

Application No: 16/0325C

Location: Land adjacent to 36, Black Firs Lane, Somerford, CW12 4QQ

Proposal: Outline planning application for the erection of 3 No. dwellings.

Applicant: Gareth Jackson

Expiry Date: 24-Mar-2016

## **SUMMARY**

**The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.**

**Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.**

**Paragraph 49 of the NPPF states 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 consider 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).**

**The boost to housing supply is an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release.**

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

**In this instance, it is considered that the economic and social benefits of the scheme would outweigh the dis-benefits by virtue of the loss of designated open countryside and the minor impact upon the efficiency of the Jodrell Bank Radio Telescope.**

**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.**

## **RECOMMENDATION**

**Delegate to the Head of Planning and Development and Chair of Southern Planning Committee to formally notify the University of Manchester (Jodrell Bank) with a further 21 day consultation period, of the intention to grant planning permission, subject to conditions**

## **REASON FOR REFERRAL**

This application is referred to Southern Planning Committee as it proposes housing in the Open Countryside. This would represent a departure from the Development Plan.

## **PROPOSAL**

This application seeks outline planning permission for the construction of three with all matters reserved for subsequent approval. The proposal therefore merely seeks to establish whether the construction of three dwellings would be acceptable as a matter of principle.

The scheme is supported by an indicative layout which indicates the retention of the existing dwelling and the construction of three detached dwellings within the curtilage of the existing property. One dwelling is shown with an integral garage while two are shown with a detached garage. To facilitate the development part of the existing dwelling is shown to be demolished. The indicative point of access to serve the development would be via the existing point of access.

## **SITE DESCRIPTION**

The site relates to a detached dwelling and its generous residential curtilage which is located within the Open Countryside as defined by the Congleton Borough Local Plan Inset Map.

The application site (which excludes part of the existing dwelling) extends to approximately 0.38 hectares. The application site is well vegetated with trees along the site boundaries.

The site is located to the north but outside of the Infill boundary line of Somerford (Chelford Road/Holmes Chapel Road/Black Firs Lane). There are extant planning permissions for residential development immediately to the south of the site and on the opposite side of Black Firs Lane. The site falls within the Jodrell Bank Outer Zone.

## **RELEVANT SITE HISTORY**

None relevant

## **LOCAL & NATIONAL POLICY**

## **Congleton Borough Local Plan**

The Development Plan for this area is the 2005 Congleton Borough Local Plan, which allocates the site, under Policy PS8, as Open Countryside

The relevant Saved Policies are;

PS8 – Open Countryside; GR1 – New Development; GR2 – Design; GR6 - Amenity and Health; GR9 - Highways & Parking; GR20 – Public Utilities; GR22 – Open Space Provision; NR3 – Habitats; NR1 - Trees and Woodlands; H1 & H2 - Provision of New Housing Development; and, H6 - Residential development in the Open Countryside and the Green Belt

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

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

Policy SD1 - Sustainable Development in Cheshire East; Policy SD2 - Sustainable Development Principles; Policy SE1 - Design; Policy SE2 - Efficient Use of Land; Policy SE3 - Biodiversity and Geodiversity; Policy SE4 - The Landscape; Policy SE5 - Trees, Hedgerows and Woodland; Policy SE9 - Energy Efficient Development; Policy SE12 - Pollution, Land Contamination and Land Instability; Policy IN1 – Infrastructure; Policy IN2 - Developer Contributions; Policy PG1 - Overall Development Strategy; Policy PG2 - Settlement Hierarchy; Policy PG5 - Open Countryside; and, Policy SC4 - Residential Mix.

## **National Policy**

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

7 – Achieving Sustainable Development; 14 - Presumption in favour of sustainable development; 17 – Core planning principles; 32 – Promoting sustainable transport; 47-50 - Wide choice of quality homes; 55 - Isolated dwellings in the countryside; 56-68 - Requiring good design; 69-78 - Promoting healthy communities; and, 109-11 - Conserving and enhancing the natural environment.

## **Supplementary Planning Documents:**

North West Sustainability Checklist

## **CONSULTATIONS**

**CEC Highways** – The submitted visibility splays shown on the plan are acceptable and the increased width of access is adequate to serve the number of units proposed.

**Environmental Protection** – No objections, subject to a number of conditions including; Pile Driving (if proposed); measures to control dust; the submission of a Phase I contaminated land survey; Testing of soil brought into the site; and, unexpected contamination.

**Strategic Housing (Cheshire East Council)** – Following the recent Court of Appeal decision, there will be no requirement for affordable housing on this site.

**University of Manchester (Jodrell Bank)** - In the case of the proposal 16/0325C, we oppose this development. Our view is that the impact from the additional potential contribution to the existing level of interference coming from that direction will be relatively minor. This is a general direction in which there is already significant development close to the telescope.

We would ask the planning authority to take this in to account in reaching its decision on this development, noting that the cumulative impact of this and other developments is more significant than each development individually.

**Somerford Parish Council** – No objection - In view of the proposed development of the adjoining land, to the rear, It would be hard to justify objecting to the 3 proposed dwellings. SPC wish that the aesthetics of the architecture will reflect the style and character of the existing property.

For a single dwelling the access is acceptable but for 4 properties at a entry/exit point could potentially not be suitable at busy times. The site plan submitted shows the track as it is at the moment. When the triangle is developed it would no doubt require a much wider access /entry point and move the access closer to the existing drive of number 36.

## **REPRESENTATIONS**

Neighbour notification letters were sent to all adjacent occupants, and a site notice was erected. One letter of representation have been received. The main objections raised include;

- Difficult to comment with all matters reserved – require more detail on scale and layout to ensure no overbearing impact;
- Proposals would dramatically change established pattern of development
- Irreversible change in character, detrimental to open countryside

## **APPRAISAL**

The key issues are:

- The principle of the development
- The sustainability of the proposal, including its; Environmental, Economic and Social role
- Planning balance

### **Principle of Development**

The site is designated as being within the Open Countryside where Policy PS8 (Open Countryside) of the Congleton Borough Local Plan states that development will only be permitted if it falls within one of a number of categories.

As the proposed development is for the erection of 3 new dwellings in the Open Countryside, it is subsequently subject to Policy H6 of the Congleton Local Plan and Policy PG5 of the

emerging Cheshire East Local Plan Strategy – Submission Version. Policies H6 and PG5 advise that residential development within the Open Countryside will not be permitted unless it falls within a number of categories.

The proposed development does also not fall within any of the categories listed within Policies PS8, H6 of the Local Plan or PG5 of the emerging plan relating to development within the open countryside. As a result, the proposed development constitutes a “departure” from the development plan and emerging plan and as such, there is a presumption against the proposal.

The issue in question is whether the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection. These are considered below.

### Housing Land Supply

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council’s ‘Housing Supply and Delivery Topic Paper’ of February 2016.

This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council’s five year housing land supply. From this document the Council’s latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgfield approaches.

The paper concludes that going forward the preferred methodology would be the ‘Sedgepool’ approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need. However, at the current time, the Council cannot demonstrate a 5 year supply of housing.

This is a material consideration in support of the proposal.

## **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”*

The NPPF determines that sustainable development includes three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**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;

**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

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

The issue in question is whether the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection. These are considered below.

## **Environmental role**

### Locational 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”*

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. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

Although a locational sustainability assessment has not been provided by the applicant for this scheme, the application site is located 100m from the Infill boundary line for Somerford. There have also been numerous approvals within the immediate area, including 180 dwellings on the opposite side of Black Firs Lane, and dwellings fronting Black Firs Lane immediately to the south of the site. The site and surrounding area has been considered to be locationally sustainable in previous decisions and it is therefore considered that this site should also be considered to be locationally sustainable with good access to services and facilities.

### Landscape Impact

The application site covers an area of 0.38 hectares of residential curtilage land. The site boundaries are well defined by established vegetation which creates a visually well contained site. It is likely that the site can be developed without any significant loss of boundary treatment/established boundary vegetation. The Council’s Principal Landscape Officer advises that the proposals would not result in significant landscape or visual impacts, subject to the imposition of conditions relating to landscape.

### Ecology

The application is supported by an Extended Phase 1 Habitat Survey and Bat Roost Potential Survey. The survey has been undertaken by a suitably qualified and experienced ecological consultant. The survey has considered the potential impact of the development on protected species and their habitats.

### Badgers

The survey identifies that no evidence of badgers was recorded on site. However, badger setts are however known to be present in the locality. Based on the current status of badgers on the site, the proposed development is not likely to have a significant adverse impact upon badgers.

However, as the status of badgers on a site can change in a short timescale it is advised that any future reserved matters application to be supported by an updated badger survey.

#### Great Crested Newts

The Councils Nature Conservation Officer confirms that Great Crested Newts are not reasonably likely to be present or affected by the proposed development.

#### Bats

The submitted report has identified a bat roost being present in the existing dwelling house which will not be directly affected by the proposed development.

The garage block and stables buildings which will be demolished as part of the proposed development have been identified as having low potential to support roosting bats and no evidence of roosting bats was recorded as being associated with these buildings.

Based on the current levels of bat activity on site roosting bats are not reasonably likely to be affected by the proposed works however as roosting bats are present on site it is advised that, as with badgers, if outline permission is granted a condition should be attached to ensure that any future reserved matters application be supported by an updated bat survey.

#### Design

The application is in outline with all matters reserved including scale, layout and appearance. Notwithstanding this, an indicative layout shows the provision of up to 3 new dwellings within the site along with the retention of part of the existing dwelling.

Black Firs Lane is primarily characterised by large detached dwellings set in plots which front onto the public highway. The application proposals would provide dwellings which would be sited on the garden land to the side and rear of the host dwelling, and as such would be at odds with the prevailing pattern of development along Black Firs Lane. Notwithstanding this, a large housing development for 180 dwellings have been approved on the opposite side of Black Firs Lane which would ultimately change the character and pattern of development within the immediate area. Additionally, as detailed above, the site itself is well contained by the existing boundary vegetation which is proposed to be retained. The proposed development therefore is unlikely to be prominent when viewed from Black Firs Lane.

The indicative layout demonstrates that the site can accommodate the provision of three additional detached dwellings comfortably within the plot without resulting in an overdevelopment of the site.

The scheme is therefore unlikely to have a detrimental impact on the character and appearance of the area and, the indicative layout is deemed to be acceptable in principle.

#### Access

Details of access are a reserved matter. However the submission indicates that the proposals would be accessed via the existing point of access from Black Firs Lane. Details of the achievable visibility splays from the existing point of access have been provided. The Councils Highways Officer has confirmed that the proposed visibility splays are adequate to serve the intensified use of this point of access. The proposals would not therefore amount to a severe impact on highway safety.

#### Environmental Conclusion



It is not considered that the proposed development would create any significant environmental impacts with regards to; the landscape, protected species, highway safety, and design, subject to conditions.

As a result of the above reasons, it is not considered that the proposed development would be environmentally neutral.

## **Economic Role**

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’.*

Given the countryside location of the site, consideration must also be given to one of the core principles of the Framework, which identifies that planning, should recognise:

‘the intrinsic character and beauty of the countryside and supporting thriving rural communities within it’.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

‘support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings’

The economic benefits of the development need to be balanced against the impact upon the open countryside.

With regard to the economic role of sustainable development, the proposed development will help, albeit in a small way, to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits, to Someford, west Congleton and the surrounding area, including additional trade for local businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal, although small, will generate economic benefits to the area.

## **Social Role**

The proposed development would provide three open market dwellings which in itself, would be a social benefit.

## **Amenity**

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties in terms of loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking. Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

To the south of the site is an extant planning permission for the construction of a new dwelling. The nearest dwelling as shown on the indicative layout would be approx 18m from the boundary, which would be sufficient to ensure that the proposals would not amount to significant overlooking or overbearing on the private amenity space of that property.

Plots 1 and 2 would share boundaries with open countryside and as such would not give rise to amenity issues through overbearing, overlooking or overshadowing. It is noted that there is a current planning application to develop the land beyond these boundaries for housing. The indicative siting of the dwellings from these boundaries, along with the mature boundary treatment is sufficient for the proposals not to compromise any future housing development of the adjoining land.

In terms of the internal relationships, it is considered that the indicative layout demonstrates that the proposed development would provide sufficient interface distances not to compromise residential amenity for future occupants. Additionally, a satisfactory level of private amenity space for each dwelling can be secured as detailed in the indicative layout.

The Council's Environmental Protection Team have reviewed the submission and advised that they have no objections, subject to a number of conditions relating to piling, dust control, and contaminated land.

As such, subject to the above suggested conditions, from the Council's Environmental Protection Officer, the proposal is considered to adhere to Policy GR6 of the Local Plan.

### Jodrell Bank

As the application site falls within the Jodrell Bank Radio Telescope Consultation Zone, it is subject to Policy PS10 of the Local Plan.

Policy PS10 advises that for such sites, development will not be permitted which can be shown to impair the efficiency of the Jodrell Bank Radio Telescope.

It is proposed that Policy PS10 will be replaced by Policy SE14 within the emerging Cheshire East Local Plan Strategy – Submission Version. The principles of this policy broadly reflect those of Policy PS10.

The University of Manchester (who operate Jodrell Bank), have advised that the additional potential contribution to the existing level of interference coming from that direction will be relatively minor.

As such, there would be an impact upon the Telescope, but the impact would be 'minor' and this impact needs to be weighed in the overall balance of the application proposal.

Should the committee resolve to grant planning permission the Council will be required to give 21 days notice of the intention to do so to Manchester University, in accordance with the Jodrell Bank Directive.

## **Planning Balance**

The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.

Paragraph 49 of the NPPF states 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 consider 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).

The boost to housing supply is an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release.

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

In this instance, it is considered that the economic and social benefits of the scheme would outweigh the dis-benefits by virtue of the loss of designated open countryside and the minor impact upon the efficiency of the Jodrell Bank Radio Telescope.

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.

## **RECOMMENDATION**

**Delegate to the Head of Planning and Development and Chair of Southern Planning Committee to formally notify the University of Manchester (Jodrell Bank) with a further 21 day consultation period, of the intention to grant planning permission subject to the following conditions**

- 1. Commencement of Development (Outline)**
- 2. Submission of Reserved Matters (Access, Appearance, Landscaping, Layout and Scale)**
- 3. Reserved Matters to be informed by indicative layout**
- 4. Details of existing and proposed ground levels**
- 5. Details of surface and foul water drainage – Prior submission/approval**

- 6. Landscaping Reserved Matters Application shall include details of existing trees to be retained along with measures for their retention**
- 7. All subsequent Reserved Matters Application shall be supported by an updated protected species survey with regard to Badgers and Bats**
- 8. Access reserved matter shall detail access and visibility as approved detailed on approved visibility plan**
- 9. Dust Control Measures – Prior submission/approval**
- 10. Contaminated Land Survey – Prior submission/approval**
- 11. Soil Importation testing**
- 12. Unidentified Contamination**

