built heritage grounds would be overcome.

Flood Risk and Drainage

The Environment Agency, Council Flood Risk Manager and United Utilities have been consulted as part of this application and have both raised no objection to the proposed development subject to various conditions. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Access to facilities

Accessibility is a key factor of sustainability that can be measured. One 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.

The toolkit sets maximum distances between the development and local amenities. These comprise of everyday services that a future inhabitant would call upon on a regular basis, these are:

- 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).

- public right of way (500m)

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

criteria	Service/facility	Route via	Distance from edge of site	Additional distance to centre of site	Total distance
Shop selling food	Farmfoods,	Market Street Howey Lane	525m	340m	865m
Post Box	Priestly Court/Howey Lane	Howey Lane	225m	340m	565m
Playground/amenity area	West of Thames Close	Goldfinch Close	1030m	180m	1210m
Post Office	Mill Street	Howey Lane	470m	340m	1055m
Bank or Cash Point	High Street	Howey Lane	470m	340m	810m
Pharmacy	Boots Bridge St	Howey Lane	550m	340m	890m
Primary School	Daven(New St)	Moorings	375m	390m	765m
Medical Centre/GP Surgery	Lawton House, Bromley Road	Moorings	390m	390m	780m
Leisure Facilities	Congleton Leisure Centre	Howey Lane	955m	340m	1295m
Community meeting place	Methodist Church	Goldfinch Close	195m	180m	375m
Community meeting place	Vale Club,	Canal Road Moorings	390m	390m	780m
Public House	The Foresters	Chapel Street Howey Lane	345m	340m	685m
Public Park or Village Green	Congleton Community Garden	Howey Lane	510m	340m	850m
Public Open Space	St Peter's Road	Moorings	210m	390m	600m
Bus Stop	Canal Rd/ Daven Road	Goldfinch Close	355m	180m	535m
Railway Station	Congleton station	Goldfinch Close	1150m	180m	1330m

NB: The following distances from the centre of the site have been used: Site centre - Howey Lane = 340m. Site centre - Kestrel Close = 360m. They are measured along routes shown on the indicative site layout, via the exit points stated.

The majority of the services and amenities listed are accommodated within Congleton and are accessible to the proposed development on foot or via a short bus journey.. Accordingly, it is

considered that this is a locationally sustainable site. This was also accepted by the Planning Inspector at the Moorings and Goldfinch and Kestrel Close who states;

'...its location, in terms of sustainable transport options, while generally positive, would have some implications in terms of sustainable transport options..'

Highways

This application is resubmission of a previous similar application, there are up to 220 dwellings proposed in this planning application. There are three points of access to the site taken from Goldfinch Close, Kestrel Close and the Moorings. Approval for residential development has already been granted at appeal for up to 80 units on the site which also uses the same points of access.

One of the key highways issues is to determine whether the proposed development will result in capacity problems on the road network and also whether the impact can be considered severe enough to warrant refusal of the application. A number of junctions have been assessed by the applicant and these can be seen below;

- § Canal Road/Goldfinch Close Priority Junction
- § Albert Place/High Street/Lawton Street Priority Junction
- § A54 Mountbatten Way/Worrall Street/market Street signal controlled junction
- § A34 Rood Lane/Rood Hill/ A34 Clayton Bypass
- § A55/West Road/West street roundabout
- § A527 Biddulph Road/Leek Road/Read's Lane signal junction

Of the junctions tested, the main capacity and safety concern was the junction of the High Street and Albert Place where the existing junction layout would operate in excess of capacity with the development added. The applicant has submitted a revised junction proposal from that previously submitted and this proposes to change the priority so that Lawton Street would give way to traffic using High Street and Canal Road. There are also improvements to Chapel Street where the footways have been widened to provide pedestrians a shorter distance to cross the road. It is also proposed to improve the pinch point on Canal Road by slightly widening the footway and provide a raised table formal one-way working section of carriageway.

The change in priority at the junction fundamentally effects the capacity operation of the junction and where previously long queues would have been formed on Albert Place, the junction is predicted to operate within capacity even with the development added to the background traffic flows. There is an existing pinch point on Canal Road and the narrowing of the carriageway would not change this situation but does provide increased footway width through this section of road.

The Rood Hill/A34 junction has existing capacity problems and although the impact from this site would only have a small percentage increase in queues at the junction it would cumulatively add to the problems. As the Highway Authority have planned improvements to the Rood Hill/A34 junction as a result of the impact of other developments in Congleton, this application should provide a financial contribution of £143,789 towards the improvements at the junction and should be secured in the S106 Agreement.

There are three points of access proposed to the site, these being Goldfinch Close, Kestrel Close and The Moorings, these are existing cul-de-sacs but were designed technically to accommodate further development and the suitability of the accesses was given consideration by the Inspector at inquiry who considered them acceptable. I do not consider that there are technical grounds to object to the application on the access points proposed.

The accessibility of the site has also been considered at the appeal where the Inspector considered that the site had a good level of accessibility, although this application is for a larger site it is considered that it would not result in a different conclusion being reached. The applicant has proposed additional bus stops on Canal Road in the vicinity of St Peters Close, these further facilities would help reduce walking distances to access bus services.

The Highway Authority recommended refusal on the previous application as there was a major capacity impact at the High Street junction with Albert Place, as there would be long queues forming on the Canal Road approach to the junction. This application has proposed changes to the junction that in technical terms addresses the problem with capacity at the junction, the change in priority in flow reduces substantially the queues at the junction. There has also been changes proposed to the existing pinch point where the section of road has been traffic calmed and the width of footway available has been widened for the benefit of pedestrians. This section of carriageway still remains a concern despite the measures being put forward in mitigation but the assessment needs to take account of the NPPF that requires the cumulative impact to be severe. Given the measures proposed and the relatively short section of carriageway and footway that is below standard highways do not consider that a reason for refusal on the basis of a severe impact can be sustained.

Therefore, highways have no objections to this particular application subject to the highway improvements as indicated on drawing number 0011.07 Rev A being secured by condition and implemented via a S278 Agreement. Additionally, a financial contribution of £143,789 secured to provide mitigation measures at the Rood Hill junction and a further condition for the applicant to provide two No. quality bus stops on Canal Road, these to be delivered by means of a S278 Agreement.

Trees and Hedgerows

This is an outline application and resubmission of application 13/3517C (Forestry consultation comments 6/11/2013 refer) for the erection of up to 220 dwellings with detailed proposals for access. All other matters are reserved for future determination.

The Congleton Borough Council (Canal Road, Congleton) Tree Preservation Order 1986 affords protection to individual specimens of Oak and Sycamore located to the east and south east of the site.

The application is supported by a Parameters Plan (Drawing 502A 03J) dated September 2014 showing the proposed development area, indicative spine roads, green space, landscape and woodland buffer. A Tree Survey Report (TBA Landscape Architects Ref PD/3986/TSR/OCT14) provides details of existing trees within the application site and includes an assessment of their condition and contribution to amenity. Two drawings

(drawings 3986.06 E and 3986.07 E dated November 2014) provide details of Root Protection Areas which provide below ground constraints for development.

The report does not identify if any trees are likely to be removed for development, although the D & A statement refers to the application site having a number of tree and hedgerow assets including ten trees near Kestrel Close and a further eight trees and two tree groups around Highfield House which are protected by the TPO. Five TPO trees are no longer present on the site and the report identifies that others are not of high quality with only 2 trees assessed as Category A; 11 trees and 1 group as Category B; and 1 tree a Sycamore (T19) assessed as Category U requiring removal.

The parameters plan indicates that all A and B category trees to be retained including those around Highfield House. The successful retention of these trees and their integration within the development will be determined by the final site layout design. The parameters plan shows proposed development (shaded shades of orange) close to retained trees. Para 5.3 of BS5837:2012 *Trees in Relation to Design, Demolition and Construction – Recommendations* states that it has to be demonstrated that Root Protection Areas (RPAs) of trees need to remain viable. On this site land contours suggest that there are likely to be significant level changes which could impact upon the RPA of trees. Other factors in the design process (as stated in para 5.2.3 and 5.3.4 of the British Standard) which include proposed end use of space around trees, social proximity, shading and sunlight/daylight requirements will require assessment to ensure the long term viability of retained trees. The application of these design requirements can impact on the number of proposed units and in this regard a figure of 220 units may not be achievable.

The design of the development envelope is critical when taking account of the social proximity and juxtaposition to proposed woodland. In this regard compartments W2; W3; W5 and W6 interface with proposed woodland buffers (cross hatched) which are narrow in width. The design and position of Plots along the woodland interface will need to take account of the future growth potential of woodland planting within these areas and it is considered that that narrow width of the woodland buffer is unlikely to sustain reasonable levels of woodland canopy cover if gardens and plots are affected by shade and lack of daylight/sunlight from trees.

The Tree Report submitted in support of the previous application (13/3517C) identified two Veteran Trees within the site (Oak T3 and Ash T9). The current Tree Report only identifies one Veteran Tree (Ash T9). There is some disagreement in the supporting information provided on the existence of Veteran trees as the Ecological Impact Assessment (EcIA Envirotech July 2013) states at para 6.1 that there are no trees within the application site that are considered to be of 'Veteran' status.

Para 118 of the NPPF states that Veteran Trees should be retained within development unless the need for, and benefits of the development in that location clearly outweigh the loss. The retention of these trees, preferably within open space should be secured as part of the final design layout.

The Tree Report identifies some 16 hedgerows within the application site, although none have been assessed in the document for their Importance under the criteria set out in the Hedgerow Regulations 1997.

The Ecological Impact Assessment (EcIA Envirotech July 2013) has identified 34 hedgerows within the site, although the criteria for assessment is different to that of the Tree Report. The Ecology report identifies one hedgerow (Hedgerow 10) as 'Important' under the Hedgerow Regulations which is located along the southern boundary adjacent to Lamberts Lane. Three other hedgerows are considered significant in the local context using Wildlife and Landscape criteria (Hedgerows 1, 2 and 8). All four hedgerows are shown for retention within proposed woodland buffer.

Should Members be minded to approve the following details will require to be submitted with a reserved matters application: An Arboricultural Impact Assessment (in accordance with para 5.4.3 of *BS5837 Trees in Relation to Design, Demolition and Construction – Recommendations*) including an evaluation of the Tree Constraints and a draft Tree Protection Plan. This can be secured by condition.

ECONOMIC SUSTAINABILITY

Supporting Jobs and Enterprise

The economic benefits of the development include, maintaining a flexible and responsive supply of land for housing, business and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

Agricultural land

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. Policy SE2 of the Submission Version of the Local Plan concerns the efficient use of land and states that development should safeguard natural resources including agricultural land.

In addition, the National Planning Policy Framework, states that:

“where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.

The National Planning Policy Framework highlights that the use agricultural 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.

The applicant has submitted an agricultural land classification study which concludes that 3.69 hectares of the site (27%) is an area of Grade 3a land. The remainder being Grade 3b.

This reduces the sustainability of the proposal and counts against the proposal in the overall planning balance.

Section 106 Agreement / Community Infrastructure Levy (CIL) Regulations

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.

As explained above, the affordable housing and public open space are a requirement of the Local Plan Policy. It necessary to secure these works and a scheme of management for the open space is needed to maintain these areas in perpetuity.

The proposal would have an impact upon capacity of the local highway network which would require an engineered solution in the form of off-site improvements. It is considered that any financial contribution to address the capacity issues within the local transport network would be fairly and reasonably be related to the impact of this development, as is a contribution towards education provision to cater for the children generated by the development.

On this basis S106 financial contributions to highways mitigation is compliant with the CIL Regulations 2010. However, in the light of the recent Holmes Chapel Road Appeal decision, where the Inspector determined that the NHS had provided insufficient evidence as to how the contribution would be spent given that they had no definite infrastructure delivery plans in place, it is not considered that the a healthcare contribution would be CIL compliant.

Planning Balance and Conclusion

The proposal is contrary to development plan policies PS8 (Open Countryside) and GR5 (Landscape) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration in this case is the NPPF which states at paragraph 49 that 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 and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development

It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case, the development would provide market and affordable housing to meet an acknowledged shortfall. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

The proposed development would provide a safe access and the development site from the existing streets in Goldfinch Close and the Moorings. In terms of Ecology, the development

would not have a detrimental impact upon the conservation status of protected species. There would be an adequate level of POS on site together with a LEAP which would require 5 pieces of equipment to comply with policy.

Subject to a suitable Section 106 package, the proposed development would provide adequate public open space, the necessary affordable housing requirements, monies towards the future provision of primary school education, monies to mitigate for the impact upon health care provision over and above the existing 80 units that have an extant permission on this site and the requirement for the future maintenance of the open space and playspace on site

The proposal is considered to be acceptable in terms of its impact upon residential amenity and drainage/flooding. Conditions could be imposed to ensure this. It therefore complies with the relevant local plan policy requirements for residential environments

Whilst the site does not meet all the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be locationally sustainable. The inspector accepted the site to be generally sustainable on the two appeals which form part of the site.

Balanced against these benefits must be the loss of a significant area of best and most versatile agricultural land. All of the site will be lost from agriculture, whether built upon or subject to open space. However, much of Cheshire East comprises best and most versatile land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, previous Inspectors have attached very limited weight to this issue in the overall planning balance.

Previous highways and urban design concerns have now been resolved and can be addressed through appropriate conditions and contributions, and it is no longer considered that these provide sustainable reasons for refusal.

It is also necessary to consider the negative effects of this incursion into Open Countryside particularly given the landscape concerns. Nevertheless, the change in the housing land supply position and the uplift in numbers significantly alters the way in which this should be viewed in the overall planning balance, and it is not considered that in this case this is sufficient, either individually or when taken cumulatively with the other negative aspects of the scheme to be sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.

On the basis of the above, it is considered that the proposal represents sustainable development and paragraph 14 is engaged. Furthermore, applying the tests within paragraph 14 it is considered that the adverse effects of the scheme are significantly and demonstrably outweighed by the benefits. Accordingly it is recommended for approval subject to a legal agreement and conditions.

RECOMMENDATION

Approve subject to Section 106 Agreement to secure:

- **Amenity Greenspace of 5520m²**

- LEAP (Locally equipped area of play) including at least 5 items incorporating DDA inclusive equipment
- Private residents management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity
- Highways contribution of £143,789 secured to provide mitigation measures at the Rood Hill junction
- 30% affordable housing as follows: 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. This equates to up to 69 affordable units, with 45 as social or affordable rent and 24 as intermediate tenure
- affordable homes to be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.
- All the Affordable homes to be 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).
- Housing transferred to and managed by an RSL as set out in the Housing Act 1996”
- Financial contribution to ‘offset’ the impacts of the development on ecology to be calculated using an assessment of the residual ecological impacts of the proposed development using the Defra ‘metric’ methodology.

and the following Conditions.

1. Standard Time limit
2. Standard Outline
3. Submission of Reserved Matters
4. Approved Plans
5. Submission, approval and implementation of details of existing and proposed ground levels
6. Submission, approval and implementation of details of materials
7. Submission, approval and implementation of scheme of sustainable surface water drainage
8. Submission, approval and implementation of scheme of foul water drainage
9. Surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems.
10. scheme to limit the surface water runoff generated by the proposed development,
11. a scheme to manage the risk of flooding from overland flow of surface water,
12. a scheme for the provision and management of an undeveloped buffer zone (at least 5 metres wide) between the watercourse running through the site (from south to north) and any built development
13. Any proposed surface water discharges from this site must be limited to the undeveloped greenfield equivalents to mimic current surface water runoff and discharges from the site and taking account of soil permeability established from

detailed site investigation. Discharges above this allowable rate must be safely attenuated to the 1% or 1 in 100 year annual probability event including current allowances for climate change.

14. Submission, approval and implementation of a scheme of archaeological mitigation
15. Hours of construction
16. Submission, approval and implementation of external lighting
17. noise mitigation measures (to protect future residents from noise from the public house),
18. Submission, approval and implementation of contaminated land investigation
19. Submission, approval and implementation of Environmental (Construction) Management Plan including dust control measures
20. Submission, approval and implementation of Travel Plan
21. Submission, approval and implementation of electric vehicle infrastructure
22. Submission, approval and implementation of features for use by breeding birds
23. Reserved Matters to make provision for retention of hedges and replacement hedge replanting
24. Reserved Matters to make provision for retention of veteran trees within open space
25. Implementation of Great Crested Newt and Badger mitigation.
26. Submission, approval of scheme of tree protection
27. Implementation of tree protection
28. An Arboricultural Impact Assessment (in accordance with para 5.4.3 of *BS5837 Trees in Relation to Design, Demolition and Construction – Recommendations*) including an evaluation of the Tree Constraints and a draft Tree Protection Plan to be submitted reserved matters
29. Submission, approval and implementation of open space scheme with first reserved matters
30. Submission, approval and implementation of maintenance plan for open space
31. Submission, approval and implementation of scheme of bin storage
32. Submission, approval and implementation of details of boundary treatment
33. Highway Improvements / public realm works to be constructed prior to occupation
34. Provision of 2 No. Quality Bus Stops on Canal Road
35. Submission / approval of detailed design for Public realm works to accord with the following main principles
 - High quality natural stone materials for pavements
 - Natural stone (granite surfacing) for the road surface in front of the Town Hall
 - Creation of a natural stone shared surface area on Albert Place adjacent to the garden/park (where pavements are at their narrowest).
 - Entry thresholds in natural granite
 - Minimise signage and road markings
 - Keep kerb heights to a minimum and use natural stone, conservation kerbing
 - Blacktop for other sections of street, where natural stone is not advocated

