



The Secretary
Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

9 Tudor Way
Congleton
Cheshire
CW12 4AS

6th January 2015

Dear Sirs,

Planning Appeal APP/R0660/A/14/2228681 – Land west of Goldfinch Close, Congleton

1. In response to the letter dated 11th December 2014 from Cheshire East Borough Council (CEBC) this is the submission from the Congleton Sustainability Group to this Planning Appeal. We understand that, under the appeal process you will have received our letter of objection to the original planning application, reference 13/3517C, dated 8th October 2013; if you have not received this please let us know and we will forward it to you.
2. We urge you to dismiss this appeal on the grounds set out in our original letter of objection supplemented by the further evidence set out in this submission.
3. We note that the development which is the subject of this appeal includes the 80 dwellings (40 - Land off Goldfinch Close and Kestrel Close (12/3025C) and 40 - Land off The Moorings (12/3028C), which were subject to a combined appeal (APP/R0660/A/12/2188604 and APP/R0660/A/12/2188605 respectively). The appellant refers to these at paragraph 2.5 of their Statement of Case; however, no further reference is made within this document. These appeals were allowed and therefore these two parts of the current application have planning approval. In our opinion the joint appeal decision on both of these developments is of material consideration to the current appeal and we refer to this decision in our submission as we deem appropriate.
4. Furthermore, since this current appeal was lodged the decision on the proposed development of 104 dwellings off Waggs Road, Congleton (APP/R0660/A/14/2214018) was issued on 15th December 2014. Whilst CEBC were unable to demonstrate a 5-year housing supply this appeal was nevertheless dismissed on road safety grounds, i.e. in accordance with paragraph 14 of the NPPF the adverse impacts of this development (in this case, road safety) significantly and demonstrably outweighed the benefits. We consider, amongst other matters, there are similar road safety issues with the current appeal and we again refer to this decision in our submission as we deem appropriate.

5. As the appellant has not provided either of these decision letters to the Planning Inspectorate we have appended these to our submission.
6. Our further evidence, set out in this submission, is in the form of rebuttal of the Case for the Appellant at Section 4 of their Statement of Case (SoC) and as such the headings follow the four reasons for refusal.

Reason for Refusal 1 – Open Countryside

7. This reason for refusal relates to the non-conformity of the application site with Policies PS8 and H6 of the saved policies from the Congleton Borough Local Plan First Review (CBLPFR). At paragraph 27 of the appeal decision Ref. 2188604 & 5 the Inspector is quite clear that 'The protection of the countryside is one such area that can be considered to remain a constant in strategic planning terms' and goes on to state at paragraph 28 that these policies are in conformity with paragraph 17 etc. of the NPPF, concluding at paragraph 29 that these policies 'should be afforded weight in accordance with their status as development plan policies'. Consequently, we believe the appellant is incorrect in stating at paragraph 4.3 of their SoC that these policies are time-expired and therefore should only be given very limited weight. On the contrary, it is our contention, in line with the Inspector's view, that it is right to continue to assess this appeal against the requirements of both these policies.
8. Policy PS8 relates to open countryside and requires development to be in conformity with at least one of 8 specified criteria. In our opinion this application fails to comply with any of the criteria. Notwithstanding this we believe the only criterion that could possibly apply is that for infill development, but this requires compliance with Policy H6. H6 also relates to open countryside and we consider the only possible criterion within this policy is again that for infill development. This criterion states that the infill development must be limited – we believe 230 dwellings is far too great to be described as 'limited'. Also the infill development must be within an infill boundary – no such boundary exists at this site.
9. Consequently we consider the development which is the subject of this appeal fails to comply with Policies PS8 and H6 of the CBLPFR.
10. Contrary to the appellant's statement at paragraph 4.4 of their SoC we consider that Policy PG5 of the emerging Local Plan should carry weight commensurate with the stage the Local Plan has reached, (currently at examination). In accordance with criterion 1 of this Policy we consider the appeal site to be located in open countryside as the Congleton settlement boundary is not extended by the emerging Local Plan to encompass this site. We consider that the appeal site does not conform to any of the remaining criteria of this Policy and therefore this is another reason why the appeal should be dismissed.
11. With regard to paragraph 4.6 of the SoC, we consider and have evidence to support our view that the site is far from being as sustainable as suggested by the appellant. It is our opinion that to be considered sustainably located it is insufficient to merely quantify the distance from the site to various services and facilities without a qualitative assessment

of the links to these destinations. To be sustainable the links need to be safe and of a standard to encourage travel by sustainable modes. In this case we consider the standard of the links away from the immediate access onto the road network are poor and are a severe disincentive to non-car based travel.

12. As evidence of this we have undertaken spot surveys of sustainable travel modes and the results are appended at the end of our submission. A comparison of our results with the appellant's predicted numbers of trips by each mode as set out in Tables 5.2 and 5.3 of their Transport Assessment (TA) demonstrates a gross over-estimation by the appellant of trips by sustainable travel modes. The results of our comparison are as follows:

- The highest recorded figure for walking in the am peak is 6 during a 15 minute period; this would equate to around 24 trips in the peak hour. It is not unreasonable that all people living north of the canal are within easy walking distance of the town centre. There are currently about 300 dwellings between New Street and the canal, consequently, on a pro-rata basis the expected number of walkers in the am peak hour from 230 dwellings would be 18 not the 46 predicted in the TA.
- Similarly, for cycling and bus usage our survey shows only 1 cyclist during a 15 minute period and a maximum of 5 bus passengers (on the hourly bus service) in the am peak hour. Cycling should be easily achievable from all dwellings north of the railway, about 800 in all; and the bus serves a very significant area including south of the development which amounts to in excess of 2000 dwellings. On a pro-rata basis the actual expected number of cycling and bus trips from 230 dwellings would be 1 cyclist and less than one bus journey. This compares to the 4 and 10 trips respectively for cycling and bus travel predicted in the TA.

13. As noted above the current low levels of trips by sustainable travel modes and our resultant significantly lower numbers of such trips that we predict are easily explainable by the very poor provision for such travel that currently exists. These are described below.

14. While the site theoretically meets the requirements for distances to a number of services and the appellant proposes high levels of provision for walking and cycling within the site itself, the appellant has failed to identify and address or at least take account of key constraints to walking and cycling beyond the site itself that are likely to severely limit the numbers of walking and cycling trips identified in the TA. Regarding walking, these constraints are the lengths of narrow and discontinuous footway along Canal Road/ Canal Street and Howey Lane/Moody Street and for cycling the pinch points and poor standard of the alignment of both roads.

15. For significant lengths of Canal Road/Canal Street the footway is less than 1m wide which makes it difficult and potentially dangerous for pedestrians walking in opposite directions to pass each other without going into the road. The situation for pedestrians is further exacerbated as the footways on the east side of Canal Street and west side of Canal Road under the canal are discontinuous resulting in pedestrians crossing and re-crossing the road.

16. The situation for pedestrians and cyclists (presumably principally from the western part of the proposed development) who choose to use Howey Lane and Moody Street to access the town centre is not much better. The applicant is wrong in saying that there is a footway on both sides of Howey Lane; there is a section at the southern end and on the immediate approach to the site where the footway is only on one side of the road. The footways of Howey Lane are narrow and usually blocked by parked cars during the working day making this route difficult and dangerous for pedestrians who either have to walk in the road or cross and re-cross the road. Again the footways of Moody Street are narrow in places and there are a number of vehicular accesses to commercial premises where visibility is non-existent resulting in potential hazards to unwary pedestrians.
17. As noted above, the carriageway of Canal Street and Canal Road (in places) is very narrow particularly at Albert Place where alternate way working occurs. Similarly, Howey Lane and Moody Street are very steep with tight bends (which limit forward visibility) and Howey Lane, in particular, is reduced to alternate way working over most of its length due to parked vehicles. All these constraints would deter all but the most confident cyclists.
18. Again, while there is a bus service operating 2 journeys per hour during most of the working day along Canal Road and Canal Street, the first bus does not pass until about 8.00am, which is of no use to the majority of workers in Congleton who start work before this time. It is also of no use for commuters travelling further afield as they start their journeys before the first bus.
19. In our opinion, the result of this is that significantly more trips than predicted by the appellant from the site will be car based, as workers travel to their place of employment, which, because of the current limited employment opportunities in Congleton could result in a significant proportion travelling beyond Congleton. In this regard it should be noted that other than for the town centre itself the main employment sites at Congleton are to the north and west of the town; none of these are served by buses meaning that car based travel to these employment sites is through the already congested town centre.
20. In conclusion, this site is far from as sustainable as the applicant has suggested with significantly fewer trips by sustainable travel modes and as a result significantly higher numbers of car based trips than predicted in the TA. Consequently, the development fails to comply with Policy GR9 of the CBLPFR, which requires proper consideration be given to the needs of pedestrians, cyclists and public transport. Furthermore and as a consequence of this, the development fails to meet all of the Objectives of the Cheshire East Local Transport Plan, in particular Objectives 6 (environment) and 7 (safety) and all Priority Policies S1 through to S8, in particular S4 (public transport), S7 (walking) and S8 (cycling).
21. Finally in this section, paragraphs 4.10 to 4.24 of the appellant's SoC refer to a number of earlier appeal decisions. We note that 4 out of the 5 decisions were based, in a large part on conformity or otherwise with the Crewe and Nantwich Replacement Local Plan. While there will be an element of similarity with the CBLPFR which is the relevant Local Plan for this appeal site, the two documents were produced by different authorities and,

consequently, we contend that this appeal needs to take cognisance of compliance or otherwise with the CBLPFR.

22. Notwithstanding that an element in the decision to allow all 5 of these appeals was CEBC's inability to demonstrate a 5-year housing supply we wish to point out that the appeal for the 104 dwellings off Waggs Road (Ref. 2214018) was dismissed on the grounds of road safety, despite CEBC again not being able to demonstrate a 5-year housing supply, i.e. the appeal was dismissed in accordance with paragraph 14 of the NPPF as the adverse impacts of the development (in this case, road safety) significantly and demonstrably outweighed the benefits.

Reason for Refusal 2 – Loss of Best and Most Versatile Agricultural Land

23. We note the appellant accepts their development will result in the loss of 3.69ha of best and most versatile agricultural land. This loss is an inevitable outcome of the development should it proceed and no mitigation is available. As a result, we consider this reason for refusal still stands and concur with CEBC that development of this site is contrary to paragraph 4 of Policy SE2 of the submitted version of the CEBC Local Plan.

Reason for Refusal 3 – Landscape and Historic Impact

24. At paragraph 35 of appeal decision Ref. 2188604 & 5 the Inspector states that the 'finger of land' on the south side of Congleton and north of Lamberts Lane, of which this development site forms a significant part 'has an important role in the setting of the town' et seq. The Inspector went on to state at paragraph 42 of his decision that 'material harm would arise from the direct loss of open countryside and some impact on the character of the area'. However he was satisfied that in this particular instance where the development was limited to two lots of 40 dwellings the material harm could be satisfactorily mitigated.
25. This 'finger of land' includes all undeveloped land north of Lamberts Lane (bridleway) and between Waggs Road and Canal Road. As such the development which was subject to Appeal Ref 2214018 is also located in this area. At paragraph 31 of her decision letter the Inspector in this case considered the impact of that particular development on this area was limited. While not agreeing with her on this matter we can understand that the landform of that particular site which falls rapidly in all directions and particularly to the Howty valley does mean that views of the development from the public footpath bounding the north and east sides of the site together with the western end of the Lamberts Lane bridleway would be limited.
26. However we consider this is not the case for the larger development which is the subject of this current appeal, in that to extend the development further into this important area of land would cause very significant harm to the open countryside and to the setting of the town. This further development would extend into a more open and flatter area of countryside (albeit still undulating and falling towards the town) with long distance views to Bosley Cloud and across the town.

27. In this regard we consider the proposals contravene Policy GR5 of the CBLPFR, in particular views from publically accessible areas, in this case the Lamberts Lane and Howey Lane bridleways. The existing far reaching views from these bridleways across open countryside would be lost, hemmed in by the development itself and/or the proposed dense planting.
28. For similar reasons the development is contrary to policies SE4, SE5 and SE6 of the submission version of the CEBC Local Plan. In particular, the proposed site already provides a 'good quality, and accessible network of green spaces for people to enjoy, providing for healthy recreation and biodiversity' (SE6). Up to 3500 dwellings are planned for Congleton and it is very important to provide for the health and wellbeing of the increased population. The bridleways that adjoin or pass through this development are part of a network of public rights of way whose origins are lost in the mists of time. No such network exists adjacent to the planned development to the north and west of Congleton as identified in the submission version of the CEBC Local Plan, therefore it is all the more important to retain the network on the south side of the town as an important recreational area for the future significantly increased population of Congleton.
29. We cannot disagree more with the appellant's statement at paragraph 4.29 of their SoC, where they claim that the proposed development 'is in broad accordance with emerging Local Plan Policy SE4'. Other than the recent modern development off Canal Road the area of this development has remained unchanged for centuries; comparison of the 1875 and 1910 Maps (figures 8 & 9 of the appellant's heritage assessment) with current mapping shows that the field boundaries are substantially unchanged. This is confirmed by the appellant at paragraph 13.3 of their heritage assessment where they state 'There are also hedgerows across most of the assessment site that form part of a field system pre-dating the Enclosure Acts'. Furthermore, Congleton Museum has advised in relation to the network of footpaths and bridleways:
- 'Probably forms part of the medieval/pre and post Norman trackway structure that existed between Congleton and Astbury. At the time of the Conquest, Astbury was probably the pre-eminent of the two settlements. Astbury being Anglo Saxon for east fortified settlement. These trackways which occupied the high ground between the two settlements probably have their origins in the pre-roman era although factual evidence to that effect is not available'.
30. This is an area of known historic importance as confirmed at paragraph 13.1 of the appellant's heritage assessment which states 'The assessment site lies in an area of significant archaeological features and finds representing all archaeological periods from pre-history onwards'. The limited number of archaeological finds in the area is simply a result of no formal archaeological survey/dig, rather finds to date have been accidental.
31. In conclusion, we consider the proposed development completely fails to comply with Policy SE4 of the emerging Local plan in that it fails to 'conserve character and quality' let alone 'enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes'. The loss of an area of significant local historical interest and local distinctiveness is wholly unacceptable and must be resisted.

32. The proposed development also completely fails to comply with Policies SE5 of the emerging Local Plan in that, while some strengthening of some of the existing hedgerows will occur there will be loss of others. We consider there are no clear overriding reasons for allowing this loss given the historic nature of these hedgerows.
33. Despite being limited (in our opinion) the ecological survey indicates high levels of biodiversity. Notwithstanding the proposed mitigation measures we consider there will be a significant impact on the many species recorded in the ecological survey and the proposed mitigation measures will do little to protect the many species that live or feed in these fields.
34. We are very disappointed that there are species missing from the survey – we note no record of Barn Owls was found but these and Tawny Owls are regularly heard in the area. While agreeing that there are no otters in the vicinity of the site we are concerned that other than for Badger, there is no mention of other members of the Mustelidae family, particularly Polecat which is known to be present. There is no mention of Woodpeckers; these are regularly heard and occasionally seen. Similarly there is no mention of Buzzards, despite these being regular visitors to the open fields, which are an important feeding area supporting many of these birds. The presence of Buzzards indicates a robust food supply, which for them consists mainly of small to medium sized mammals, snakes and lizards, these together with larger mammals such as foxes are again missing from the ecological survey. We have observed that the Buzzards do not search for food in the adjoining residential areas, just the open fields; this accords with the recognised feeding habits of Buzzards, which is open countryside such as that represented by the appeal site. Residential development of this site will mean these birds will have to forage further afield which could have a detrimental effect on their viability.
35. The fact that this area supports such a significant range of biodiversity including, at the top of the food chain, Owls and Buzzards so close to the town centre is yet another reason why these fields must be protected from development and remain as a valuable biodiversity resource. The damage that this development would cause to the ecology is very significant and again fails to comply with Policy SE4, in particular 2 v) (protect ecological qualities).

Reason for Refusal No.4 – severe highways harm

36. While the vehicular accesses to this development via the existing junctions of St Peters Road (The Moorings) and Kestrel Close with Canal Road are probably capable of carrying the additional traffic, albeit we are concerned that visibility to the right at the Kestrel Close junction is substandard, this development will simply add more traffic to an already congested road network that is struggling to cope. This impact is further compounded by the evidence we have submitted that supports our claim that there will be significantly fewer trips by sustainable travel modes than predicted by the appellant, resulting in an even greater number than predicted (by the appellant) of car-based trips.

37. At paragraph 53 of appeal decision Ref. 2188604 & 5 the Inspector was clear that in allowing the two lots of 40 dwellings that in regard to traffic impact this 'should not be considered as any sort of precedent for further developments in the area'.
38. There are a number of notable constraints to the free flow of traffic on Canal Road and Canal Street. The most severe of these is the narrowing at Albert Place where informal alternate way working currently occurs as there is insufficient width to accommodate two-way traffic through this pinch point. Others include the narrowing outside Burns Garage just to the south of Albert Place where again alternate way working occurs especially when a wider vehicle (LGV, HGV, bus etc.) is passing this point. On Canal Road the canal bridge restricts flow as higher vehicles need to travel in the middle of the road in order to pass through the centre of the arch and the Canal Road/Leek Road/Moss Lane junction where there is very limited visibility and very significant queuing on Moss Lane which is the eastern end of the rat-run through Astbury village (avoiding congestion through Congleton itself).
39. Of these constraints the applicant has only addressed the pinch point at Albert Place. The potential for pedestrian/vehicle conflict at this location was raised by the Congleton Sustainability Group and others at the appeal hearings and this was noted and considered by the Inspector who stated at paragraph 51 of his decision letter (Ref. 2188604 & 5):
- 'It is possible that such courteous approaches [to the informal give way] would not always take place and the road width is such that, when vehicles try to pass, they could potentially conflict with the pavement [footway] area'.
40. At paragraph 4.40 of their SoC the appellant states that their proposed improvements to this pinch point is shown on their drawing 0011.07A – please note that this is not the improvements proposed as part of their planning application which is the subject of this appeal (13/3517C), which was drawing 0011.01B, rather it is the improvements they propose as part of their latest resubmission – 14/4938C.
41. With this latest layout the footway on the west side of Canal Street is widened to 1.5m, but in so doing the carriageway is narrowed even further from the current situation. This layout consequently continues to rely on the informal alternate way working and there is no evidence from the applicant to suggest that the potential pedestrian/vehicle conflict raised by us and others and accepted by the Inspector has been satisfactorily addressed i.e. **we consider this layout to be potentially unsafe**. This view is supported by the accident record for the Albert Place/High Street/Lawton Street junction area where 3 of the 4 reportable accidents involved pedestrians.
42. Furthermore, this layout completely fails to comply with the principles of the Congleton Public Realm Strategy (PRS). The PRS is critical to ensuring the future economic viability of the town centre; in particular the plan includes key proposals to encourage increased pedestrian footfall to the east of the existing pedestrianized area, i.e. along High Street past the Canal Street junction and onwards along Lawton Street. This section of the town centre is currently blighted by through traffic, principally from Canal Street/Road i.e. the through traffic is a disincentive to shoppers who prefer the perceived

safer environment of the pedestrianized area. To be effective the PRS needs to be accompanied by solutions that reduce the amount of traffic passing through the town centre not yet more traffic from yet more development, particularly large developments such as that being considered at this appeal.

43. The improvements currently proposed by the applicant bear no resemblance and take no cognisance of the proposals for the PRS at this location. Given the absolute key importance of the PRS to the future of the town centre we consider the applicant's current proposed improvements to be wholly unacceptable.
44. Cheshire East Council has just awarded £1m to Congleton Town Council for the implementation of the first two phases of the PRS. This includes Festival Square which will transform the existing High Street/Market Street/Moody Street junction into 'a vibrant and attractive space that will act as the focus for the town centre' (paragraph 06.02 Public Realm Strategy). The development that is the subject of this appeal will simply add further traffic passing through what will become the Festival Square and thereby **significantly devalue Cheshire East Council's investment in the Public Realm Strategy.**
45. In our opinion, the increased traffic passing through this junction as a result of this development together with the increased numbers of pedestrians using the Festival Square as a result of the implementation of the PRS **will again increase the risk to all pedestrians** at this location.
46. As noted above, the applicant's current proposal for the Albert Place improvements simply further narrows the existing carriageway resulting in the continued informal alternate way working. We believe the applicant's TA is potentially misleading regarding the impact of queuing at this location. We agree that the current proposed change in priority at the Albert Place/High Street/Lawton Street junction (0011.07A) would significantly reduce the queuing at the junction itself. However, the queue will simply move to the restriction at Albert Place as traffic is constrained to alternate way working. This means that the queues predicted in Tables 7.5 and 7.6 of the TA (submitted as part of application 13/3517C) will still occur but these will be on the approach to the restriction rather than at the junction itself. Both Tables clearly show that the development on its own would significantly extend the queue, extending it through the next pinch point outside Burns garage; this is totally unacceptable.
47. Furthermore, both of the appellant's TAs (for applications 13/3517C and 14/4938C) are clear at paragraphs 7.8.13 and 7.10.13 respectively that:

'..... the Albert Place/High Street/Lawton Street junction is operating in excess of its theoretical capacity at present and this will continue to be the case once the development traffic and traffic growth has been added'.

This further confirms our view that Congleton town centre needs solutions that reduce the amount of traffic passing through the centre not yet more traffic from yet more development.

48. Notwithstanding the potential significant (in our opinion) road safety issues with the proposed improvement at Albert Place, we are very concerned that there are significant road safety issues, particularly for pedestrians, both along the remainder of Canal Road/Canal Street and Howey Lane/Moody Street.
49. As noted at paragraphs 15 and 16 above many of the footways on both of these routes are both narrow and discontinuous. At paragraph 9 of appeal decision Ref. 2214018 (104 dwellings off Waggs Road) the Inspector notes that the Manual for Streets (MfS) recommends a 2m minimum width for footways with a minimum width of 1.5m needed to provide sufficient space for an adult walking with a child or walking alongside a pushchair. We have measured the footway widths of both of these routes and all but the very shortest of sections fall below the 2m recommended width in (MfS) with significant lengths below the minimum 1.5m width. At their narrowest the footways are below 1m in width and when this is combined with the discontinuous sections results in potentially very dangerous conditions for pedestrians as they, including children walking to school, have to step out into the carriageway to pass each other when walking in opposite directions. In this regard it is not just children walking to/from Daven Primary School but older children walking to/from Eaton Bank Academy and Congleton High School.
50. In the same way, as noted at paragraphs 12 and 13 of appeal decision Ref 2214018, should this development proceed it will simply increase traffic on Canal Road/Canal Street and increase pedestrian usage of both this route and Howey Lane/Moody Street, which in our opinion and that of the Inspector **will simply increase the risk to the safety of pedestrians of all ages.**

Conclusion

51. We believe that the sum of all the impacts of this development as set out above is such that the application fails to comply with paragraph 14 of the NPPF in that the impacts significantly outweigh the benefits and we believe that we have demonstrated this in our submission.
52. Finally, subject to the approval of the appointed Inspector, we wish to present further evidence in support of our view that the appeal should be dismissed at the forthcoming Public Inquiry.

Yours faithfully

Peter Minshull
BSc CEng MICE
Congleton Sustainability Group

APPENDIX

Survey of sustainable travel modes

The following spot surveys of existing travel by sustainable travel modes at peak times was undertaken between Thursday 14th November and Tuesday 19th November 2013.

The count was taken on Canal Road at the junction with The Moorings. The raw data, as collected is shown in the table below.

Date and Time	To Town			To Mossley		
	Ped.	Bike	Bus	Ped.	Bike	Bus
Thurs. 14 Nov						
8.30 - 8.45	6	0	2	1	1	0
4.40 - 5.15	4	0	3	1	1	3
Mon. 18 Nov						
8.30 - 8.45	5	0	5	1	0	no bus
4.40 - 5.15	1	1	0	4	0	3
Tues. 19 Nov.						
8.30 - 8.45	6	0	3	1	1	3
4.55 - 5.20	4	0	0	1	3	1

Congleton Sustainability Group

January 2015