

Application No: 18/6374C

Location: Former Dane Bridge Mill Site, MILL STREET, CONGLETON

Proposal: Proposed site clearance and construction of a four/five storey building for 44 apartments (Use Class C3) with undercroft car parking, access, surface car parking, retaining walls, landscaping and associated infrastructure.

Applicant: Susan Alexander, Selyor Properties Ltd

Expiry Date: 21-Mar-2019

## **SUMMARY**

Congleton is a Key Service Centre where local plan policies support sustainable development appropriate to the scale and context of the area. The proposal will provide market and affordable housing within an existing settlement where there is existing infrastructure and amenities. This proposal would bring economic, environmental and social benefits through the delivery of 44 no. residential units in a highly sustainable location, investment in the area and by bringing a vacant brownfield site into viable use. The principle of developing the site is acceptable given that housing will have a more positive impact on the local area than industrial type development as previously seen.

In highways terms, the capacity of the local highway network is deemed sufficient to accommodate the vehicle movements associated with the scale of the proposed development and the parking provision is deemed appropriate having regard to the size of units and the highly sustainable location.

The proposal is acceptable in design terms and would respond positively to the gateway location and neighbouring uses. As such the scheme would not harm the character or visual amenity of the area.

The risk of flooding has been demonstrated to be acceptable and can be controlled by condition as can the impacts on species protected by law.

The proposal would not materially harm neighbouring residential amenity and would provide sufficient amenity for the new occupants. The application would offset the impact on public open space, education and subject to satisfactory negotiations, healthcare through the provision of financial contributions. The applicants have demonstrated general compliance with national and local guidance in a range of areas including ecology, noise and air quality.

On this basis, the proposal is for sustainable development which would bring environmental, economic and social benefits. The proposal is therefore considered to be acceptable in the context of the relevant policies of the adopted Cheshire East Local Plan Strategy and the saved policies of the Congleton Borough Local Plan and advice contained within the NPPF. The application is therefore recommended for approval subject to the imposition of appropriate conditions and the necessary Section 106 obligations.

## **SUMMARY RECOMMENDATION**

Approve subject to conditions and S106 Agreement

## **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises approximately 0.23ha of land located to the north of Rope Walk off Mill Street, Congleton. The site runs alongside the River Dane and formerly hosted the Danebridge Mill until it was demolished in 2011 following a fire.

The site occupies a prominent position, adjoining the River Dane and the Dane Bridge, at the northern approach to Congleton Town Centre. The site has been predominantly cleared and is of a linear shape which runs from the rear of nos. 76 - 94 Mill Street in a westerly direction alongside the River Dane. An existing public car park lies to the south and a new build residential development lies to the west on the site of the former Providence Mill now known as 'The Sandpipers'.

The site is within the settlement zone line of Congleton as designated in the adopted Congleton Borough Local Plan First Review (2005). Part of the site is included within Flood Zone 3 on the Environment Agency Flood Map.

## **DETAILS OF PROPOSAL**

This application seeks full planning permission for the 'site clearance and construction of a part four/five storey building for 44 apartments (Use Class C3) with undercroft car parking, access, surface car parking, retaining walls, landscaping and associated infrastructure.

## **RELEVANT HISTORY**

1998	(26666/3) Permission for proposed offices and relocation of the loading/unloading facility on land adjacent to Providence Mill.
2000	(31593/1) Refusal of outline permission for residential development on Danebridge Mill, Providence Mill and adjoining land.
2001	(32196/1) Use of land and buildings for residential development. Application withdrawn.
2003	(34327/1) Permission for use of buildings for residential development and land for office development.
2004	(04/0177/FUL) Permission for Conversion of Danebridge Mill to A3 (food & drink) and B1 (office) use including ancillary storage and car parking. Possible Phase 2 - construction of part 1st floor conversion of Providence Mill into 14 social housing units. Two storey erection of new build apartments of former car park - 36 units, 5 storey.
2014	(13/1246C) Outline approval for 14 residential units, ranging from 2-2.5 storeys, 2-4 bedroom housing, with undercroft carparking.

## **POLICIES**

### **Development Plan**

### Cheshire East Local Plan Strategy

MP1	Presumption in favour of sustainable development
PG1	Overall Development Strategy
PG2	Settlement hierarchy
PG7	Spatial Distribution of Development
SD1	Sustainable Development in Cheshire East
SD2	Sustainable Development Principles
IN1	Infrastructure
IN2	Developer Contributions
SC1	Leisure and Recreation
SC2	Indoor and Outdoor Sports Facilities
SC3	Health and wellbeing
SC4	Residential Mix
SC5	Affordable Homes
SE1	Design
SE2	Efficient use of land
SE3	Biodiversity and geodiversity
SE4	The Landscape
SE5	Trees, Hedgerows and Woodland
SE6	Green Infrastructure
SE7	The Historic Environment
SE9	Energy Efficient development
SE12	Pollution, land contamination and land stability
SE13	Flood risk and water management
EG3	Employment Land
CO1	Sustainable travel and transport
CO3	Digital connections
CO4	Travel plans and transport assessments

### Congleton Borough Local Plan (saved policies)

PS4	Towns
S5	Other Town Centre Areas
GR3	Residential Developments of More than 10 Dwellings
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR20	Public Utilities
GR22	Open Space Provision
NR2	Wildlife & Nature Conservation
SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments

Congleton Neighbourhood Plan – (Regulation 17 Stage – Examination underway – Limited Weight)

### **Other Material Considerations**

National Planning Policy Framework (The Framework) 2019

National Planning Practice Guidance

## **CONSULTATIONS (External to Planning)**

**ANSA and CEC Leisure** – No objection subject to financial contributions of £4,920.19 along with £13,064.75 towards enhancement and future maintenance (25 years) of Congleton Park Town Wood.

**Education** – No objection subject to financial contributions of £54,378 towards primary and secondary school places.

**Environment Agency** – No objection subject to conditions requiring accordance with the submitted Flood Risk Assessment and submission of a contaminated land and waste strategy.

**Environmental Protection** – Recommend that the any noise mitigation required must meet recognised standards. No objections subject to conditions and informatives relating to electric vehicle infrastructure, a travel information pack, low emission boilers, a construction management plan and contaminated land.

**Flood Risk Manager** – No objection subject to conditions requiring accordance with the submitted Flood Risk Assessment and submission of design strategy for a surface water drainage.

**Strategic Housing** – No objection subject to 8 units being provided as Social/Affordable rent and 5 units as Intermediate tenure.

**Head of Strategic Infrastructure (Highways)** – No objection subject to a condition requiring the submission of a Construction Management Plan (CMP).

**NHS Eastern Cheshire Clinical Commissioning Group** – no comments received.

**Public Rights of Way** – No objections – the proposal does not directly affect the definitive public right of way which runs between the site and the River Dane.

**United Utilities** – No objection subject to foul and surface water drainage being connected on separate systems and submission of a surface water drainage scheme.

## **VIEWS OF THE CONGLETON TOWN COUNCIL**

No objection – subject to s106 to improve the Dane walkway and cycling infrastructure.

## **OTHER REPRESENTATIONS**

One representation has been received objecting to this application on the following grounds:

- Loss of view from objector's apartment
- Proposal would damage the objector's quality of life
- Impact on objector's financial investment

## **OFFICER APPRAISAL**

### **Principle of Development**

Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The application site is located within the settlement zone line for Congleton where saved Policy PS4 states that there is a general presumption in favour of development provided that it is in keeping with the town's scale and character and does not conflict with other policies. Similarly, Congleton is identified as a Key Service Centre in the CELPS where Policy PG 2 states that ‘development of a scale, location and nature that recognises and reinforces the distinctiveness of each individual town will be supported to maintain their vitality and viability’. In this case, the provision of 44 no. units would be of an acceptable scale relative to the surrounding area and would deliver housing within a highly sustainable location.

The site is also identified as being within the Town Centre and is allocated as a mixed use site in the Congleton Borough Local Plan. Saved Policy S5 states that within the Town Centre areas not otherwise allocated as the Principal Shopping Area, proposals for non-retail uses, commercial uses or for residential uses on the periphery of the town centre will be permitted provided that it does not detract from the overall town centre function of the area and is sympathetic to neighbouring and future amenity. It is considered that the residential use of the site is acceptable in principle as the site is on the periphery of the Town Centre where residential uses prevail. The site has been vacant and redundant for a number of years and has failed to attract commercial or business re-use.

CELPS Policy EG 3 seeks to retain employment land for employment purposes. However, EG 3 also accepts that it may not be possible to retain land for employment purposes where they are causing ‘significant nuisance or environmental problems or are no longer suitable or viable for employment uses’. This aligns with Paragraph 121 of The Framework which states that:

“Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework”

The site is of poor environmental quality and heavy employment uses are not ideal in this location given the current access and parking arrangements, the predominantly residential nature of the area and the fact that the site previously provided a low level of employment for the size of the site.

In this case, the site has already been accepted as being suitable for residential purposes owing to a previous resolution to grant planning permission for residential development. It is considered that the site is unsuited to industrial uses and the site has remained vacant for a number of years and therefore its redevelopment would serve as an efficient use of brownfield land within a sustainable location. This proposal will bring direct and indirect benefits to the local economy, the town and the community through the delivery of housing in one of the Key Service Centres in the borough. The site is in a sustainable location as it is accessible and well connected to public transport and local community facilities and services hosted within The Town Centre. Subject to conformance with other relevant material planning considerations, the principle of 44 new residential units on the site is deemed to be acceptable. This is supported by the NPPF which advocates making the most efficient use of land, particularly Brownfield land such as this.

As per para 11 of the Framework and CELPS Policy MP 1, there is a presumption in favour of sustainable development taking into account the three dimensions of sustainable development (economic, social and environmental) and compliance with the Development Plan. These will be considered accordingly.

## **SOCIAL SUSTAINABILITY**

### **Housing Land Supply**

The Cheshire East Local Plan Strategy was adopted on the 27<sup>th</sup> July 2017 and forms part of the statutory development plan. The plan sets out the overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing (36,000 new dwellings over the plan period, equating to 1,800 dwellings per annum) in order to meet the objectively assessed needs of the area.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.

The National Planning Policy Framework (NPPF) identifies the circumstances in which relevant development plan policies should be considered out-of-date. These are:

- Where a local planning authority cannot demonstrate a five year supply of deliverable housing sites (with appropriate buffer) or:
- Under transitional arrangements, where the Housing Delivery Test Result indicates that the delivery of housing was substantially below 25% of housing required over the previous three years.

In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council's most recent Housing Monitoring Update (base date 31 March 2018) was published on the 6<sup>th</sup> November 2018. The report confirms:

- A five year housing requirement of 12,630 net additional dwellings. This includes an adjustment to address historic shortfalls in delivery and the application of a 5% buffer.
- A deliverable five year housing land supply of 7.2 years (18,250 dwellings).

The 2018 Housing Delivery Test Result was published by the Ministry of Housing Communities and Local Government on the 19<sup>th</sup> February 2019 and this confirms a Cheshire East Housing Delivery Test Result of 183%. Housing delivery over the past three years (5,610 dwellings) has exceeded the number of homes required (3,067). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%.

Relevant policies concerning the supply of housing should therefore be considered up-to-date and consequently the 'tilted balance' at paragraph 11 of the NPPF is not engaged.

Whilst the Council can now demonstrate a 5 year supply of land for housing, it is important to note that this proposal would deliver 44 no. dwellings within one of the Borough's Key Service Centres. It is important to keep the supply rolling and proposals to redevelop redundant brownfield sites such as this one will assist in relieving pressure on other edge of settlement sites and the countryside. As such, this is a key benefit of the scheme.

### **Affordable Housing**

The Interim Planning Statement on Affordable Housing (IPS) and Policy SC 5 in the Local Plan Strategy outline that in this location the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all sites of 15 dwellings or more or than 0.4 hectare in size. Thus, a scheme of 44 units would normally be expected to provide 13 no. affordable units. The IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives.

The Strategic Housing Market Assessment 2013 (SHMA) shows the majority of the demand in Congleton per year until 2018 is for 27x 1 bedroom, 10x 3 bedroom and 46x 4 bedroom dwellings for General Needs. The SHMA is also showing a need for 37x 1 bedroom Older Persons dwellings. The Older Person dwellings can be flats, cottage style flats or bungalows

The current number of those on the Cheshire Homechoice waiting list with Congleton as their first choice is 724. This can be broken down to 229x 1 bedroom apartments, 39x 2 bedroom apartments, 211x 2 bed houses, 96x 3 bedroom houses, 32x 4 bedroom houses and 295 bungalows. Therefore the mix of affordable properties on this site will need to reflect this need information. 8 units should be provided as Social/Affordable rent and 5 units as Intermediate tenure. Subject to this, the Council's Strategic Housing Officer has offered no objection to the proposals. As such, the scheme is found to be acceptable in this regard.

### **Education**



In the case of the current proposal for 44 apartments, only 11 of the units would have 2+ bedrooms which would be likely to generate a need for school places. The Council's Children's Services has advised that this size would generate:

- 2 primary children
- 2 secondary children

The development is expected to impact on both primary school and secondary places in the immediate locality. Any contributions which have been negotiated on other developments are factored into the forecasts undertaken by the Council's Children's Services both in terms of the increased pupil numbers and the increased capacity at schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that there remains a shortfall in school places.

To alleviate forecast pressures, the following contributions would therefore be required:

- $2 \times £11,919 \times 0.91 = £21,693$  (primary)
- $2 \times £17,959 \times 0.91 = £32,685$  (secondary)
- Total education contribution: £54,378

Without a secured contribution of £54,378, Children's Services would raise an objection to this application. This position is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without the mitigation, 2 primary children and 2 secondary children would not have a school place. The applicant has confirmed acceptance of these contributions, which will need be secured by way of a s106 legal agreement.

## **Healthcare**

The NHS Eastern Cheshire Clinical Commissioning Group (CCG) has been consulted on the application but has not commented. Discussions regarding the potential contribution towards the NHS have been sought and will be reported by way of a written update.

## **Public Open Space**

Policy SE6 of the Cheshire East Local Plan Strategy seeks to deliver a good quality and accessible network of green spaces for people to enjoy, providing for healthy recreation and biodiversity and continuing to provide a range of social, economic and health benefits. There is an existing quantity deficit of amenity green space within the local area.

No public open space is being provided on site in line with Policy SE 6, however, there is landscaping which has been improved for both the residents and users of the adjacent public right of way by incorporating seating and planting for the residents. Due to the small site constraint, no public open space is being provided therefore this development will place extra burden on existing provision in the area. Within the Green Space Strategy and contained within Policy SE3 in the emerging Congleton draft Neighbourhood Plan, opportunities to protect and enhance the existing network of green spaces is sought. Five new Key Green Space Policy Areas are proposed, one of which is the River Dane Valley and environs (including Town Wood).

Consequently, in lieu of the open space, offsite contributions to enhance Congleton Park Town Wood, which is located less than 150 metres away has been requested by the Open Spaces Officer. This would offset the open space impact of the proposed development by increasing the capacity and accessibility of existing open space at Town Wood by way of commuted sums of £4,920.19 along with £13,064.75 for maintenance spread over 25 years. Subject to the above being secured by way of a legal agreement, the scheme is found to accord with CELPS Policies SE 6.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Design, Character and Appearance**

Whilst the redevelopment of this vacant site, comprising the demolition of existing buildings would be an immediate betterment on the wider views to the development from existing built form and nearby infrastructure, the buildings that replace them need to be high quality with an architectural design style, material palette, layout and landscaping treatments that are reflective of local area characteristics to strengthen and raise the standard of design and character in the area.

Between them, the NPPF and Local Plan Policies SD1, SD2, SC4, SC5, SE1, SE4 and C01 from the CELPS seek that all development should be: locally distinctive; high quality; sustainable; well-designed and durable responding to the heights, scale, form and grouping, materials, massing, green infrastructure and relationship to existing built form in the immediate as well as wider areas.

The site occupies a prominent position on one of the main gateways to the town. The site also benefits from a riverside frontage. Consequently, the development will need to be high quality in design terms and will need to address and respond to the riverside frontage and views from Rood Hill.

To do this, the proposed new building has been designed as a single block but with intermittent breaks in scale and massing along the elevations facing the riverside. Its length has been divided into sections, with the heights stepping up between three, four and five storey levels from the boundary with Rood Hill up to the adjoining 5 storey apartments at Providence Mill / The Sandpipers'. This has allowed a variation in heights thus avoiding monotony in the elevational treatment.

Balcony features are included above the undercroft parking with the main window openings of the apartments addressing them. This will provide an active frontage as viewed from Rood Hill and will provide visual interest. The end gable of block facing onto Rood Hill turns the corner well and has recessed features running vertically accentuated with a change in material palette that will help to break up the massing of this elevation and will also look out over the street thereby providing some frontage. The windows will include aluminium frames and galvanised and glass railings.

The elevations to the whole development will be articulated with brickwork, metal cladding and stone blockwork. These features will help to add a bespoke and contemporary element to the building which has been designed largely to emulate the traditional style of the

surrounding development. Overall it is considered that the proposed new build represents a high quality of design that will complement the existing mill buildings that characterise this area. Further, the ground floor to Rood Hill will retain and reference the only part of the historic Mill which is left, with its large arched niches.

With respect to the proposed undercroft at ground floor, this has been used to address issues of flood risk, which will be discussed in due course. This has been designed with openings so that it looks out and addresses the adjacent footpath along the river and is similar to that at the adjoining the former Providence Mill now the 'The Sandpipers'. It would not therefore appear incongruous along the section of the riverside and the details of the proposed light installation and treatment can be controlled by condition.

Having regard to the above, the design is found to be acceptable and in accordance with Policies SE 1 and SD 2 of the CELPS.

### **Archaeology**

The proposed development lies within Congleton's Area of Archaeological Potential, as defined in the Local Plan of the former Congleton Borough Council. The site was formerly occupied by the demolished Danebridge Mill, which was constructed in the later 19<sup>th</sup>-century and is recorded in the Cheshire Historic Environment Record (CHER 2887/61). This was not, however, the first structure on the site as the Congleton Tithe map of 1846 depicts an earlier structure which, although not identified on the apportionment, may have been an earlier mill, perhaps with an engine house on the southern wall. Below ground remains of these industrial remains are likely to be damaged, if not wholly destroyed by the proposed development, especially as basement car parking forms part of the scheme.

It is acknowledged, however, that this level of archaeological potential is not sufficient to justify an objection to the development on archaeological grounds or to generate a requirement for any further predetermination work. It would, however, be reasonable to secure some further mitigation in the event that planning permission is granted, with the work secured by condition. This work should take the form of a watching brief during intrusive groundworks and should aim to record evidence of the sequence of earlier buildings on the site, with particular emphasis on the remains of any engine houses and power systems. A report on the work will need to be produced and the mitigation may be secured by the condition. Subject to this, the proposal is found to be acceptable in this regard and compliant with Policy SE 7 of the Cheshire East Local Plan.

### **Trees and Landscaping**

There are existing trees within the vicinity of the proposed development, on and adjacent to the site. The application is supported by an Arboricultural Impact Assessment (AIA).

The AIA indicates that the development would require the removal of all existing trees on the site (three individual trees and two tree groups). These are all grade C specimens, which are trees of low quality. Proposed site security fencing would afford protection for the retained off site trees.

Compensatory planting is recommended as part of a new landscape scheme which includes proposed trees. The Councils Tree Officer is satisfied that the tree losses are not high value specimens and in respect of retained off site trees, conditions could secure their retention. Subject to this, the scheme is found to be acceptable in terms of tree and landscape impacts.

## **Highways and Parking**

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

The site would be accessed via an existing roadway positioned in between 72 and 76 Mill Street. This emerges onto an access limb serving the properties fronting Mill Street and as such is not directly onto the main road. This access was deemed acceptable for the proposed residential use previously approved at the site in 2014 and prior to that in 2004, which was for residential and commercial use with a greater number of units and a larger scheme. There have been no significant changes in highways terms and as such, the increase in traffic from the development would not be significant in terms of the local highway network.

An overall provision of 50 parking spaces are proposed for the 33 one bed and 11 two bed apartments. This is 5 spaces below the standard set out in Appendix C of the CELPS. However, having regard to the highly sustainable location of the site, the character of the local area and the lower car ownership levels for apartments, this provision will not result in overspill parking. The Head of Strategic Infrastructure (HSI - Highways) has assessed the application and has offered no objection to the application on highways or parking grounds.

With respect to pedestrian links, the site is well connected and benefits from a footpath running directly alongside the site and the River Dane (Congleton FP23). The proposed development would be sited back from the footpath and would not therefore directly affect it. The requirements of saved policy GR9 are satisfied. Accordingly, the application is found to be acceptable in this regard.

## **Residential Amenity**

In respect of the residential amenity afforded to neighbouring properties, the proposals would achieve the minimum interface distances advised within SPG2. The scheme would not give rise to any significant loss of sunlight or daylight to the properties situated to the east (beyond the A34), south or west. Sufficient separation distance would be maintained between the proposed building and the existing residential properties surrounding the site to avoid any overlooking, visual intrusion or other problems of un-neighbourly development. The closest neighbour, no. 94a is situated side-on to the development and whilst it has 2 windows in its side elevation, these are non principal. The adjoining Sandpipers development to the west does not have any sole side facing windows that would be unduly harmed by the proposals. An application of the 45 degree test would support these conclusions.

Elsewhere, the proposal would meet with the separation standards and the amenity afforded to future residents (in terms of light and outlook) of the proposed scheme would be

acceptable having regard to the character of the area and subject to further considerations relating to noise.

## **Noise**

The application is supported by a noise impact assessment which details noise mitigation measures in order to ensure that occupants of the proposed apartments are not adversely affected by the adjoining traffic noise on the A54 (Rood Hill / Mounbatten Way). Provided that the noise mitigation measures as detailed in the noise impact assessment are implemented and meet the recommended British standards, it is considered that there should be no adverse impacts on health and quality of life of the future residents resulting from road traffic noise in the area. Subject to conditions, it is considered that the proposal complies with Policy SE12 of the CELPS and GR6 of the CBLP relating to noise and soundproofing.

## **Air Quality**

Policy SE 12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 181 of the NPPF and the Government's Air Quality Strategy. When assessing the impact of a development on Local Air Quality, regard is had to the Council's Air Quality Strategy, the Air Quality Action Plan, Local Monitoring Data and the EPUK Guidance "Land Use Planning & Development Control: Planning for Air Quality May 2015).

The scheme itself is not of a scale which would require an air quality impact assessment. However, there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area, in particular, the impact of transport related emissions on Local Air Quality.

Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact. This can be achieved by conditions relating to dust control and the provision of electric vehicle infrastructure, which are accordingly recommended. Subject to these conditions, the proposal will comply with policy SE 12 of the CELPS.

## **Ecology**

Saved Congleton Borough Local Plan Policy NR3 and CELPS Policy SE 3 seek to protect nature conservation interests and indicate that where development would adversely affect such interests, permission should be refused. The application has been supported by an ecological assessment.

Three of the trees on the site have been identified as having moderate bat roost potential. These trees are proposed for removal as part of the proposed development. The submitted Ecological Appraisal recommends that these trees are subject to a detailed bat survey prior to their removal. The applicant is currently undertaking this survey, which has indicated that these tree specimens are not being used by bats. However, this will be reported to Members by way of a written update following the receipt of the final survey.

Local Plan policy SE 3 (5) requires all developments to deliver an overall gain for biodiversity. This site located on the River Dane corridor provides an opportunity to deliver significant biodiversity benefits. The Council's Nature Conservation Officer has advised that these benefits could be realised through the incorporation of a brown or green roof. The roof should be designed to mimic the short perennial/ephemeral vegetation currently found on the site. The applicant has agreed to this provision, which would be secured by condition requiring the submission of a Ecological Enhancement Strategy.

The scale of the proposed apartment block means that it provides an excellent opportunity for the incorporation features for declining bird species that are associated with the built environment. It is therefore recommended that the applicant submits proposals for the incorporation of house sparrow terraces and swift bricks into the design. Swift bricks should be provided in clusters on non-south facing elevations at 5 meters above ground level. This has been agreed with the applicant and will be the subject of condition as will conditions relating to nesting birds. Subject to this, the proposal complies with policies NR3 and SE 3.

### **Flood Risk and Drainage**

The proposed development falls partly within flood zones 2 and 3. CELPS Policy SE 13 sets out criteria to be considered when determining applications within identified flood risk areas. The NPPF states that LPAs should in determining planning applications, ensure that *'inappropriate development is directed away from areas at highest risk, but where development is necessary, making it safe without increasing flooding elsewhere'* (para 155). The application is supported by a Flood Risk Assessment (FRA) and this has been considered and assessed by the Environment Agency and the Council's Flood Risk Manager.

According to the Environment Agency's flood map. Flood Zone 2 is considered to have a medium probability of flooding (between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% – 0.1%)) whilst Flood Zone 3 has a high probability of flooding (land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%). Flood Zone 3 can be split into either Flood Zone 3a or 3b. Flood Zone 3b is classified as 'functional flood plain', which is land where water has to flow or be stored in times of flood.

The NPPF Technical Guidance advises on the 'flood risk vulnerability and flood compatibility' of uses dependent on the flood zone it finds itself in. Residential uses are classified as 'more vulnerable' uses. It states that more vulnerable development (including residential) are appropriate within Flood Zones 1 and 2 and is also appropriate in Flood Zone 3a subject to an exception test. It states that development for more vulnerable uses should not be permitted within Flood Zone 3b (functional floodplain).

The scheme has been designed so that the lower ground floor does not host habitable accommodation and instead is used for less vulnerable undercroft parking. The more vulnerable uses would not therefore be within Flood Zones 2 or 3. This is the same for the adjacent Sandpipers development which sits alongside the site. It is also important to note that prior to the demolition of the former Danebridge Mill, the site was predominantly occupied by the building with the curtilage given over to hard standing. This proposal allows some space around the development for less hard surfacing and therefore offers scope for better drainage and therefore less impact. The Environment Agency has no objection to the

proposal subject to conditions relating to drainage and contaminated land. Such conditions would ensure compliance with Local Policy SE 13 and the advice within the NPPF given that 'sensitive' accommodation would not be located within Flood Zones 2 or 3.

The Council's Flood Risk Manager, the Environment Agency and United Utilities have offered no objection to the proposed development. The development is considered to be acceptable in terms of its flood risk and drainage impact and is found to comply with policy SE 12 of the CELPS.

### **Contaminated Land**

The submitted Phase I contaminated land assessment has been assessed by the Council's Environmental Protection Unit, who have offered no objection. Any risk from further contamination not already identified can be picked up by further monitoring and secured by appropriate conditions. Consequently the proposal complies with saved policies GR7 and GR8 of the CBLP and CELPS Policy SE12.

### **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.

### **S106 HEADS OF TERMS**

A s106 agreement is currently being negotiated to secure the requisite Affordable Housing, Public Open Space provision in lieu of on-site provision and education contribution. As noted above, discussions regarding the potential contribution towards the NHS have been sought and will be reported by way of a written update.

### **CIL Regulations**

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

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

The provision of affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with Local and National Planning Policies.

The commuted sum in lieu of open space is necessary, fair and reasonable, as the proposed development will provide 44 dwellings, the occupiers of which will use local facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

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

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

On this basis the S106 contributions associated with the scheme are compliant with the CIL Regulations 2010.

### **Other Considerations**

Congleton Town Council has recommended that the s106 secures improvements the adjacent footpath. However, it is not considered that the proposed development of 44 units would place undue burden on the existing footpath and consequently it would not be reasonable or necessary to do so and would not therefore meet the tests of the CIL regulations.

The objector's comments about impact on financial investment is not a material planning consideration and there is no 'right to a view' across third party land.

### **CONCLUSIONS**

Congleton is a Key Service Centre where local plan policies support sustainable development appropriate to the scale and context of the area. The proposal will provide market and affordable housing within an existing settlement where there is existing infrastructure and amenities. This proposal would bring economic, environmental and social benefits through the delivery of 44 no. residential units in a highly sustainable location, investment in the area and by bringing a vacant brownfield site into viable use. The principle of developing the site is acceptable given that housing will have a more positive impact on the local area than industrial type development as previously seen.

In highways terms, the capacity of the local highway network is deemed sufficient to accommodate the vehicle movements associated with the scale of the proposed development and the parking provision is deemed appropriate having regard to the size of units and the highly sustainable location.

The proposal is acceptable in design terms and would respond positively to the gateway location and neighbouring uses. As such the scheme would not harm the character or visual amenity of the area.

The risk of flooding has been demonstrated to be acceptable and can be controlled by condition as can the impacts on species protected by law.

The proposal would not materially harm neighbouring residential amenity and would provide sufficient amenity for the new occupants. The application would offset the impact on public open space, education and subject to satisfactory negotiations, healthcare through the



provision of financial contributions. The applicants have demonstrated general compliance with national and local guidance in a range of areas including ecology, noise and air quality.

On this basis, the proposal is for sustainable development which would bring environmental, economic and social benefits. The proposal is therefore considered to be acceptable in the context of the relevant policies of the adopted Cheshire East Local Plan Strategy and the saved policies of the Congleton Borough Local Plan and advice contained within the NPPF. The application is therefore recommended for approval subject to the imposition of appropriate conditions and the necessary Section 106 obligations.

## **RECOMMENDATION**

**APPROVE subject to conditions and a S106 Agreement making provision for:**

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable Housing</b>	<b>30% (13 units) (65% (8 units) Affordable Rent / 35% (5 units) Intermediate)</b>	<b>No more than 80% open market occupied prior to affordable provision</b>
<b>Education</b>	<b>Primary £21,693 Secondary £32,685 Total education contribution: £54,378</b>	<b>50% Prior to first occupation 50% at occupation of 22<sup>nd</sup> dwelling</b>
<b>Health</b>	<b>TBC</b>	<b>50% Prior to first occupation 50% at occupation of 22<sup>nd</sup> dwelling</b>
<b>Public Open Space</b>	<b>£4,920.19 and £13,064.75 towards enhancement and future maintenance (25 years) of Congleton Park Town Wood</b>	<b>On first occupation</b>

**And the following conditions:**

1. Commencement of development (3 years)
2. Development in accordance with approved and amended plans
3. Landscaping scheme to be implemented in accordance with the submitted scheme
4. Development to be carried out in accordance with submitted Arboricultural Impact Assessment
5. Tree protection of retained trees / hedgerows
6. Protection for breeding birds during bird nesting season
7. Details of ground levels to be submitted, approved and implemented
8. Details of external facing materials to be submitted, approved and implemented
9. Details of boundary treatments to be submitted, approved and implemented

10. Development to be carried out in accordance with submitted noise survey and shall meet British Standards
11. Development to be carried out in accordance with submitted Flood Risk Assessment.
12. Foul and surface water drainage to be connected on separate systems
13. Scheme of surface water drainage to be submitted, approved and implemented
14. Phase II contaminated land investigation to be submitted, approved and implemented.  
Remediation of contaminated land to be carried out
15. Verification of remediated contaminated land to be submitted and approved
16. Details of bin storage / waste strategy to be submitted
17. Details of pile foundations / floor floating to be submitted, approved and implemented
18. Electric Vehicle Infrastructure to be provided prior to first occupation (5 Mode 2 compliant charging points)
19. Broadband connection / digital connections to be made prior to first occupation
20. Submission, approval and implementation of Travel Information Pack
21. Submission, approval and implementation of a scheme of archaeological mitigation
22. Submission, approval and implementation of a Construction Environmental Management Plan
23. Accordance with Ecological Assessment
24. Nesting bird mitigation measures to be submitted, approved and implemented
25. Details of external lighting and undercroft lighting to be submitted, approved and implemented
26. Scheme for biodiversity enhancement to be submitted, approved and implemented

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

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