

Application No: 16/5279C

Location: Land East Of, MEADOW AVENUE, CONGLETON

Proposal: Erection of 16 Bungalows with ancillary facilities and associated infrastructure

Applicant: Mr Kevin Humphries, Humphries Builders Ltd.

Expiry Date: 31-May-2017

## **SUMMARY**

The proposed development would be contrary to Policy PS8 & H6 and the development would result in a loss of open countryside. However 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 adverse impacts of the development would be the loss of open countryside and agricultural land.

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS, a play area and economic benefits through the usual economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact upon education, protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

The existence of the extant planning approval is also a material consideration where the principle of residential development has been accepted.

Applying the tests within paragraph 14 it is considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development constitutes sustainable development and should therefore be approved.

## **RECOMMENDATION**

## **APPROVE**

### **REFFERAL**

The application has been referred to Southern Planning Committee because it is a major development and a departure from the development plan as it is situated outside of the settlement zone line for Congleton.

### **PROPOSAL**

The application seeks full planning consent for the erection of 16 Bungalows with ancillary facilities and associated infrastructure.

The dwellings would comprise X16 bungalows ranging from 1,2,3 bedrooms with x5 Affordable Dwellings on the site via plots 1, 2, 3, 4 and 16.

The development would have a mix of detached and semi-detached bungalows with brick walls and tiled roofs.

Access, both vehicular and pedestrian would be taken from a single point opposite to Nos.6 and 7 Meadow Avenue.

Trees are shown as being retained on the north, east and western boundaries.

### **SITE DESCRIPTION**

The application site comprises an rectangular parcel of Greenfield land, 0.81 hectares in size, situated to the to the south of Waggs Road and East of Meadow Avenue, Congleton. The land is designated as being within the open countryside in the adopted local plan.

The sites slopes to the east and the south and the boundary treatment consists of mixed fencing/planting to the northern and eastern boundaries, large tree buffer to the western boundary and open to the southern boundary. No trees are located in the sites itself.

Public footpath runs to the west.

### **RELEVANT HISTORY**

12/3536C – Outline Application with Access For Erection Of Up To 14 No. Dwelling houses With Ancillary Facilities and Associated Infrastructure – Refusal 14-Jan-2013 on the following grounds:

1. The development would create new residential development in the open countryside and is therefore not in compliance with Policy PS8 of the adopted Congleton Borough Local Plan First Review 2005.
2. The development would have an adverse impact on Badger habitat contrary to the requirements of Policies NR3 and NR5 of the adopted Congleton Borough Local Plan First Review 2005.

3. The development would have an adverse impact on highway safety contrary to the requirements of Policy GR9 of the adopted Congleton Borough Local Plan First Review 2005.

13/4781C – Outline application with access for erection of up to 14 no. dwelling houses with ancillary facilities and associated infrastructure – Approved 12-Sep-2014

17/2755C – Reserved Matters application for all matters other than access following outline approval 13/4781C - (Outline application with access for erection of up to 14 no. dwelling houses with ancillary facilities and associated infrastructure) – not yet determined

## **DIFFERENCE TO APPROVED SCHEME**

The site benefits from extant planning approval 13/4781C for the erection of x14 two/two and a half storey dwellings.

The current proposal seeks to increase the number of dwellings to 16 but changing the house type to bungalows and a resultant re-orientation of properties on the plot.

## **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.

50. Wide choice of quality homes

56-68. Requiring good design

### **Development Plan**

The Development Plan for this area is the Congleton 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

GR3 Residential Development

GR5 Landscaping

GR6 Amenity and Health

GR9 Accessibility, servicing and provision of parking

GR17 Car parking

GR21 Flood Prevention

GR 22 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

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:

- 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

### **Supplementary Planning Documents and other relevant material:**

- 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
- Interim Planning Statement Release of Housing Land
- Provision of Private Open Space in New Residential Developments
- Public Open Space Provision for New Developments

## **CONSULTATIONS**

**CEC Highways:** No objection subject to a Section 38 Agreement regarding the construction and future adoption of the internal road layout

**CEC Flood Risk Manager:** No objection subject to drainage conditions

**CEC Environmental Health:** No objection subject to conditions/informatives regarding piling, dust, travel pack, electric vehicle charging points, working hours and contaminated land

**CEC Ansa (Public Open Space):** No comments received at the time of writing the report

**CEC Education:** No objection subject to contribution of £54,378 for primary & secondary provision

**CEC Housing:** No objection subject to 5 affordable dwellings being provided

**CEC Public Rights of Way (PROW):** No objections subject to condition regarding management scheme of the PROW

**NHS England:** No comments received at the time of writing the report

**United Utilities:** No objection subject to condition that the development proceeds in accordance with the submitted Flood Risk Assessment

**Archaeology –** No objection subject to condition requiring a programme of archaeological work

## **VIEWS OF THE PARISH COUNCIL**

**Congleton Town Council:** No objection but offer the following comments:

- Outside settlement boundary
- Access over Stoney Lane would require the provision of steps for the footpath
- Details should be provided of the pumping station
- To avoid flooding in the Town Centre, surface water drainage should not be into Howty Brook
- The border fencing needs to ensure that the hedgerows are not deprived of light
- The Section 106 Agreement to provide funds for health and education and a bus service in the area
- The amount of affordable housing should be increased from 4 to 5 houses

## **REPRESENTATIONS**

87 letters of objection have been received local households raising the following points:

- Loss of green field site
- Loss of agricultural land
- The houses are not needed. There are plenty of properties for sale in Congleton
- The land is not allocated for housing
- Will lead to further development around the site and Astbury will be swallowed by Congleton
- Creation of urban sprawl towards the A34
- Proposal is premature coming before the adoption of the local plan
- Not in accordance with the Congleton Town Plan
- Will open the flood gates for future development
- Will undermine the spatial vision for the area
- The applicant has not undertaken an assessment of the sustainability of the site
- Does not meet affordable housing requirements
- Congestion on Waggs Road and Fol Hollow
- Fol Hollow is not suitable for additional traffic
- Danger from traffic to children at the nearby school
- Danger from HGVs during development because of unsuitable roads
- Impact on footpaths

- No plans for extra hospitals, schools, nurseries and police
- No provision of community facilities or open space
- The application offers no infrastructure benefits
- Damage to the landscape character of Priestly Fields
- Adverse visual impact on the area
- Threat to the unique natural heritage of enormous value to Congleton
- Loss of a rare example of access to the centre of a town through wooded countryside
- Loss of privacy to the properties on Waggs Road
- Increase in noise levels
- Quality of life will be severely affected during construction
- Adverse impact on wildlife
- Inadequate drainage on Waggs Road
- Scale of the pumping station is unnecessary for a development of this size
- Development is out of character with the area
- Houses would not be in keeping with those in the locality
- Greater impact than the approved scheme
- The Council should have been better organised and had a functioning local plan
- Loss of a view across the land
- The land is not completely in the ownership of the developer
- The sewage system proposed would serve 300 dwellings meaning this is a 'Trojan Horse' for future development
- The 76 bus route has been cancelled

## **APPRAISAL**

### **Principle of Development**

The site lies largely in the Open Countryside as designated by the Congleton Local Plan, where policy PS8 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a "departure" from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*".

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

### **Housing Land Supply**

On 20 June 2017 Inspector Stephen Pratt published his final report on the Cheshire East Local Plan Strategy, thus bringing the Plan's Examination to a close. He has concluded that with the

recommended Main Modifications, the Cheshire East Local Plan Strategy meets the criteria for soundness in the National Planning Policy Framework, and is capable of adoption.

Accordingly a report is being prepared for the full meeting of the Council on 27 July recommending the adoption of the Plan. In the meantime paragraph 216 of the NPPF sets out the guidance on the weight that should be applied to emerging plans. The degree of weight depends on:

- The stage of the Plan (the more advanced the preparation, the greater the weight that may be given)
- The extent to which there are unresolved Objections
- The degree of consistency with the framework.

In the case of the Cheshire East Local Plan Strategy, the Plan is now on the cusp of adoption and so is clearly at a very advanced stage. With the publication of the Inspector's report there are no unresolved objections and the Inspector has confirmed that the policies of the plan are consistent with the Framework.

Accordingly, whilst ahead of adoption the Local Plan Strategy cannot be afforded full weight as a development plan, as an emerging plan it must now carry very significant weight.

The Inspector's Report signals the Inspector's agreement to the plans and policies of the plan, subject to the modifications consulted on during the spring of 2016 and 2017. On adoption, all of these sites and policies will form part of the Statutory Development plan. In particular sites that are currently within the green belt will then be removed from that protective designation and will be available for development.

In the light of these new sources of housing supply, the Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his Report he concludes:

"I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years"

In the run up to adoption, no 5 year supply can be demonstrated and so the presumption in favour of sustainable development will continue to apply.

Given the solution to housing supply now at hand, correspondingly more weight can be attributed to the housing supply policies (as per the Richbrough Supreme Court Judgement). In addition given the progression of emerging policies towards adoption very significant weight can now be given to those emerging policies. The scale of the development may also be a factor that should be weighed in the overall planning balance as to the degree of harm experienced.

Attention is also drawn to a recent appeal decision regarding a site in Cheshire East ref APP/R0660/W/16/3156959 where the inspector gave the following view on the status of the Councils emerging Local Plan prior to the recent report;

"This plan is now at an advanced stage of preparation, with the consultation on the main modifications having started on 6 February 2017. It was indicated that apart from a minor modification to the wording of the supporting text, the Local Plan Inspector has not suggested any modifications to this policy. As such, it is proposed that it would be adopted in its current format. In the light of this, and in accordance

with paragraph 216 of the National Planning Policy Framework (the Framework), I consider that substantial weight can be given to this policy”

This conclusion was reached before the Inspector’s Report was published, now his findings are known and adoption is imminent the weight accorded to the emerging plan will be further enhanced.

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

The Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of less than 3,000 that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified ‘windfall’ sites of 10 dwellings or more or a combined housing floor space including garages larger than 1000sqm in size.

The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 16 dwellings therefore in order to meet the Council’s Policy on Affordable Housing there is a requirement for 5 dwellings to be provided as affordable dwellings with the above 65/35 split.

The affordable housing provision will be secured as part of a S106 Agreement.

### **Public Open Space**

As the proposal is over 7 dwellings a form of public open space is required. As the development is considered to be smaller scale, it is considered reasonable to request a financial contribution in lieu of on site provision given the limited size of the site.

Comments from ANSA have not been received at the time of writing the report so details of the required contribution along with where this will be spend will be provided in the update report and could be secured by way of Section 106 Agreement.

This approach would also be consistent with the extend scheme where a contribution was sought for off-site provision.

### **Education**

A development of 16 dwellings is forecast to generate 2 primary school children and 2 secondary school children.

The details of this forecast are contained within the table below:



To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

- Shop selling food and grocery – Several in town centre 800m
- Post box – Junction of Waggs Road/Meadow Avenue
- Playground/amenity area – Several within 500m including Astbury Mere, Banky Fields and Marlfields School fields
- Post Office – Congleton Post Office within 1,000m
- Bank or cash point – Several along Bridge Street 800m
- Pharmacy – Swan Bank 800m
- Primary School – Marlfields 400m
- Medical Centre – West Street 800m
- Leisure Facilities – Tennis club 600m and Astbury Mere 400m
- Local Meeting Place – Trinity Methodist Church Hall 600m
- Child Care Facility – Marlfields 400m

There is also a bus stop located 800m away which is assessable by public footpath and the railway station is located 2,700m away. The site was also deemed to be locationally sustainable under extant planning permission 13/4781C.

It is considered in the light of this assessment that the proposed development would be within a sustainable location.

Nevertheless locational sustainability is not the determinative factor in its own right but does weigh again the proposal in the overall planning balance.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Residential Amenity**

The main residential properties affected by this development are properties to the North 84-74 Waggs Road and west 6-7 Meadow Avenue.

Plots 1-3 would be sited 21m away to the side facing elevation of No.6 Meadow Avenue. Plots 14-16 would be sited 22m away to the side facing elevation of No.7 Meadow Avenue. Plots 4 and 4 would be sited between 23.5m-29m away to the rear facing elevations of Nos.84-74 Waggs Road.

All of the distances comply with the required interface distances as recommended in the Private Open Space SPG therefore it is not considered that there would be any significant loss of privacy between main face elevations.

Whilst the plots to the north of the site, plots 4 & 5 would be closer to the shared boundaries to properties on Waggs Road within 1m of the boundary at the closest point) it is not considered that the single storey bungalow height would result in any harm through overbearing/oppressive impact/overshadowing to rear garden areas. Similarly any facing windows are limited to ground floor level where boundary treatment provides suitable screening to prevent overlooking of rear garden areas of properties on Waggs Road.

### **Contaminated Land**

As the application is for new residential properties which are a sensitive end use and could be affected by any contamination present a contaminated land condition will be attached to the decision notice of any approval.

### **Public Rights of Way (PROW)**

The Councils Public Rights of Way Team have been consulted regarding the application and have advised that if the application was approved it would affect Public Footpath Congleton No. 6, as recorded on the Definitive Map and Statement, the legal record of Public Rights of Way.

To mitigate against this impact they have suggested a condition requiring the applicant to provide a management of the PROW including design and surfacing, temporary closures and diversions. This will be added to the decision notice of any approval.

### **Highways**

The site has an extant planning approval reference 13/4781C for 14 dwellings and the proposal is for 16 dwellings.

The current application is on the same site, would use the same access from Meadow Avenue and the net increase would be 2 units.

The Councils Highways Team have been consulted regarding the proposal and have advised that the net highway impact of 2 additional units over the existing permission would be negligible and the internal road layout is adequate.

As a result they have raised no objection subject to the informative that the applicant will be required to enter into a Section 38 Agreement regarding the construction and future adoption of the internal road layout.

As a result the proposal will not result in any significant harm to the existing highway network.

### **Landscape**

The site has an extant planning approval reference 13/4781C where it was considered that the landscape could accommodate a proposal for 14 dwellings. The current proposal whilst would see an increase in 2 dwelling, would actually result in reduced bulk and massing as the current proposal seeks bungalows rather than 2 storey dwellings as previously approved.

The application site is identified as Open Countryside in the Congleton Borough Local Plan, there are no landscape designations on the application site and within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods 2 landscape, specifically Character Area 11, Brereton Heath Area. The site displays many of the characteristics of the Brereton Heath Character Area, the character of the site is influenced by the development of bungalows along the northern boundary, along Waggs Road. Dwellings to the west of Stony Lane (FP6) - the western boundary pathway, are largely screened by the existing boundary vegetation that runs alongside this sunken track along the western boundary of the application site.

The site has a network of existing hedgerows and trees and is agricultural in character. The site, local and wider topography provide an attractive setting especially to the south and east, where there are longer distance views towards the Peak Fringe. The site is strongly influenced by the existing boundary hedgerows and longer distance views, so that visually the site is very well connected to the wider agricultural landscape, rather than Congleton to the north.

The Topographical Survey, habitat Mitigation Measures and Tree Protection Plan (Drawing No: 095/16) indicates that existing hedgerows and hedgerow trees will be retained and that there will be a new planted buffer along the southern boundary, along with a new hedgerow. As a result the Councils Landscape Officer does not consider that the proposals would result in any significant landscape or visual impacts.

## **Trees**

This is a full application for the erection of 16 bungalows with ancillary facilities and associated infrastructure on land off Meadow Avenue, Congleton. The site is bounded by hedgerows to the west and east and there are a number of trees on the periphery. The trees and hedgerows are important components of the local landscape.

The principle of development of the site with an access of Meadow Avenue has previously been established by 13/4781C.

The current application is supported by an Arboricultural Report dated 30 Sept 2016 by Tree Heritage (RefTHL-R16/109). The report indicates that the survey has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.

The tree survey covers 11 trees and two hedges. The grades afforded are: 7 Grade B trees, 1 Grade C, 1U and the hedges both A. A site plan (as existing) in the report identifies the constraints posed by the trees. The report recommends that once a proposed layout has been produced, an arboricultural impact assessment is prepared. A requirement for protection measures is also cited.

The Councils Arborist has been consulted on the proposal who was concerned that whilst the layout plan suggests that the existing healthy trees and most of the boundary hedgerows would be retained as part of the proposed layout, the full tree constraints have not been plotted on the plan and there is no arboricultural impact assessment. In particular concern was raised regarding the location of plots 1,2,3 & 14,15 to the trees on site and the possible shading of garden areas which may put the trees under future pressure for pruning or removal.

Therefore further detail was requested to adequately assess the impact of development on existing trees. Revised plans have since been received which have resulted in plots 1,2,3 & 14,15 being moved 1.5m further to the east, further reports were also received. This has been considered by the Arborist who advises that the amended layout is an improvement on the existing situation and if permission is to be granted conditions should be attached requiring an updated tree protection scheme and an arboricultural method statement, tree retention and Services/Drainage.

## **Design**

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 site has an extant planning approval for the erection of x14 two storey/two and a half storey properties arranged in a cul-de-sac style. The proposed layout plan shows 16 bungalow properties arranged in a similar cul-de-sac style.

The locality consists of mixed character and dwelling types, both bungalows and two-storey dwellings. Therefore it is considered that bungalow properties could be accommodated without causing significant harm to the scale and form of development.

Property footprints and garden areas would be comparable to others locally which would ensure that the proposal assimilates into the existing environment.

Whilst the proposal would see an increase of 2 units when compared to the extant scheme, the proposal would result in less scale and massing given the proposed bungalows.

Finally the simple design and materials of brick walls and tiled roofs would match the design and material pallet of the local area.

On this basis, it is considered that an appropriate design has been submitted, which will sit comfortably alongside the mix of existing development within the area. The proposal is therefore considered to be in compliance with Policy GR2 of the adopted local plan.

## **Ecology**

### **- Bat activity and trees with bat roost potential**

A bat activity survey has been undertaken. This survey was undertaken late in the survey season however considering the size and location of the site the Councils Ecologist is satisfied that enough information is available to assess the potential impacts of the proposed development upon foraging and commuting bats. The level of bat activity recorded on the site was relatively low and was of the order expected for this type of site. The Councils Ecologist advises that the proposed development, subject to the condition requiring lighting specification, would be unlikely to significantly affect foraging and commuting bats.

A number of trees on site were identified as having moderate potential to support roosting bats. The amended proposals now show the retention of the Ash tree that was previously proposed for removal. The Councils Ecologist therefore advises that the proposed development is not reasonable likely to affect roosting bats.

### **- Great Crested Newts**

The Councils Ecologist advises that the proposed development is unlikely to have a significant impact upon great crested newts.

- Breeding Birds

If planning consent is granted the Councils Ecologist has suggested conditions to safeguard nesting birds.

- Polecat, Hedgehog and Brown Hare

Brown Hare, Polecat and Hedgehog are all Biodiversity Action Plan priority species and a material consideration for planning. These species are known to occur within 1km of the proposed development. Whilst there is no evidence to suggest that these species are present on the application site there is a reasonable likelihood that the site may be used at least occasionally by these species. The level of impact on these three species is however unlikely to be significant. However the Councils Ecologist has recommended a condition requiring the incorporation of gaps for hedgehogs to be incorporate into any garden or boundary fencing proposed.

- Hedgerows

Hedgerows are a priority habitat and hence a material consideration. In addition the hedgerows on the eastern and western boundaries of the site have been identified as being 'Important' under the hedgerow regulations.

The proposed development will result in the loss of a section of Important hedgerow to facilitate the site access. The submitted habitat mitigation measures plan includes proposals for the planting of an additional hedgerow on the southern boundary of the application site to compensate for this loss. This can be secured by condition.

- Badgers

The submitted report states that there are no badger setts on site. There is however evidence of badgers crossing and foraging on the application site.

The Councils Ecologist advises that the proposed development may result in the loss of foraging habitat for badgers and reduce their ability to move across the site. The submitted badger survey report recommends that additional fruit trees are provided as a means for providing an alternative seasonable source of food for badgers. This measure is supported and should be secured by means of a condition in the event that planning permission is granted.

The Councils Ecologist advises that whilst the usage of the site by badgers may be reduced as a result of the proposed development this is unlikely to have a significant adverse impact upon the status of the local badger population. However as badger activity can change over time a condition has been suggested for an updated badger survey.

## **Flood Risk**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. The submitted Flood Risk assessment concludes that residential development would be considered sustainable in terms of flood risk.

The United Utilities have been consulted as part of this application and have raised no objection to the proposed development subject to condition that the development should be undertaken in accordance with the Flood Risk Assessment. The Councils Flood Risk team have also raised no objection subject to drainage conditions.

Therefore it would appear that any flood risk/drainage issues, could be suitably addressed by planning conditions.

### **Agricultural Land Quality**

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this instance, no Agricultural Land Use and Land Classification Report has been submitted. However a report was submitted for the extant scheme which found the site was not graded in the 1 to 5 category, excellent to very poor and as such was not classed as being the 'best and most versatile agricultural land' defined in the NPPF. Given that the site remains relatively unchanged since this approval it is considered reasonable to conclude the same.

Thus, whilst the proposal would result in the loss of a small quantity of Grade 3 agricultural land, the loss would not be 'significant' and would not outweigh the benefits that would come from delivering housing.

### **ECONOMIC SUSTAINABILITY**

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.

### **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations 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, POS and play equipment is a requirement of the Councils Open Space SPG. It is necessary to secure these works and a scheme of management for the open space and play equipment. This contribution is directly related to the development and is fair and reasonable.

The development would result in increased demand for school places in the area and there is very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards secondary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

The proposal would result in a requirement for the provision of 5 affordable units which would be split on a social rented/intermediate basis. This is considered to be necessary and fair and reasonable in relation to the development.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

## **PLANNING BALANCE**

The proposed development would be contrary to Policy PS8 & H6 and the development would result in a loss of open countryside. However 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 adverse impacts of the development would be the loss of open countryside and agricultural land.

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS, a play area and economic benefits through the usual economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact upon education, protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

The existence of the extant planning approval is also a material consideration where the principle of residential development has been accepted.

Applying the tests within paragraph 14 it is considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development constitutes sustainable development and should therefore be approved.

## **RECOMMENDATION:**

**APPROVE SUBJECT TO THE FOLLOWING CONDITIONS, 106 AGREEMENT AND THE FOLLOWING HEADS OF TERMS**

### **Conditions**

- 1. Time limit**
- 2. Plans**
- 3. Materials**
- 4. Removal of permitted development rights**
- 5. Levels**
- 6. Foul and surface water drainage strategy**



7. Piling
8. Electric vehicle charging
9. Dust
10. Travel information pack
11. Contaminated land
12. Carried out in accordance with the submitted Flood Risk Assessment
13. Drainage strategy/design
14. Management scheme of the PROW
15. Programme of archaeological work
16. Landscaping scheme
17. Updated trees protection scheme
18. Updated arboricultural method statement
19. Tree retention
20. Services/drainage

#### **Informative**

1. Section 38 Agreement

#### **Heads of terms**

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
  - The numbers, type, tenure and location on the site of the affordable housing provision
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. Secondary Education Contribution of £54,378
3. Open Space and Children's Play (amount to be confirmed in the update report)

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 Planning (Regulation), in consultation with the Chair (or in her 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.

