

Application No: 15/0001C

Location: Land off, Goldfinch Close and Kestrel Close, Congleton

Proposal: Reserved Matters following Outline Approval of 12/3025C

Applicant: Mrs A Oakden, Seddon Homes Ltd

Expiry Date: 17-Apr-2015

## **SUMMARY**

The principle of development has already been accepted as part of the outline approval on this site. The weighting of material planning issues within the planning balance is an exercise previously undertaken by the Inspector.

This assessment therefore considers the matters of detailed design, layout and landscaping previously reserved, however, the scheme is considered to contribute to the 3 strands of sustainability in the NPPF in the following ways:

### **Social Sustainability**

The development will not have a detrimental impact upon residential amenity, it would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply and provide affordable housing in an area of continuing need.

The impact upon infrastructure would be neutral as the education department previously advised at outline stage that there was sufficient capacity in local schools to cater for this development as part of the outline scheme. The provision of public open space and the proposed play area is acceptable.

### **Environmental Sustainability**

The design, layout and landscaping of the scheme are considered to be of sufficient quality.

The ecological and arboricultural impacts are considered to be neutral as mitigation, which was conditioned as part of the outline permission would be secured. Drainage/flood risk issues are also acceptable.

The proposed access points are acceptable and the traffic impact as part of this development has already been accepted together with highway works via a S278 agreement pursuant to the Highways Act and contributions for off-site highway works by the Inspector at the outline stage.

The internal design of the highway layout/parking provision is acceptable to the Head of Strategic Infrastructure (Highways).

### **Economic Sustainability**

The proposal will contribute to the local economy by virtue of the increased spending power of new residents and the construction supply chain.

### **RECOMMENDATIONS**

**APPROVE subject to conditions & deed of variation to the S106 Agreement**

### **REASON for REFERRAL**

This application is referred to the Southern Planning Committee as it is a small-scale major development.

### **BACKGROUND**

Members deferred determination at their meeting of 2 September 2015, pending further negotiation with the Applicant concerning the 'pepper-potting' of the affordable units and the provision of a footpath link from properties in the northern portion of the site to the Public Open Space in the southern part of the site.

Revised plans have now been received that address these concerns.

### **PROPOSAL**

Reserved matters approval is sought for the external appearance, layout, landscaping and scale for 38 dwellings at land to the west of Goldfinch Close, Congleton. Following revision, this has been revised down from 40 units, as originally submitted.

Two accesses are provided via Kestrel Drive and Goldfinch Close, both of which were previously granted permission at the outline stage.

The development would consist of 1 to 4 bedroom units including some apartments. The entire development is proposed to be 2 storeys in height.

### **SITE DESCRIPTION**

The application site measures some 1.83 hectares in size and is situated to the west of the residential development on Goldfinch Close and Kestrel Close, Congleton.

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. Lamberts Lane is located to the south of the field on the southern boundary of the site.

The site has a network of existing hedgerows and trees and although it is agricultural land, it has not been managed for a period of time. The Congleton Borough Council (Canal Road, Congleton)

Tree Preservation Order 1986 affords protection to a number of selected Oak and Sycamore trees within existing field hedgerow boundary enclosures.

## **RELEVANT HISTORY**

12/3025C - Erection of up to 40 dwellings, open space, associated landscaping, infrastructure and access – granted on appeal 4 February 2014

13/3517C - Outline application for erection of up to 230 dwellings, access, open space and associated landscaping and infrastructure – refused 16 May 2014 (subject to appeal with Public Inquiry which has recently concluded, decision awaited)

14/4938C - Outline application for erection of up to 220 dwellings, access, open space and associated landscaping and infrastructure- resubmission of 13/3517C – Refused 31-Jul-2015

## **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

14 - Presumption in favour of sustainable development, 47-50 - Wide choice of quality homes, 56-68 - Requiring good design and 69-78 - Promoting healthy communities

### **Development Plan**

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review (2005). The relevant Saved Policies are:

GR1 New Development  
GR2 Design  
GR3 Residential Development  
GR5 Landscaping  
GR6 Amenity and Health  
GR9 Accessibility, servicing and provision of parking  
GR14 Cycling Measures  
GR15 Pedestrian Measures  
GR17 Car parking  
GR18 Traffic Generation  
GR21 Flood Prevention  
GR22 Open Space Provision  
NR1 Trees and Woodland  
NR2 Statutory Sites (Wildlife and Nature Conservation)  
NR3 Habitats  
NR5 Habitats  
H2 Provision of New Housing Development  
H6 Residential Development in the Open countryside  
H13 Affordable Housing and Low Cost Housing

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

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

PG2 – Settlement Hierarchy  
PG5 - Open Countryside  
PG6 – Spatial Distribution of Development  
SC4 – Residential Mix  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE3 – Biodiversity and Geodiversity  
SE5 – Trees, Hedgerows and Woodland  
SE 1 – Design  
SE 2 - Efficient Use of Land  
SE 4 - The Landscape  
SE 5 - Trees, Hedgerows and Woodland  
SE 3 - Biodiversity and Geodiversity  
SE 13 - Flood Risk and Water Management  
SE 6 – Green Infrastructure  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **Other Material considerations:**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation  
Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing

## **CONSULTATIONS**

### **Head of Strategic Infrastructure (Highways)**

No objection - internal road layout is acceptable and the amount of parking provision complies with the Council's standard.

### **Environmental Protection**

No objection subject to conditions as detailed in the outline permission.

## **REPRESENTATIONS**

Objections have been received from 18 different local addresses on the basis of the following:

- Does not comply with planning policy or Town Plan

- Increased traffic
- Unsuitable access and road infrastructure with excessive parking at its access
- Potential for serious injury to children playing in the local area
- Lack of parking
- Loss of property values
- Location of the affordable houses within the layout – smaller units clustered close to existing 4 bed dwellings in Goldfinch Close
- Provision and necessity of affordable housing / provision of bungalows
- The affordable housing is not pepper-potted in accordance with the SPD
- Lack of parking/ creation of bottleneck
- Overshadowing of existing dwellings due to higher land level of site adjoining Goldfinch Close
- Out of keeping with area
- Increase in density / scale / levels
- Unneighbourly / loss of privacy / overlooking
- Local infrastructure cannot cope
- Will require extra bus services
- Impact on local wildlife
- Proposal does not comply with outline
- Maintenance issues with apartments
- Local pedestrian access is poor

Fiona Bruce MP has written to support the points made by the objectors.

## **APPRAISAL**

The key issues are:

- Principle of the development
- Housing land supply
- Sustainability
- The acceptability of the design
- Impact on residential amenity
- The impact upon highway safety
- Education
- S106 contributions Levy (CIL) Regulations

### **Principle of Development**

Given that the principle of development has been established by the granting of outline planning permission this application does not represent an opportunity to re-examine the appropriateness of the site for residential development.

Access to the site via the 2 access points via Goldfinch and Kestrel Close was fully approved as part of the outline scheme for up to 40 units granted outline permission at appeal.

The key issues for Members to consider in determining this application therefore, are the acceptability of the design and appearance of the scheme, the internal highway configuration,

landscaping, layout and scale of the buildings, particularly in respect of residential amenity, their relationship to retained trees and the surrounding area.

## **Design Standards**

The numbers of units have been reduced by 2 since the original submission of this application. This is now a scheme of 38 dwellings, comprising a mix of detached, semi-detached, terraced units and apartments arranged in two cul de sacs with 3 areas of incidental open space, one being located to the western boundary of this site and formed of a re-enforced earth embankment/retaining bund, whereas the other comprises the northern side of the continuation of Kestrel Drive.

The land falls away steeply towards Lamberts Lane, hence the need for the retaining structure. The assessment of this element of the scheme will be considered in the landscape section of this report.

The properties are exclusively 2 storey (approx. 7.6m) height set within individual landscaped plots with off street parking on driveways or within integral garages. A parking court has been provided behind the apartment blocks, thus leaving the frontages of the units at the entrance of the site free of car parking. The 2 storey apartment blocks comprise 4 one bedroomed flats and are designed to have the appearance of a standard modern mews or terraced house with covered porch. The revisions have split the apartments in to two separate areas of the site.

The layout is in keeping with the residential layout and vernacular in the existing Goldfinch/Kestrel Close estate and the wider modern housing estate. In this case it is considered that the proposed heights are acceptable. Some comments have been raised by neighbours concerning rising land levels in the site; however, this is no different than the existing rising land level in the estate and the spacing of the plots relative to each other and the existing residential housing estate is not dissimilar to that proposed.

Compared to the layout of the Illustrative Masterplan submitted as part of the outline application there has been some revision of heights. The outline scheme masterplan (as approved on appeal) originally indicated blocks of some two and a half storey development. This layout has a looser, less engineered character, where buildings and spaces more effectively determine layout. The street arrangement follows through from the indicative blocks on the outline masterplan and comprises the inclusion of the feature landscape spaces.

It is considered that the design of the units is appropriate and that the development would not appear out of character with the housing to the east of the site.

Details of the proposed boundary treatments are standard close boarded fencing. An open plan configuration is contained to front gardens, again in keeping with character of the existing estate.

The detailed design and layout has been the subject of negotiation during this application, which has resulted in the reduction in units by 2 and consequently it is considered that the design of the scheme is appropriate and that it accords with Policy GR2 (Design) of the Congleton Borough Local Plan.

## **Landscape Impact and trees/hedgerows**

The site is currently unused agricultural land located immediately adjacent to a residential area. An overgrown mound of spoil left over from the previous housing development adjoins the residential boundary. There are well established hedgerows and tree belts to several of the boundaries. A number of mature hedgerows and trees are located around the periphery of the site. The land falls away from north to south.

There are no landscape designations on the application site. Within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods landscape, specifically the Brereton Heath Area.

Although the site displays some of the characteristics of the Brereton Heath Character Area, the character of the site is significantly influenced by the existing development of housing along the entire eastern boundary. The topography of the application site generally falls from east to west, towards The Howty, apart from a bund located along the north east boundary of the site.

The site has a network of existing hedgerows and trees and although is agricultural land, has clearly not been managed for a period of time, nevertheless the existing vegetation and trees provide an attractive setting and significant screen to the periphery of the site, particularly from Lamberts Lane. The site is strongly influenced by the existing boundary hedgerows and trees, so that visually the site is very well self contained with a Landscape Zone of Visual Influence that is limited to the existing surrounding boundaries and residential properties to the east of the site.

The Congleton Borough Council (Canal Road, Congleton) Tree Preservation Order 1986 affords protection to a number of selected Oak and Sycamore trees within existing field hedgerow boundary enclosures.

There are seven protected trees within and immediately adjacent to the application site (assessed as A and B moderate high category trees) in addition to a number of other unprotected trees and hedgerows. The proposed site layout illustrates three of these protected trees (two Oak and a Sycamore) are to be located within formal public open space which is to be welcomed. It would appear that the internal road infrastructure generally respects root protection areas of retained trees.

The layout would allow for the retention of the majority of the peripheral hedgerows and important trees (other than to accommodate the main access points) and would allow for landscape and biodiversity enhancement measures to be realised. As mended, the Council's Tree Officer has confirmed that the arboricultural impacts are acceptable and as such there is no objection in this regard.

## **Residential Amenity**

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

The nearest neighbouring residential units to the site are those occupying land at Partridge Close, Kestrel Drive and Goldfinch Drive to the east. The properties on Partridge Close would back onto the side elevation of plot 19 and would achieve a distance of 15 metres. Plot no. 30 would side onto the nearest property on Goldfinch Close and would achieve a distance of 13.3 metres. Such distances would be sufficient to ensure that the proposed development does result in a loss of amenity to the nearest neighbouring properties by reason of direct overlooking, visual intrusion or loss of light. Elsewhere, the proposed development would meet or exceeded the minimum separation distances.

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. The layout shows that this will be achieved in the majority of cases. It is therefore concluded that the proposed development is acceptable in amenity terms and would comply with the requirements of Policy GR1 and GR6 of the Local Plan.

### **Affordable Housing**

The proposal incorporates 11 affordable units, of which 8 are 1 bedroom apartments and the remainder are 3 bed roomed mews houses located to the north of the site. The apartments are designed to appear as a pair of semi-detached dwellings or a small terrace. The Council's Strategic Housing Officer has confirmed that the quantum of affordable units, the tenure split, the size and location of the affordable units are acceptable and as such, the scheme as amended would provide the requisite level and type of affordable housing to assist the continuing need in the locality.

To address Committee concerns the 2 blocks of affordable rented units which were located to Goldfinch Close part of the site have been split and one of the blocks relocated to the southern part of the site. This is considered to build a stable community and the affordable units are of the same design ethos as the whole development and would not be discernible, in accordance with the SPD.

However, as the quantum equates to 29% rather than the 30% required by the S106 Agreement attached to the outline permission, further negotiations have taken place with the Strategic Housing Manager to offset this shortfall via an additional commuted sum of £22,400 with payment upon commencement of development. A Deed of Variation will be required.

### **Highways**

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

Vehicular access to the site is to be taken from Goldfinch Close and Kestrel Drive, precise details of which were granted on appeal. This assessment therefore addresses the internal layout.

The proposed internal road layout would provide two cul-de-sacs with no highway link between. The Council's Head of Strategic Infrastructure (HIS – Highways) has confirmed that the proposed road layout does meet highway standards in regards to road width and pedestrian footways provided and as such are considered acceptable.



With reference to parking provision, the parking provision is 200% for the all of the units except for the 1 bed units, which have 1 space each. This provision accords with the current parking standards. As such, the internal road layout and the parking provision is considered to be acceptable and policy compliant.

## **Ecology**

The application has been the subject of a number of surveys for European protected species and other protected species such as the badger. The surveys have been updated as part of the application consideration in accordance with the requirements of the Council's Nature Conservation Officer.

### Bats

No evidence of roosting bats was recorded during the submitted survey and bat activity on site appears to be low. The Council's ecologist therefore considers that the proposed development is unlikely to have a significant adverse impact upon bats. A number of trees have been identified within the submitted surveys as offering potential roosting opportunities for bats. Given that the proposed layout will enable these tree specimens to be retained and having regard to the submitted mitigation/compensation, the favorable conservation status of the species will be maintained.

### Habitats

The site exhibits features that are considered as Biodiversity Action Plan Priority habitats and hence a material consideration. These include hedgerows, badger habitat and breeding birds. The impacts of the layout of the proposed development upon the badger are significant so that a Natural England disturbance license will be required. The Council's Ecologist is satisfied that the adverse impact of the development on other protected species can be mitigated in accordance with the submitted ecological information and mitigation.

The proposed development site is likely to support breeding birds as well as provide badger habitat. The retention of the hedgerows within the proposed areas of open space (as ecological enhancement) will mitigate the impact of the development on breeding birds and badgers to some extent. The Council's Ecologist has queried the ecological buffer to the western boundary of the site and this has been addressed through submission of an amended plan.

## **Discharge of Conditions attached to 12/3025C**

A number of conditions attached to the original outline permission required information to be submitted as part of the reserved matters. This application has addressed this requirement in respect of Condition 8 (Landscape Management), Condition 9 (boundary treatments to each property); Condition 17 (existing and proposed ground levels) ; Condition 18 (bin storage) for all properties and Condition 20 (5m buffer zone alongside the watercourse on the site to be submitted for approval) the submitted Landscape Management Plan: Public Open Space Areas.

The information submitted satisfactorily addresses the requirements.

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

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

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

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

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

In allowing the outline application, the Inspector has already considered the relevant contributions and mitigation required to offset impacts relating to affordable housing, public open space and urban realm works. These were deemed necessary and reasonably related to the development and it is not the purpose of this reserved matters to revisit this extant requirement. However, a formal deed of variation will need to be entered into to link the additional financial contribution of £22,400 in lieu of the full affordable housing compliance in this current layout with the original Unilateral obligation forming part of the outline permission for this development.

## **Planning Balance**

The principle of development has already been accepted as part of the outline approval on this site. The weighting of material planning issues within the planning balance is an exercise previously undertaken by the Inspector.

This assessment therefore considers the matters of detailed design, layout and landscaping previously reserved, however, the scheme is considered to contribute to the 3 strands of sustainability in the NPPF in the following ways:

The development will not have a detrimental impact upon residential amenity, it would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply and provide affordable housing in an area of continuing need.

The impact upon infrastructure would be neutral as the education department previously advised at outline stage that there was sufficient capacity in local schools to cater for this development as part

of the outline scheme. The provision of public open space and the proposed play area is acceptable.

The design, layout and landscaping of the scheme are considered to be of sufficient quality.

The ecological and arboricultural impacts are considered to be neutral as mitigation, which was conditioned as part of the outline permission would be secured. Drainage/flood risk issues are also acceptable.

The proposed access points are acceptable and the traffic impact as part of this development has already been accepted together with highway works via a S278 agreement pursuant to the Highways Act and contributions for off-site highway works by the Inspector at the outline stage.

The internal design of the highway layout/parking provision is acceptable to the Head of Strategic Infrastructure (Highways).

The proposal will contribute to the local economy by virtue of the increased spending power of new residents and the construction supply chain. Accordingly, the scheme is deemed to acceptable and is recommended for approval.

## **RECOMMENDATION**

### **APPROVE subject to a formal deed of variation and the following conditions**

1. Development to be carried out in accordance with approved / amended plans
2. Accordance with submitted ecology reports / mitigation / recommendations
3. Accordance with details of boundary treatments
4. Accordance with levels
5. Path materials to be submitted and approved
6. Accordance with 5m buffer zone along watercourse
7. Removal of permitted development rights classes A-E (extensions and outbuildings)
8. Materials to be submitted and approved
9. Obscured glazing on selected plots
10. Removal of permitted development rights for openings on selected plots.
11. Accordance with updated arboricultural report
12. Accordance with Tree / hedgerow protection

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

**Should this application be the subject of an appeal, authority be delegated to the Planning and Enforcement Manager in consultation with the Chairman of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.**

