

Planning Reference No:	09/1127C
Application Address:	Mossley House, Biddulph Road, Congleton, CW12 3LQ.
Proposal:	The demolition of existing property and the redevelopment of the land, including 43 No. 1, 2 and 3 bed use class C2 residential accommodation with care, car parking, landscaping and associated works.
Applicant:	Mr Dean Fisher Gladman Care Homes Ltd
Application Type:	Full Planning Permission
Ward:	Congleton Town East
Registration Date:	1 st June 2009
Earliest Determination Date:	10 th July 2009
Expiry Date:	30 th August 2009
Date report Prepared	13 th January 2010
Constraints:	Protected Trees

SUMMARY RECOMMENDATION: Approve subject to Section 106 Agreement and conditions.

MAIN ISSUES:

- Principle of the development
- Design and scale
- Amenity of neighbouring properties
- Impact on protected trees
- Impact on protected species
- Highway safety

1. REASON FOR REFERRAL

Major Development

2. DESCRIPTION AND SITE CONTEXT

The site is the setting for Mossley House located on Biddulph Road and approximately 2km from Congleton town centre. It has an irregular shape and total area of 0.78 ha. Mossley House and its extensive rear buildings form a 2-storey linear building of about 55m long and 14m wide at the widest part.

The main house is a late 19th century brick building with stone window surrounds and a small 3-storey tower to the side. The south elevation is the main elevation and has a prominent central bay over the main entrance door. The stable building to the rear is attached to the main house by a rear extension of similar dimensions. The original house has been prone to unsympathetic extensions and alterations in the past.

The house and outbuildings are set in a large garden that contains many mature trees around the edge of the site and to the front of the existing house, 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' that is also in the ownership of the applicant but is not part of the application site. There are two other disused access points to the site off Biddulph Road and on the corner of Biddulph Road and Reades Lane respectively.

Mossley House is located in 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.

3. DETAILS OF PROPOSAL

The proposal seeks to demolish the existing buildings on the site and construct a three-storey apartment block of a height of between 10m and 12.3m, set back 40m from the road. It would be set in the centre of the site in order to have minimum impact on the protected trees.

The development would provide 43 apartments for people aged 60yrs and over who are considered to be in need of care. It would comprise 7 one-bed apartments, 33 two-bed apartments and 3 three-bed apartments. In addition there would be a communal lounge and restaurant, managers office and facilities for 24hr care, computer room, library, assisted bathroom and WC and gymnasium. 45 parking spaces would be provided, which would include 3 for disabled use.

4. RELEVANT HISTORY

08/0552/FUL – 2008 - Refusal for demolition of existing property and development of 37no. 1 and 2 bed. retirement apartments with associated access, car parking, landscaping and ancillary works

5. POLICIES

The site is not allocated in the Local Plan but the following policies apply:

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

6. CONSIDERATIONS (External to Planning)

Housing

Local Housing Need: The Draft Older Persons Housing Strategy for Congleton Borough demonstrates a need for high quality leasehold accommodation for the elderly within the Borough.

Affordability: - In line with Supplementary Planning Document 6 (Affordable Housing and Mixed Communities) we would expect 30% of the site to be classed as Affordable Housing. This housing should be in line with the definition in PPS3 which includes social rented housing or intermediate affordable housing including shared equity schemes. Of this 30% we would ordinarily expect 50% to be social rented and 50% to be either shared ownership or discounted for sale, however in the case of leasehold elderly persons accommodation contained within one block, due to the problems with service charges, we would not expect there to be any social rented or shared ownership delivered on site. What would however be acceptable is discounted for sale units. This allows the lease and service charges to be exactly the same on all units but allows those with less equity or savings to access the same scheme therefore providing affordable housing and satisfying a local need.

Environmental Health:

Contamination

The investigation reports elevated levels of Arsenic, Dibenzo(a,h)anthracene and Benzo(a)pyrene in at least four locations and makes a number of recommendations for further investigations. Initially, further investigation is required to determine if the contamination is wide spread across the site. As the contamination found on site is not considered to be volatile, it is considered unnecessary to undertake any further testing in the footprint of the proposed building and all further testing should be concentrated within the garden area. In addition an asbestos survey should be undertaken and appropriate actions taken dependent on the results. It is recommended that further works are carried out prior to the commencement of construction; these are detailed in the Phase 1 ground investigation report.

Air Quality

Due to the introduction of new exposure close to existing sources of air pollutants an air quality impact assessment should be submitted prior to the commencement of development.

Amenity

In order to protect the amenities of people in this residential area information should be submitted for approval relating to noise produced by fans, compressors and other equipment with the potential to create noise and odours. Details of any external lighting

should also be submitted to ensure that there is no spillage into neighbouring residential properties. Hours of construction and times when vehicles can access the site should be conditioned in order that disruption is kept to a minimum.

Cheshire Police Crime Reduction Advisor

Requests that the following issues are given consideration:

- Controlled access in the public areas
- Lighting levels
- Height and size of vegetation providing cover for potential criminals

United Utilities

State that the development would be adjacent to/include their electricity distribution equipment and the applicant must ensure that access rights are maintained and that the equipment is protected.

Highways:

The Strategic Highways Manager states the following:

- I have assessed the information in the Transport Assessment by Ashley-Helme Associates and find its content supports the application detail. There is comprehensive reference to National and Local policy documents regarding sustainability and the benefits this will bring to the site.
- I have checked the offered (and available), visibility at the site and accept them to show satisfactory levels of visibility for the development traffic generation.
- The proposal for a double access with one for access and one for egress is an arrangement which is not usual in its configuration, however in considering a holistic approach to development I am conscious of the fact that there are tree preservation issues within the site which will be supported by the proposed style of access. On this basis and considering that the position of the proposed points of access and visibility are acceptable, I find the offered design to be acceptable.
- Given the claims for the sustainability of the site there will need to be clear provision of a footway link to the major road and its footpath infrastructure. I consider that there should be a pedestrian access to Biddulph Road at or adjacent to the north-west access.

Senior Landscape Officer (SLO):

Trees

Trees on and adjacent to the site are protected by the Henshall Hall Congleton TPO 1978 and the Henshall Hall No. 2, Congleton Tree Preservation Order, 1995. The trees make a significant contribution to the character and visual amenity of the area. There are also a number of trees on site which are not subject to protection but which collectively contribute to screening of the existing building.

The original submission included a tree survey dated July 2007. From observations on site the survey is considered to be out of date. An updated tree survey dated July 2009 was subsequently submitted, however the following issues are still of concern.

A number of protected trees would have to be removed in order to accommodate the development and further specimens on health & safety grounds. A number of protected trees are likely to be at risk of damage from construction works.

Whilst the removal of any healthy TPO tree is of concern, the loss of the individual protected trees identified for removal in order to accommodate the development would not in my view have significant impact on the character or appearance of the site. However, the removal of both protected and unprotected trees, specifically to the west of the site, will open up views into the site.

Of greater concern is the potential impact on trees shown for retention, in particular where such trees would help to provide screening for the site and are prominent to public view from outside the site. There are significant areas where there would be hard surfacing within tree root protection areas and where there would be extensive construction traffic movement. In the vicinity of the proposed parking areas, new sections of driveway, and at pinch points around the building where construction access is required, special protection measures and construction techniques would have to be employed. In order to prevent damage to trees, such measures would need to be in place prior to any construction works. The construction management plan 3460-04 indicates how the site could be constructed and site works managed. The content of this plan confirms my view that there are significant constraints to development of the site.

With regard to screening of the site as a whole, it should be noted that the areas of trees to the south and south east of the building include a proportion of evergreen trees. The majority of the trees, which would be retained to the west, north and north east of the site, are deciduous and their screen value would be reduced in winter.

The extent to which potential harm could be mitigated would rely entirely on protection measures and special construction techniques being employed scrupulously throughout the course of the development.

Streetscape:

Have no observations relating to the provision of public open space and require no financial contributions.

Conservation Officer

Objected to the original scheme that was submitted, subsequent meetings led to a re-design of the building and those objections have now been withdrawn.

English Heritage

A request was submitted to English Heritage for the building to be listed. They carried out an assessment and concluded that it was not of sufficient architectural character or historic interest to merit listing.

Design Officer

Mossley House appears on the draft List of Locally Important Buildings Supplementary Planning Document, which is currently undergoing public consultation. This document has not been formally adopted; however it seems justifiable that the SPD guidance notes should be considered along with saved local plan policy BH6. It is clear that the intention of the Borough Council is to seek retention of those buildings whose presence contributes to the

appearance and heritage of the borough, and that such buildings maybe allowed to continue to contribute positively to the local environment.

English Heritage refused Mossley House for statutory listing (see statement by English Heritage 14th August 2009), but noted its local interest. Saved policy GR2 (III) states that proposals should respect the existing features and areas of nature conservation, historic architectural and archeological value and importance within the site. There are parts of the site which are perfectly capable of supporting future uses, thus ensuring the site maintains its local significance whilst adapting and supporting new accommodation. Consideration of the buildings local importance and architectural interest is ignored in the proposal, and therefore does not have regard for local policy guidance or a national objective to protect local distinctiveness (PPS 1).

Nature Conservation Officer

A number of surveys have been undertaken and I will comment on each in turn.

Phase 1 Survey

With the exception of the hedgerows and broad leaved woodland, which are BAP priority habitats, no significant habitats appear to have been recorded. I am however concerned that one part of the site was inaccessible and so has not been surveyed. Also the actual phase one habitat map does not appear to have been scanned onto Anite so I have no information on the location and extend of habitats present.

All hedgerows and woodland areas should be retained or mitigation/compensation provided for any to be lost. A small ornamental pond is located on site. Whilst this particular pond appears to have no particular ecological importance ponds are a local and national priority habitat and so if this pond will be lost to the development it should be replaced by a suitably designed wildlife pond.

Badgers

Some limited evidence of badger activity has been recorded on site; however no sett appears to be affected by the development. The isolation of a badger sett from the group's foraging areas can be a material consideration under PPS9. In this instance there appears to be abundant foraging potential outside the development footprint and no evidence of badger activity was recorded during the latest survey. The ecological survey report has recommended that fruit trees should be planted to provide an alternative food source and that badger gates are installed in any fencing.

Barn owl

No evidence of this species was recorded during the submitted survey.

Bats

A very comprehensive bat survey has been undertaken. No evidence of an active roost was recorded although a couple of old droppings and a dead bat were recorded and there was a moderate level of bat activity around the site. Any loss of vegetation and trees from the site will adversely affect the foraging habitats of bats (which as a BAP species are a material consideration) so I recommend that as much vegetation and trees are retained and that additional planting designed to increase the available foraging habitat be included in the scheme as recommended by the submitted ecological survey report.

White letter hairstreak (Butterfly)

A record for this species 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, I recommend that English elm of a suitable type is included in the landscaping of the site to enhance the habitat of this species.

Song Thrush

This bird, which is a local BAP species and hence a material consideration was recorded on site. As no breeding bird survey has been undertaken it is not possible to confirm the status of this species at Mossley Hall. However, provided there is not a significant loss of trees, hedgerows or lawn areas from the site it is very unlikely that the development will have a significant affect on this species.

Reptiles and Great Crested Newts

A comprehensive reptile and amphibian survey has been undertaken and no evidence of these species was recorded.

Common Toad

This species, which is a local BAP species and hence a material consideration, was recorded breeding at a pond near to the proposed development however it appears unlikely that that proposed development will have a significant adverse impact.

Ecological Enhancement

A number of suggestions for the ecological enhancement of the site have been included in the submitted reports. If these are incorporated into the proposals for the site there is the potential to secure an overall gain for nature conservation from the re-development of the Hall accordance with PPS9.

7. VIEWS OF TOWN/PARISH COUNCIL

Initial Comments

Recommend refusal on the following grounds:

- The Town Council considers that this is a significant building and recommended for inclusion in any future conservation area.
- Loss of trees and green area would be detrimental to the area.
- A building of this scale is inappropriate to the site

Subsequent Comments

Councillors were concerned that full site plans were not available. They wished to note comments made regarding the previous application in respect of footprint and trees. They also expressed concerns regarding parking and increased traffic.

8. OTHER REPRESENTATIONS

12 letters of objection have been received on the following grounds:

- Loss of privacy
- Loss of sunlight
- Loss of daylight
- Visual intrusion
- Traffic generation and road safety

- Adverse implications for wildlife
- Disruption due to construction traffic and noise
- Loss of a building of historic character
- Poor design
- The height and scale of the building
- Overdevelopment of the site
- Deciduous screening which will only be effective for part of the year
- Threat to wildlife
- Lack of need for the development
- Loss of mature trees
- Lack of need for this type of development

9. APPLICANT'S SUPPORTING INFORMATION

- Design and Access Statement
- Heritage Statement
- Transport Assessment
- Care Statement
- Planning Statement
- Draft Unilateral Undertaking
- Ecological Reports

10. OFFICER APPRAISAL

Principle of Development

The site is within the Settlement Zone Line for Congleton and there is a presumption in favour of development within this settlement boundary under Policies PS4 and H6. The current dwelling on the site is vacant and in need of some renovation and the site is not allocated in the Local Plan. It is surrounded by residential development, in close proximity to Congleton town centre and public transport facilities. It can be considered to be a brownfield site and therefore in a sustainable location for residential development. The principle of residential development on the site is considered acceptable and appropriate, subject to matters of scale and character being adequately addressed.

Design

Heritage Value:

A heritage appraisal was submitted with the application to assess the heritage value of the buildings on site focusing particularly on the main house. It assumes the site may have formed part of a larger site area. The main house is considered to be of late 19th century origin and utilitarian. It states that the house appears picturesque from a distance but on closer examination the architectural details are not of good quality.

A search of the historical maps of Congleton showed the existence of some buildings on the footprint of the existing buildings in 1845. The Conservation Officer was consulted and agreed that the building was not worthy of statutory listing but would have no hesitation in including it on the local list, although this would offer no level of statutory protection.

An application was been made to English Heritage for the building to be listed and this was rejected on the grounds that the building is not of sufficient special architectural or historic

interest. The building has been included on the draft list of buildings of local historic interest, however the Council has not yet adopted this document.

Layout

According to PPS 3 new housing development should provide a mix of housing types and tenure to encourage the creation of mixed and inclusive communities. It also provides guidance on density to ensure the efficient use of land. New housing should achieve a minimum density of 30 dwellings per hectare, with higher densities being appropriate in or near town centres. The proposed development will be limited to 1, 2 and 3 bedroom apartments of a density of 55 dwellings per hectare, but it will be aimed at a niche market as retirement apartments and will contribute to providing a choice of accommodation in an area characterised by detached single residential dwellings and is considered to meet the requirements of PPS3 in this regard.

The proposed layout follows a similar orientation to the existing building with the main elevation parallel to Biddulph Road and set away from it by approximately 40m. Whilst this proposal for a single building is considered preferential because it mirrors the existing building on the site, the layout will take up a great proportion of the developable space on site, with the result that special road and parking construction measures are required to address concerns for the integrity of the trees.

It is acknowledged that new development should aim to achieve higher densities as referred to in PPS3 above and GR3 of the Local Plan with minimum densities of 30 dwellings per hectare. The site area is 0.78ha and will achieve to a density of 55 dwellings per hectare. It should be taken into consideration that a large part of the site (approximately 50%) is unlikely to be available for development as a result of the TPO trees on site, which highlights the intensive use of the part of the site that can be developed. The relative low-density character of the surrounding area should also be taken into consideration, as achieving a high-density development should not be allowed at the expense of good design appropriate in its context as stated in PPS3 and Policy GR3.

Scale and Massing

Policy GR2 provides the design criteria that new development will be expected to meet and covers issues such as ensuring that the design is sympathetic to the character, appearance and form of the site and surrounding area, the need for appropriate landscaping and the need for the proposal to respect existing features.

The site is surrounded by detached single residential properties of varying styles from single storey to 2-storey properties, in addition there are some 3-storey apartment blocks further to the west of the site on Hensall Hall Drive.

The previous application was refused on the grounds that the scale and massing was not sympathetic to the character of the site and the area. This scheme has undergone amendments following negotiations with the Council and it is now considered that the amendments will sufficiently break up the appearance of the elevations in order to address these issues.

Appearance

The design of the proposed building is the result of negotiations between the Local Authority and the developers and the amended plans show elevations that are no longer

monotonous and overbearing as they incorporate set backs and differences in the ridge height of the roof of the building. With a design of this type it is essential to ensure that the materials used will maximise the elements of the building that provide relief to the elevations and this will involve using contrasting materials and finishes. Therefore it is considered very important that the materials to be used in the construction of the development are submitted for approval to the Local Authority to ensure that the resultant building would sit well within the context of the site and give a positive contribution to the character and appearance of the street scene and the wider area.

Affordable Housing

The Housing Section have stated that in line with Supplementary Planning Document 6 (Affordable Housing and Mixed Communities) they would expect that 30% of the site deliver affordable housing. However they state that in the case of leasehold elderly persons accommodation contained within one block, due to the problems with service charges they would not expect there to be any social rented or shared ownership units, but that it should comprise discounted for sale units.

The applicants maintain however that the development should be considered as a care home under C2 Use Class and as such affordable housing provision is not applicable. Further investigation into this issue has been undertaken and the result of these investigations revealed that this type of development has been the subject of planning appeals, and subsequent decisions on these appeals have concluded that the level of care proposed in this type of development would fall under C2 Use Class, and that provided the occupancy of the units is controlled by a Section 106 Agreement, affordable housing provision is not required. It is therefore considered that it would not be justified to insist on a level of affordable housing provision within the development.

Amenity

Policy GR6 requires that planning permission for development adjoining or near to residential property should not result in a loss of privacy or sunlight and daylight and SPG2 lays down minimum distances, which should be maintained between residential buildings. The closest property on Hulton Close would be number 10, and this has a flank elevation 21m away from the proposed building, The nearest property on Woburn Drive is number 17 and its rear elevation would be 30m from the building. The nearest property within the new development to the south east of the site has one dwelling whose flank elevation would be 21m from the building. These factors render the proposal in compliance with the requirements of SPG2 and it is not considered that there would be a loss of amenity in terms of loss of privacy or sunlight and daylight and is therefore considered to be in compliance with Policy GR6.

Highways

The scheme proposes a one-way vehicle entrance and exit to the front with access road to residents parking on the west and north of the proposed dwelling.

The application site is approximately 1.2 miles away from Congleton town centre by foot and within 0.5 mile there are shops, a post office, Congleton railway station and a church. There is a footpath alongside the carriageway that connects the site to these services.

There are two bus stops within 400m of the site on either side of Biddulph Road and both have frequent buses. As mentioned above, Congleton railway station is less than 0.5 mile away with connections that include Manchester, Birmingham and Stoke-on-Trent.

It is therefore considered that the site has good public transport infrastructure provision with good accessibility for pedestrians and cyclists. There is currently no dedicated spaces provided for bicycles but this could be accommodated on the site.

Some objections have been raised to the proposed development on highway safety grounds, namely increase in traffic, lack of parking provision and disruption from construction traffic.

The highway engineer has done an assessment of the proposed access and egress, internal layout and transport assessment. His comments are listed in this report and he has concluded that the proposed access and egress is acceptable in principle and the proposed visibility details show satisfactory levels of visibility for traffic that will be generated by the development.

Ecology - Protected Species & Nature Conservation

Updated surveys have been submitted for the site during the course of the application process and the Nature Conservation Officer has assessed these. His conclusions are as follows:

- All hedgerows and woodland areas should be retained or mitigation/compensation provided for any that would be lost.
- There is no badger sett on the site and evidence of limited badger activity, however in line with the advice in the report, fruit trees should be planted as an alternative food source and badger gates installed in any fencing.
- There is no evidence of Barn Owls on the site.
- No evidence of an active bat roost were found, but there was a moderate level of bat activity around the site. In order not to adversely affect the foraging of bats, as much vegetation and trees as possible should be retained and additional planting should be included in the scheme in line with the recommendation in the submitted ecology survey report.
- It is recommended that English Elm of a suitable type is included in the landscaping of the site to enhance the habitat of the White Letter Hairstreak.
- Provided there is not a significant loss of trees, hedgerows or lawn areas from the site, it is unlikely that the development would have a significant adverse impact on the Song Thrush.
- No evidence of Great Crested Newts or other reptiles was recorded.
- It is unlikely that the proposed development would have a significant adverse impact on the Common Toad.

Legal Agreement – Heads of Terms

The legal agreement will relate to the age and care requirements of the occupants of the units. It will require the 'Approved Occupiers' to be over 60 years of age and to complete a written assessment to identify their care and support needs. This will ensure that the units do not become open market properties that would have required an element of affordable housing to be provided.

11. CONCLUSIONS AND REASONS FOR THE DECISION

The proposed development is within the Settlement Zone of Congleton and will not utilise a site, which is allocated or committed for any other purpose in the Local Plan. The proposal will not give rise individually or cumulatively, to housing supply totals significantly at variance with the provisions of policies H1 and H2 and will be in accordance with the housing provision in the Regional Spatial Strategy.

The ecology of the site has been considered and sufficient mitigation is possible to ensure habitats can be retained and enhanced. The Senior Landscape and Tree Officer has concerns for the future integrity of protected trees on the site, and the specialist construction methods and tree protection measures put forward by the developer must be adhered to with strict supervision in place during construction.

The building was put forward to English Heritage for listing, however this was rejected. Both the Conservation and the Design Officers have expressed concerns over the demolition of the existing building, which has been put forward for inclusion of the draft list of local buildings of historic interest. Given that the Council has not yet adopted this list and the fact that English Heritage do not consider the building to be worthy of listing, it is considered that a refusal on these grounds would be very difficult to justify or sustain should the applicants appeal.

The accessibility of the site is considered to be good and contributes to the sustainability of the site and there are no objections on highway grounds.

The amendments to the design of the development are considered to have addressed the reasons for the previous recommendation of refusal and the scheme is now considered to be acceptable.

12. RECOMMENDATION: Approve subject the developers entering into a Section 106 Agreement limiting the occupancy of the units, and to the following conditions:

- 1. Standard time limit.**
- 2. Compliance with the approved plans.**
- 3. Submission of materials for approval.**
- 4. Submission and implementation of a tree protection scheme.**
- 5. Submission and implementation of specialist construction scheme.**
- 6. Submission and implementation of drainage scheme.**
- 7. Submission and implementation of landscaping scheme.**
- 8. Submission and implementation of boundary treatment scheme.**
- 9. Submission of a report on the potential for land contamination in the garden area.**
- 10. Submission of an air quality assessment.**
- 11. Submission of details of any fans compressors and other equipment with the potential to generate noise.**
- 12. Submission of details of any external lighting.**
- 13. Hours of construction limited to 08.00 to 18.00 Monday to Friday, 08.00 to 13.00 Saturday with no working on Sundays or Bank Holidays.**
- 14. Submission of details of the method, timing and duration of any pile driving operations.**

- 15. Deliveries to and from the site limited to 08.00 to 18.00 Monday to Friday, 08.00 to 13.00 Saturday with no deliveries on Sundays or Bank Holidays.**
- 16. Compliance with recommendations in the submitted ecology reports.**

Location Plan: Cheshire East Council Licence No. 100049045

