

Application No: 15/2232C

Location: LAND AT, MOSSLEY HOUSE, BIDDULPH ROAD, CONGLETON, CHESHIRE, CW12 3LQ

Proposal: Full planning application for the erection of 10 no. dwellings with associated garages, car parking, landscaping, means of access and site infrastructure.

Applicant: Elan Homes Ltd

Expiry Date: 14-Aug-2015

#### **SUMMARY:**

The site is within the Settlement Zone Line of Congleton, where there is a presumption in favour of sustainable development. There is also an extant approval for a 52 apartment block on the site, which would have a much greater impact than the proposed 10 residential dwellings.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing within an existing settlement where there is existing infrastructure and amenities.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, ecology, drainage, landscape, trees and design.

#### **RECOMMENDATION:**

**Approve subject to conditions and a s106 Agreement to secure payment for off site tree planting.**

#### **PROPOSAL**

Full planning permission is sought for the erection of 10 dwellings, with associated garages, car parking, landscaping, means of access and associated infrastructure. Access would be taken from Biddulph Road using a one-way entry/exit arrangement, leading to a main spine road to serve the dwellings.

#### **SITE DESCRIPTION**

The site previously housed the dwelling known as Mossley House, which has now been demolished in line with the approval of previous planning applications (09/1127C & 11/3695C). It is located on Biddulph Road approximately 2km from Congleton town centre. It has an irregular shape and total area of 0.78 ha.

The site contains many mature trees around the edge and to the front, as well as substantial hedgerows along the southern boundary. Some of these trees are protected by TPO and allow significant screening.

The current access is from Biddulph Road to the west of 'The Lodge'. There are two other disused access points to the site off Biddulph Road and on the corner of Biddulph Road and Reades Lane respectively.

The site is located within a residential area, characterised mainly by detached single storey and two-storey family dwellings. The land slopes to the south and east with the neighbouring residential properties to the east being at a lower level than the application site.

## **RELEVANT HISTORY**

11/3695C     Approval for C2 residential accommodation with care comprising 52 apartments

09/1127C     Approval for demolition of Mossley House and erection of C2 residential accommodation comprising 43 apartments

## **NATIONAL & LOCAL POLICY**

### **National Policy:**

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

Of particular relevance are paragraphs 14 and 47.

### **Development Plan:**

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review 2005, which allocates the site as being within the within Open Countryside.

The relevant Saved Policies are: -

PS4 – Towns

H1 & H2 – Provision of New Housing Development

H4 – Residential Development in Towns

H13 – Affordable and Low Cost Housing

GR1 – New Development

GR2 – Design

GR3 – Density, Housing Mix and Layout

GR4 – Landscaping

GR6 – Amenity and Health

GR7 – Pollution

GR9 - Accessibility, Servicing and Parking Provision

GR22 – Open Space Provision

NR1 – Trees and Woodlands

NR2 – Statutory Sites

NR3 - Habitats

SPG1 – Provision of Public Open Space in New Residential Development  
SPG2 – Provision of Private Open Space in New Residential Developments  
SPD14 – Trees and Development

The 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:

SD 1 Sustainable Development in Cheshire East  
SD 2 Sustainable Development Principles  
SE 1 Design  
SE 2 Efficient Use of Land  
SE 3 Biodiversity and Geodiversity  
SE 4 The Landscape  
SE 5 Trees, Hedgerows and Woodland  
SE 9 Energy Efficient Development  
SE 12 Pollution, Land Contamination and Land Instability  
SC 4 Residential Mix  
SC 5 Affordable Homes  
PG 1 Overall Development Strategy  
PG 2 Settlement Hierarchy  
PG6 Spatial Distribution of Development  
EG1 Economic Prosperity

**CONSULTATIONS:**

**Highways:**

The Head of Strategic Infrastructure (HSI) is satisfied that the development proposals can be safely accommodated on the adjacent highway network; accordingly, the HSI has no objection to the planning application subject to conditions and an informative.

**Environmental Protection:**

No objection subject to conditions and informatives relating to noise and disturbance, contaminated land and electric vehicle charging points.

**United Utilities:**

No objection subject to conditions relating to foul and surface water drainage.

**Town Council:**

No objection.

**REPRESENTATIONS:**

Neighbour notification letters were sent to neighbouring properties and a site notice posted.

At the time of report writing 2 representations have been received which can be viewed on the Council website. One supports the application subject to ecology and tree issues. The other objects to the development on the grounds of loss of privacy and property price depreciation.

## **APPRAISAL**

The key issues to be considered in the determination of this application are set out below.

### **Principle of Development**

The site lies in the Settlement Zone Line as designated in the adopted Congleton Borough Local Plan First Review 2005, where there is the presumption in favour of sustainable development.

The issue in question is whether this proposal represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the presumption in favour of sustainable development.

### **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

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

**an 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.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Trees and Hedgerows**

The site is covered by two Tree Preservation Orders (Congleton Borough Council (Henshall Hall) Tree Preservation Order 1978 (Group G10) and Congleton Borough Council (Congleton – Henshall Hall No.2) TPO 1995 (Group G3 and Woodland W1)

Originally the proposal was for 12 dwellings on the site. However, due to the significant constraints that trees on the site present, this was revised down to 10 dwellings. This was due to issues posed by existing trees with regard to shading, low daylight and sunlight levels and private amenity space.

The revised layout provides for an improved relationship in terms of Plots 1 to 5 and the TPO trees to the northern east boundary and Plot 7 has been revised to provide an improved relationship to the protected Sycamore (T7), providing a distance of 12 metres on a north facing aspect, which is considered to be acceptable. Some pruning of the crown of a protected Lime tree (T8) will be necessary to provide a 2 metre clearance from the garage of Plot 7, to allow for construction space and it is not considered that this would be detrimental to the health of the protected tree.

There is a proposed no-dig method to be used for the access off Biddulph Road and a detailed Construction Method Statement should be secured by condition. In addition, the access must be completed prior to any other development taking place on the site, to ensure protection of the trees.

Following discussions with the Principal Forestry and Arboricultural Officer, it has been agreed that there is not sufficient space for large canopy planting along the north east section of the site. As such it has been agreed with the developer that a commuted sum of £5,000 will be provided for off site planting within the immediate area to compensate for tree loss. This should be secured by a legal agreement and the developer has offered to submit a Unilateral Undertaking to secure this. At the time of report writing it has not been possible to discuss this with the Legal Section of the Council and an update will be provided to clarify this matter prior to the meeting.

Subject to conditions and the delivery of the commuted sum for off-site planting, the proposal is considered to be acceptable in terms of impact on trees and in accordance with Policy NR1 of the adopted local plan.

### **Ecology**

The ecological field work undertaken to inform the submitted assessment was undertaken in January a very poor time of year to undertake assessments of this type. However, considering the nature of the habitats present on site this does not present a significant constraint on the assessment of the sites nature conservation value.

The desk top survey undertaken as part of the submitted assessment has failed to identify Dane in Shaw Brook Meadows Local Wildlife Site which is located 120m north of the application site. However, it is considered that the proposed development is not likely to have a significant adverse impact upon this designated site.

No evidence of protected species activity was recorded on site during the latest survey. Some limited evidence of activity was previously recorded on site during earlier ecological appraisals. The reduction in activity may reflect the clearance works undertaken on site.

A number of bat boxes were previously attached to trees on site to mitigate for the loss of a bat roost associated with the previously demolished buildings. One of these bat boxes was identified as supporting an active roost in 2011. The submitted ecological appraisal states that the tree with bat boxes attached would be retained as part of the proposed development. The precise location of the bat boxes is not provided with the ecological assessment however the submitted tree survey identifies two trees (Tree 43 and 45) with 'objects' attached to them which relates to the bat boxes.

A record for White Letter Hairstreak was provided 100m north of the site. The absence of Elm trees probably means that the development site is not important for this species. However, it is recommended that English Elm of a suitable type is included in the landscaping of the site to enhance the habitat of this species.

The Common Toad, which is a local BAP species and hence a material was previously recorded as breeding at a pond near to the proposed development however it appears unlikely that that proposed development will have a significant adverse impact upon this species.

If planning consent is granted it is recommended that the conditions are imposed to safeguard nesting birds.

## **Design & Layout**

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 proposed dwellings would be of a traditional design with gable features, some bay windows and a variety of finishes including red brick, off-white render and grey concrete roof tiles. Both the design and finish of the proposed dwellings would be appropriate in the context of the site and in keeping with the character and appearance of the site.

The layout is largely dictated by the constraints that protected trees on the site present and following the submission of the revised layout and reduction in the number of dwellings, it is considered that the layout is now acceptable.

The proposal is therefore considered to be in compliance with Policy BE.2 of the adopted local plan.

## **Highways**

The site is considered to be in a sustainable location, a number of facilities are within reasonable walking and cycling distance of the site including the town centre of Congleton which offers sustainable access to a range of retail and leisure facilities; and employment opportunities. There are a number of bus stops within reasonable walking distance of the site and Congleton railway station is within the maximum recommended walking distance of 800m to a fixed public transport node providing sustainable access to a range of local and regional destinations.

The internal layout of the site has been reviewed and is considered suitable for a development of 10 dwellings, furthermore, vehicle swept path analysis has been submitted to demonstrate that a large refuse vehicle can serve the site safely.

The proposed pedestrian and vehicular access arrangements for the site are the same as those submitted for the two previously consented planning applications i.e. separate points of one-way access and egress; although, the access proposals associated with this application have a minor amendment to ease access to the site for a refuse vehicle.

A development of up to 10 dwellings would be expected to generate less than 10 two-way trips during the morning and evening commuter peak periods; this level of traffic generation would not be expected to have a material impact on the operation of the adjacent or wider highway network.

The HSI is therefore satisfied that the development proposals can be safely accommodated on the adjacent highway network; accordingly, the HSI has no objection to the planning application subject to conditions relating to the access and an informative relating to a s278 Agreement.

### **Air Quality**

The cumulative impact of a number of developments in the area (regardless of their individual scale) has potential to significantly increase traffic emissions, change the character of traffic in an area, increase HGV movements and as such adversely affect local air quality for existing residents by virtue of additional road traffic emissions. As such a condition should be imposed requiring electric vehicle charging points to be provided to all the dwellings.

### **ECONOMIC SUSTAINABILITY**

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

‘The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth’

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Congleton, including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

## **SOCIAL SUSTAINABILITY**

The site is within walking distance of Congleton Station and bus services, and Congleton offers a wide range of essential facilities and the development would contribute to the supply of housing in the local area.

### **Affordable Housing**

The proposal is for less than the threshold for a requirement for affordable housing, therefore no affordable housing should be sought within the development.

### **Residential Amenity**

The proposal is for 10 detached dwellings on this site. The required separation distances of 21.3m between principal elevations and 13.7m between principal elevations and flank elevations would be achieved between the existing and proposed dwellings, meaning that there would be no significant adverse impact on privacy or light levels.

Adequate private residential amenity space could be provided within the domestic curtilage of the properties to provide recreational space and bin storage.

Following the submission of the revised layout, it is considered that there would no longer be issues of overshadowing of gardens and properties by existing trees within the site.

Should the application be approved a condition should be imposed relating to piling operations.

### **Response to Objections**

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. There is an objection on the grounds of loss of privacy, however the proposed development would meet all the required separation distances. In addition there is already approval for a block of 52 apartments on the site and this proposed development would have a significantly lower impact. The matter of property prices is not a material planning consideration.

### **S106 Contributions:**

### **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 within the main report, replacement tree planting to mitigate for the loss of some trees within the site is necessary, directly related to the development and fairly and



reasonably related in scale and kind to the development. It would help to make the development sustainable and is a requirement of Policy NR1 an Supplementary Planning Document No.14: Trees and Development.

### **Conclusion – The Planning Balance**

The site is within the Settlement Zone Line of Congleton, where there is a presumption in favour of sustainable development. There is also an extant approval for a 52 apartment block on the site, which would have a much greater impact than the proposed 10 residential dwellings.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing within an existing settlement where there is existing infrastructure and amenities.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, ecology, drainage, landscape, trees and design.

### **RECOMMENDATION**

**Approve subject to the completion of a s106 Agreement to secure £5,000 for the provision of off-site, replacement tree planting and the following conditions:**

- 1. Commencement**
- 2. Approved plans**
- 3. Materials in accordance with details submitted with the application**
- 4. Retention of trees identified for retention within the site**
- 5. Submission of tree and hedgerow protection measures**
- 6. Submission of a Construction Method Statement for the no-dig access off Biddulph Road**
- 7. Submission of a tree pruning/felling specification, including a 10 year management plan for the protected woodland fronting Biddulph Road**
- 8. Submission of an Arboricultural Method Statement**
- 9. The proposed access off Biddulph Road shall be constructed in accordance with the agreed specification (condition 6) and constructed prior to the commencement of any other development on the site**
- 10. Submission and approval of a Construction Management Plan including a construction compound within the site**
- 11. Restriction on hours of piling to 9am to 5.30pm Monday to Friday, 9am to 1pm Saturday and no working on Sundays or public holidays.**
- 12. Submission of an updated Remediation Strategy for contaminated land**
- 13. Provision of electric vehicle charging points for each dwelling**
- 14. Breeding bird survey for works in the nesting season**
- 15. Submission of details of features suitable for use by breeding birds including Sparrows and Swifts for inclusion within the site**
- 16. Submission of details of bat boxes for inclusion within the site**

**Informatives:**

1. It is recommended that the hours of noise generative\* demolition / construction works taking place during the development (and associated deliveries to the site) are restricted to:

<b>Monday – Friday</b>	<b>08:00 to 18:00 hrs</b>
<b>Saturday</b>	<b>09:00 to 14:00 hrs</b>
<b>Sundays and Public Holidays</b>	<b>Nil</b>

2. The developer will be required to enter into section 278 agreement of the Highways Act 1980 with the Highway Authority for the proposed works (illustrated in ashleyhelme drawing number 1087/SP/04 rev A but revised to include pedestrian crossings as conditioned above) that are within the existing highway boundaries.

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

