

Planning Reference No:	10/1250N
Application Address:	Foolpenny Hall, London Road, Stapeley
Proposal:	Erection of 9 no. detached dwellings and associated detached garaging. Refurbishment and extension of 2 no. existing dwellings (Foolpenny Hall and Crosslands Cottage) and the demolition of existing office building at The Paddock – Foolpenny Hall. Formation of New Access onto London Road. Re-submission of 09/2012N
Applicant:	Mr. S. Williams
Application Type:	Full Planning Permission
Grid Reference:	366558 351857
Ward:	Doddington
Consultation Expiry Date:	7 th July 2010
Date for Determination:	3 rd September 2010

SUMMARY RECOMMENDATION:

In the event that an acceptable bat survey of the trees on site is submitted and the Ecologist withdraws his objection APPROVE subject to

- conditions

In the event that a bat survey of the trees on site is not submitted or the Ecologist does not withdraw his objection REFUSE

MAIN ISSUES

- Principle of Development**
- Privacy and Amenity**
- Layout and Design**
- Tree and Landscape Matters**
- Landscaping**
- Protected Species**
- Flooding**
- Highway Matters**
- Affordable Housing**

REFERRAL

This application has been referred to the Southern Planning Committee because it is for more than 10 dwellings. The application was deferred at the meeting on 15th December 2010, for a site visit.

1. SITE DESCRIPTION AND DETAILS OF PROPOSAL

The site comprises approximately 1.37ha of land which includes two existing residential properties, Foolpenny Hall, Crosslands Cottage and an office building and associated garaging.

The site is broadly triangular in shape and is bounded by Newcastle Road to the north and London Road to the south. The buildings are located at the broader eastern end, and extensive grounds stretch away from the house to the west. The grounds contain over 100 protected trees and a large pond.

Planning permission is sought for the refurbishment and extension of Foolpenny Hall and Crosslands Cottage, the demolition of existing office building and the erection of 9 no. detached dwellings and associated garaging with the grounds of the property.

2. PREVIOUS RELEVANT DECISIONS

09/2012N Erection of 10 no. detached dwellings and 2 no. semi-detached dwellings and associated detached garaging. Refurbishment and extension of 2 no. existing dwellings (Foolpenny Hall and Crosslands Cottage) Demolition of existing office building at The Paddock – Foolpenny Hall. Formation of new access onto London Road. - Withdrawn

P06/0091 Alterations and extensions to existing bungalow. Approved 01/04/1996

7/13351 Residential units with private access road – Withdrawn 05/11/1986

7/16623 Erection of 2 dwelling houses – Refused 18/05/1986

3. PLANNING POLICIES

National Planning Policy

PPS1: Delivering Sustainable Development (2005)

PPS3: Housing (2007)

PPS9: Biodiversity and Geological Conservation (2005)

PPS.23 Planning and Pollution Control

PPS25: Planning and Flood Risk (2006)

Regional Spatial Strategy

DP1 – Spatial Principles

DP4 – Make best use of resources and infrastructure

DP5 – Managing travel demand

DP7 – Promote environmental quality

DP9 – Reduce emissions and adapt to climate change

RDF1 – Spatial Priorities

L4 – Regional Housing Provision

EM1 - Integrated Enhancement and Protection of the Region's Environmental Assets

MCR4 – South Cheshire

Local Plan Policy

BE.1 (Amenity),
BE.2 (Design Standards),
BE.3 (Access and Parking),
BE.4 (Drainage, Utilities and Resources)
BE.5 (Infrastructure)
BE.6 (Development on Potentially Contaminated Land)
NE.5 (Nature Conservation and Habitats)
NE.9 (Protected Species)
NE.17 (Pollution Control)
RES.2 (Unallocated Housing Sites),
RES.3 (Housing Densities)

Other Material Considerations

Cheshire East Interim Housing Policy
Government letter regarding changes to PPS3
Borough Of Crewe and Nantwich Supplementary Planning Document - Development on Backland and Gardens

4. OBSERVATIONS OF CONSULTÉES

United Utilities

Has no objection to the proposal subject to the following

- Surface water should not be allowed to discharge to the foul / combined sewer
- The site must be drained on a separated system with surface water discharge to the soakaway / SUDS / Pond, which may require the consent of the Environment Agency
- A public sewer crosses this site and they will not permit building over it. They will require an access trip of 6m, with 3m on either side of the line of the sewer
- A separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999.
- Currently, United Utilities policy is not to adopt SUDS (Sustainable Urban Drainage System) structures. This stance has been taken as SUDS structures, typically ponds, do not align with United Utilities asset base and would represent a substantial maintenance liability.
- United Utilities will only consider the adoption of surface water sewers draining to a balancing pond (as opposed to any other SUDS structure), providing the following conditions are met: -
 - The Local Authority takes responsibility for the maintenance of the pond
 - The freehold of the land on which the pond lies is transferred to the Local Authority
 - United Utilities is provided with a deed of "Grant of Rights" to discharge into the pond in perpetuity. Such a deed would necessarily contain provisions against the development within the balancing pond, and against altering its topography, or making connections to it.
 - That measures have been taken to prevent flooding of properties
 - That a legal agreement is in place between all parties.

- A section 104 (Water Industry Act 1991) agreement for the surface water sewers draining to the balancing pond will not be entered into until every condition described above has been met.

Sustrans

Note the application for 9 detached dwellings and garages at Foolpenny Hall London Road Nantwich. Should this land use be approved they hope the Planning Dept can negotiate for a modest contribution from the developer towards improving walking and cycling routes towards the town centre of Nantwich. The current road layout combined with the recent development of Stapeley has made the walking and cycling environment in this area less attractive.

Highways Authority:

London Road Stapeley at this location is very quiet and leads to a dead end. There is a change in level between the carriageway and site levels which may prevent good visibility. The highways authority has no objections subject to the following conditions:

- No development shall take place until detailed drawings outlining the site's access arrangements have been submitted to and approved by the LPA and no part of the development shall be occupied until the access has been constructed in accordance with approved drawings.

Informative:

- The applicant will need to obtain the consent of the highways authority (CEC) for any work in, or that may affect the public highway. The applicant should contact Crewe area office (CEC) before constructing or altering any access. This work should be carried out under a section 184 licence.

Arboriculturalist

Object to this application.

- It should be noted that the information comprises of a separate 'Pre- Development Tree Survey' plan; a separate 'Trees with TPO plan' and a Planning layout showing protected trees for retention/removal.

- Reference is made to a Tree Constraints Drawing SK12A in the Arboriculturists Tree Protection Plan and Method Statement. To date I have had no sight of this document BS5837 Recommendations for Trees in Relation to Construction 2005 identifies the requirement for a Tree Constraints Plan and Arboricultural Implications Assessment which informs site layout design. The determination of any application should rely on up to date Arboricultural assessment provided by the applicant. As the Council has not received such an assessment, and in the absence of my request for an up to date survey, I am reliant on the current arboricultural information submitted to determine the impact of the proposal on trees.

- It is apparent that some changes to the previously submitted scheme under App 09/2012N have been carried out, reflecting the current layout as detailed on the proposed site layout (Drawing A001_P_006F). I assume this revised layout reflects the comments raised by the Arboriculturist in para. 7.1 of his 'Tree Protection Plan and Method Statement' Report in respect of dwelling numbers 8,9,10,11 and 12.

- For the purposes of this consultation I have compared the proposed site plan with the Trees with TPO plan to determine the impact of the proposals on protected trees.

Direct losses

- Plot 2 - Loss of 2 Ash (T224; T225) part of G7 of the Order due to the proposed access and turning area
- Plot 9 - Loss of Silver Birch (T67) part of G2 due to position of the proposed new build. It should be noted that the Arboriculturist refers to this tree in para 7.1 of his 'Tree Protection Plan and Method Statement' Report, advising that the tree is in good condition (Category B2) but has a short safe useful life expectancy. It should be noted that the Arboriculturist Tree Report provides an Estimated Remaining Contribution (ERC) of between 20-40 years.
- Plot 10 - Loss of two Ash (T175; T176), part of G7 of the Order to accommodate Plot 10. I note the comments raised by the Arboriculturist in his report in respect of T176 and can accept the observation that this is a low category tree.
- Plot 11 – Loss of Alder (T152), part of G2 to accommodate Plot 11. This has been identified in the Arboriculturists report as an A1 category tree and should be retained unless it can be demonstrated that mitigation provides a net environmental gain.
- Two trees, a protected Cherry (T78) and a Lime (T86) forming part of G3 of the Order are proposed to be removed as part of the formation of the new access into the site. I note from Ruth Conley's consultation comments on the previous application that several trees including T83, T84 and T86 would require removal, although no comment is made as to whether these removals are deemed acceptable or not. Reference is made to replanting, but this may allude to the removal of T67 in respect of its loss for Plot 11 rather than the proposed access.
- In consideration of the new site entrance, I accept that its location over the existing 300mm dia. sewer is probably the most favoured location. The protection trees, on and immediately adjacent to the sewer can be conceded due to easement of support for the sewer.

Indirect Losses – Avoiding Direct Damage /Avoidance of Future Conflict

- The proposed layout has identified that a number of plots are positioned close to protected trees which will present future inconvenience to incoming occupiers (Government Guidance Tree Preservation Orders: A Guide to the Law and Good Practice Section 5.11 applies). BS5837:2005 Trees in Relation to Construction (Recommendations) identifies the Root Protection Area (RPA) required to protect below ground constraints and a number of Plots/Access arrangements conflict with these recommendations
- Plot 9 – Protected Black Pine (T63) part of G3 of the Order. The proposed plot is located 6 metres from the tree and falls within the RPA (calculated at 210m² or a radius of 8.172m). The dominance of this tree situated to the south of the plot will present undue inconvenience, restrict natural daylight and sunlight and lead to future requests to fell or severely prune.
- Plot 11- Protected Norway Maple (T79) part of G3 of the Order. The proposed plot is located 7.5 metres from the tree. The dominance of this tree situated to the south east of the plot will present undue inconvenience and lead to future requests to fell or severely prune. The plot also conflicts with the RPA of a protected Cherry (T154), G4 of the TPO.
- Plot 2 - Protected Ash (T225), part of G7 of the Order. Potential loss of tree (see above) or if retained upon the RPA of this tree as a consequence of the position of the access to this plot

- Plot 10 – Protected Holly (T206), part of G6 of the Order. The position of the tree situated some 4 metres east of the plot will lead to future inconvenience and requests to fell.
- Plot 10 – Protected Ash (T203), part G6 of the Order. The tree situated some 9 metres east of the plot and will present undue dominance, future inconvenience and potentially lead to future requests to fell or severely prune.
- Plot 7 – Protected Sycamore (T14) part of G1 of the Order. This tree presents an unsatisfactory relationship to Plot 7. Consideration needs to be given to whether this tree should be retained or whether it should be removed to favour the adjacent Yew tree (T13).

Site Access- General

- I note the Highways Engineers comments requiring detailed drawings outlining the site's access arrangements to be submitted to and approved by the LPA. As access arrangements may have an impact on protected trees, I request that such detail should be provided at this stage in order that any impact on protected trees can be fully assessed. Details of visibility splays will also be required for the same reasons.
- It is noted that a number of trees adjacent to the existing access have been marked with paint. The application provides no detail as to whether the existing access is adequate for servicing the proposed number of units or whether any widening or provision of footpaths required, both of which will have an impact upon protected trees.

Landscaping

- In view of the former Landscape Architect (Crewe and Nantwich) comments on Landscape pertaining to the previous application, I suggest that a view is obtained from our Landscape Architect in respect of this current application, in particular with regard to boundary treatment of the Newcastle Road and London Road frontage.
- I would also suggest that in view of the impact of the development on landscape and trees generally, it would be helpful if the applicant could provide landscape details, indicating the extent of mitigation for loss of trees and impact of the scheme generally on the character of the area
- I am of the view that the application as currently presented should be refused, although addressing the above should provide the basis for a well designed workable scheme.

Reasons for Refusal

- The proposed development by virtue of its size and siting would result in the direct loss of existing trees which are the subject of the Borough of Crewe and Nantwich (Foolpenny Hall, London Road, Nantwich) Tree Preservation Order 2007. The loss of these trees is considered unacceptable because of the impact upon the general amenity and character of the area in which the application site is located.
- The proposed development by virtue of its size and siting would result in a threat to the continued well being of existing trees which are the subject of the Borough of Crewe and Nantwich (Foolpenny Hall, London Road, Nantwich) Tree Preservation Order 2007. The loss of these trees is considered unacceptable because of the impact upon the general amenity and character of the area in which the application site is located.

Landscape Officer

- Concerns that for such a large development I could not find an overall Landscape Master Plan. There are individual site layouts for each plot, but it is important to illustrate how these individual sites relate to the existing and proposed landscape features, notably, lake, boundary planting, trees and access roads.
- I assume that the existing lake is to be removed. Will the area be incorporated into garden space or will it be under a dwelling? Details of how this is to be achieved are requested the location can be illustrated on the Landscape Master Plan.
- A master plan showing the external and internal boundaries could be provided by a landscape condition. Refer to the detail comments below.
- If you are minded to go with an approval, please apply the landscape conditions.
- Details of external and internal boundaries need to be provided and shown on a Landscape Master Plan or Landscape Hard Works Plan.
- London Road (A51); Currently there is a hedge directly onto the road which is dense for most of its length. The new residents will require some security or boundary with the road. A close boarded timber fence adjacent to the carriageway should be avoided as it would provide a visual intrusion that is out of character with this major road approach to Nantwich. A fence located behind the existing hedge would be more appropriate.
- London Road (cul-d-sac); There is a mixture of 'gappy' hedges and temporary post & wire and post & rail fencing. A consistent approach is recommended. Railings have been adopted on other local developments. At this location planting to provide privacy with the railings could be considered.
- Internal Boundaries; The division between the individual plots need to be considered. Will they provide privacy to the rear of the properties or will there be an more open approach to the front? These are issues that need to be addressed and shown on a hard works landscape plan.
- Surface Materials; These are referred to on the individual plots, details of this paving is required and could be part of the hard works landscape plan.
- Soft Landscape Elements; A planting plan is required showing the proposed new boundaries, including hedges and planting in front gardens. Due to the shade of the existing trees, good quality lawns may be difficult to achieve. Similarly the pallet of plants available will be limited because they will be competing for light and nutrients with the large mature trees and planting.

Ecologist

Objects to this application.

There are two potential protected species issues (bats and great crested newts) associated with the proposed development. I also have comments to make with regards to the loss of the pond on site and breeding birds.

Bats

A further bat survey has been submitted with the application. It appears unlikely that roosting bats are present within any of the buildings to be demolished as part of the proposed development. However, no assessment of the trees on site appears to have been included in the bat survey. Clarification should be sought from the applicant with the regards to the potential of any of the trees on site to support roosting bats. This information should be obtained prior to the determination of the application.

Great Crested Newts

Great crested newts are known to occur through out the Cronkinson Farm housing development adjacent to the proposed development. At the present time the newts are contained within protective fenced areas. However, I understand that the fencing will shortly be removed allowing newts to move freely around the surrounding area. Despite the proposed development being 150m from the Foolpenny Hall site and separated by domestic gardens and London Road, it is the conclusion of the submitted report that the proposed re-development of Foolpenny Hall could pose a risk to Great Crested Newts and they express an intention to apply for a Natural England License. The mitigation proposals included with the survey report are very brief, but are acceptable considering the likely low level of impact.

Pond

The pond on site will be reduced in size as part of the proposed development. Whilst ponds are a Local and UK Biodiversity Action Plan priority habitat the Foolpenny Hall pond appears to have very limited value for nature conservation. The retained part of the pond should however be designed to maximise its ecological value. This matter may be dealt with by means of an appropriate planning condition.

Breeding Birds

The following two conditions are required to ensure that breeding birds are not disturbed during the construction phase and to ensure that additional provision is made for birds as part of the development.

- *Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone to be left around the nest until breeding is complete. Completion of nesting should be confirmed by a suitably qualified person and a report submitted to the Council.*
- *Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by roosting bats and breeding birds. Such proposals to be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.*

Environmental Health:

Contaminated land observations

The application is for new residential properties, which are a sensitive end use and could be affected by any contamination present. The report submitted with the application recommends that an intrusive investigation is required. As such, and in accordance with PPS23, this section recommends that this be secured by condition.

Protection from noise during construction (hours of construction)

The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.

Pile Driving

Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in

writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.

Environment Agency

The proposed development will only be acceptable if the following planning conditions are imposed:

- The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by the local planning authority.
- The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. If surface water is to discharge to mains sewer, the water company should be contacted for confirmation of the acceptable discharge rate. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.
- The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the local planning authority
- Prior to the commencement of development a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority. The scheme shall include the following elements:
 - detail extent and type of new planting (NB planting to be of native species)
 - details of maintenance regimes
 - details of any new habitat created on site
 - details of treatment of site boundaries and/or buffers around water bodies

Housing

As the site is within the Nantwich settlement boundary and the number of units proposed is less than 15 there is no requirement to provide affordable housing.

5. VIEWS OF THE PARISH / TOWN COUNCIL:

None received at the time of report preparation

6. OTHER REPRESENTATIONS:

Letters of objection have been received from 5 Burgess Close; Greenfields, Newcastle Road; 30 London Rd; and 20 Pollard Drive, Stapley; and a Mr. Mark Burgess, making the following points:

Layout of the proposal:

- Although the applicant has reduced the number of proposed house the within this submission, it was clearly stated by specialists that examined the last application that building within the protected tree area would subject the houses to maintenance issues due to tree debris as well poor light quality. This issue does not appear to of changed in anyway.

Impact on the character of the area:

- The cul-de-sac as it stands is quite and sedate and this most valued ambience will be directly affected by the access point and the building of the properties (not only during the construction process itself but afterwards with parking, car access, noise/pollution levels, etc).

- There is concern about the noise pollution that will inevitably follow the population of several large family properties positioned close to my garden boundaries.

Planning Policy Change

- Legislation is anticipated soon making the development of suburban gardens (by such in-filling) much more difficult.

- Residents have noted the recent Garden Grabbing letter sent out to all planning departments and would consider developing the garden of Foolpenny Hall to gall within this remit.

Drainage

- There have been flooding issues on London Rd (in direct contradiction to the reports made in the application) directly opposite Fool Penny Hall.

- In the summer of 2007 flooding occurred in the garage and gardens of 30 London Rd. This was addressed by sinking extra gulley drains to take away excess water (which still gathers there even with this remedial work) by Crewe & Nantwich Borough Council (ref Paul Johnson).

- Further concern therefore comes from the build reducing the natural drainage from the land (through the pond and gardens) whilst creating man made impermeable structures, thus adding to the problem.

- Furthermore the natural camber of the road continues to create an excess flow of water adjacent to 30 London Rd.

- Drains for Greenfields run out of the property and down the existing drive fro Crosslands Cottage. This drive is clearly identifiable on the location plan. Plot 2 needs to be design and sited having regard to the existence of this drain.

Residential amenity

- Plot 2 has a double garage which is site right against the boundary with "Greenfields". The garage is a two storey and has an outside staircase leading to a home office. Whilst Greenfields is overlooked by the upstairs windows of Crosslands Cottage and a at greater distance and to a much lesser degree by other houses, this two storey building at the front of the house right against the boundary is too intrusive especially with the outside staircase.

- Plots 4 & 8 are sited with a gable end towards Greenfields. These properties should have conditions attached to ensure that frosted glass is installed in the gable elevations.
- There will be encroachment of new build property towards existing houses. Residents paid a significant premium for this position simply because it lacked this encroachment, which they believe will reduce the enjoyment and amenity of their properties.
- This proposed development will have a significant and negative effect upon the value of neighbours houses

Natural features:

- The large, mature and attractive trees, at the rear of 5 Burgess Close, which provide a pleasant aspect not only do not appear on the TPO document - but also fail to appear on the tree survey documents submitted with the application. It seems that they are positioned amongst what would be "cluster 4". They certainly and massively exceed the girth/height minima for recording advised in the survey document.
- This natural and most beautiful area in the grounds of Fool Penny Hall are shared in passing by the residents of Stapeley and the surrounding area. The ambience/peace and natural tranquillity they provide are a custodial gift which should not be abused or changed. But more than this, the wild life that visits this most attractive piece of land should continue to be protected and nurtured
- Bird life including spotted woodpeckers, song thrushes, nut hatches have been seen there and owls can be heard within the area regularly.
- Dragon flies, newts and frogs visit our garden from the pond area in Fool Penny Hall and we regularly release both frogs and newts back into there garden as we have no pond.
- Bats are seen every night flying over our garden from Fool Penny Hall direction and we would strongly suggest that you challenge material submitted by the applicant pertaining to this fact, there is no bat activity in the area!
- Finally a vast majority of the creature's habitats will be lost not only when the houses are finally erected, but also during what will be a lengthy building process.

Other matters

- It will place undue stress on already stretched amenities in the area. Residents find it impossible to register with GP surgery. The local school is full and there are no plans to increase pupil numbers.
- Apart from very limited groceries at the local shop, people have to walk or drive into Nantwich for everything.
- When there are 250 more planned households also needing to park in Nantwich for shopping, doctors, dentists, the library etc. the situation is likely to become impossible. This further development can only add to the existing strain on services.

Arboricultural report

Residents have also commissioned an arboricultural report which was submitted in respect of the previous withdrawn scheme in 2009. The report concludes:

- When designing a housing scheme it is a relatively easy matter to position units on a plan so that they appear to have little impact on the existing tree cover. The physical nature of a building site development, even within a TPO context, often means that

the pre-build desire and the final build result don't arrive at anything like the same point. This is before any of the units are occupied.

- Development at Foolpenny Hall will effectively be houses in a woodland setting with some of the mature trees between 60 and 90 feet tall. It is predicted that as soon as the residents move in and actually experience life on the site. The local planning authority will be bombarded with requests to prune or remove particular trees that householders believe they cannot live with. Even with an onsite maintenance regime, leaning gutters and sweeping roadways, this will not alleviate the worries of householder. The main complaints will be

- Perceived safety to property and danger of wind throw
- Loss of light and the need to have lights on in the house in the daytime
- Loss of television reception
- Damage to parked vehicles and people from falling branches
- Honeydew drip on cars from species such as lime and sycamore
- Insect problems such as biting midges from the pond and we areas
- Difficulties in obtaining household insurance and mortgage finance due to the tree root proximity

- Difficulties in resale of properties as the site develops a poor reputation

- If the development goes ahead as planned the treescape will be rapidly eroded by a combination of water logging and resident pressure

- Within five years the amenity value of the site could be totally lost and the area revert to becoming another bland housing development

An update to that report has been produced to address the amended plans. It draws the following conclusions:

- Whilst there has been some readjustment of the positions of the various plots on the site it is not considered that this in any way resolves the issues which have been previously identified.

- The recent grant of planning permission for extensive development on the site at Stapeley Water Gardens further compounds the loss of visual amenity in the immediate locality. As such the land at Foolpenny Hall represents an even more important landscape feature and should be protected at all costs. Should the development go ahead at Foolpenny Hall this entire area of Stapeley will just become a giant urban sprawl as the tree cover becomes eroded on this site.

- The pressure on a whole range of local amenities in the area is already immense. Any increase in the local population will push facilities beyond breaking point. There appear to be no plans to provide the infrastructure to support greater numbers of households in the Stapeley area.

- The developers have identified zones for construction which are outside the root zones of the standing trees. This does not take into account the possibility of damage to the properties from falling branches or from storm thrown trees, which are all within the reach of the tall trees on the site.

- The developers have also not taken into account the shade which is cast by these trees. Even in the height of summer most of the present garden is in almost continual shade. The largest trees (e.g. the Wellingtonia, which is the most important tree on site) are non-deciduous, growing on the south side of the plant and casting their shade throughout the year.

- It is recommended that the planning application and any further redevelopment on this site are opposed for the reasons outlined above.

7. APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement

Use

- The proposed use is residential within an existing residential area
- Amount
- The site will contain 11 dwellings on 1.37ha. This gives a density of 8 dwellings per hectare. This density is low and as a result of the number of trees on site. The dwellings are larger than average with the majority offer 5 or 6 bedrooms. The internal areas of the dwellings excluding garages range from 1650ft to 4790ft.

Layout

- The existing physical features on the site that have influences the layout of the proposals include the 2 existing dwellings, the existing roadway into the site, the mains sewer running across the side, the pond and the trees.
- The area that remains is divided into 4 main spaces or clusters
- Each cluster has its own identity and unique external treatment.
- Although all the treatments use the same red brick over the majority of the elevation, a sectional of either buff or blue brick and render are used in conjunction.
- The dwellings in each cluster are grouped to form courtyards at the front and the dwellings are connected to each other by a wall
- Cluster 4 is to the east and has very few trees, and is the smallest of the detached properties. These have been orientated to respect the building lines of the adjacent residential development. They also utilise the existing access road
- Cluster 3 includes the 2 existing dwellings and 1 detached property. They also utilise the existing access
- Cluster 2 includes 2 new build dwellings have a view of the pond and are orientated to respond to the site boundaries whilst providing sufficient open garden space between the tree canopies and new dwelling. They are accessed off a new site entrance from London Road
- Cluster 1 includes 1 new build dwelling that has a view of the pond and is orientated to respond to the site boundaries whilst providing sufficient open garden space between the tree canopies and new dwelling. It is accessed of a new site entrance form London Road.

Scale

- The existing buildings on the site are 2 storey. The new detached dwelling that forms part of Cluster 3 along with the exiting buildings is 3 storey. Cluster 4 that is next to Cluster 3 has 3 stories with the third storey in the roof space and only small dormer windows. Cluster 2 dwellings are 3 storey where the third floor is in the rood space with larger dormers. Cluster 1 dwelling is 3 storey with the third floor half in the roof space, with dormer windows.
- They feel that 3 storeys is appropriate as the surrounding properties are all 2 or 3 storeys and taller buildings will site more comfortably amongst the mature trees on the site

Landscaping

- Due to the large number of trees the pond and the shared access road into the site, all dwellings will have management charge. This will cover ongoing management of the trees, cleaning of gutters and clearing and maintaining of paths and road

- Within the courtyards a porous block paviour finish is proposed and a strip of low level planting in front of each dwelling. All external surfaces will be non slip and level access will be provided according to the site.
- They want to maintain a parkland feel and avoid solid timber fencing. All boundary treatments will be parkland railings. Additional screening will be deciduous planting. The perimeter of the new dwellings will have minimal paving
- Lighting will be low level bollards

Appearance

- The proposal is to create contemporary homes in a great setting surrounded by mature trees with large glazed openings to the ground floor living spaces.
- Creating a solution that is too contemporary may put off potential purchasers so they opted to create a solution with a traditional looking element and a contemporary element. The first is brick built with a solid first floor that contains bedrooms and bathrooms with brick columns to the ground floor creating large openings. The second is an enclosure for the ground floor living accommodation, which is conceived as a band of glazing and timber that runs underneath the ground floor columns and pushes out into the garden in some areas to form single storey living spaces and an external walled garden.
- Cluster 4 is predominantly red brick with inset panels of render. Cluster 3 has the existing buildings which are red brick and the extension and new build detached house in white render
- Cluster 2 has predominantly red brick with a blue brick feature. Cluster 1 has red brick and buff brick banding.
- The roof tiles are to be grey and include shaped tiles to create patterning on the roofs. The majority of the windows are full height floor to ceiling and have deep window reveals.

Access

- The dwellings will be constructed in accordance with Document M of the Building Regulations.
- Due to the location of the site, the majority of arrivals will be by car and access is provided to the front doors of all dwellings.
- Shared surfaces are incorporated within the site
- All roads are a single lane with a number of bends to encourage very slow vehicle speeds.
- Turning areas for emergency vehicles have been provided within the site from both entrance points.

Bat Emergence Survey

- No evidence was found to suggest that bats use or have previously used, any of the buildings on site for roosting purposes
- However, the site is attractive to foraging / commuting bats, as might be expected due to the large mature gardens and close presence of a large pond.

Great Crested Newt Survey

- No Great Crested Newts (GCN) were identified within the pond at Foolpenney Hall during the time of the survey. The absence of GCN from the pond can be indicated with a high degree of confidence following a robust GCN survey that utilised three

survey methods on four separate (non consecutive) occasions as recommended in the GCN Mitigation Guidelines.

- A male smooth newt was observed terrestrially in the Foolpenny Hall garden. The possibility of smooth newts inhabiting the pond is considered unlikely considering the physical characteristics of the pond, and the presence of the fish and waterfowl. It is more likely that this newt was foraging terrestrially rather than visiting the Foolpenny Hall pond to breed

- A medium sized metapopulation of breeding GCN are known to be present on the adjacent Cronkinson Farm housing estate. Currently, these newts are separated from the Foolpenny Hall site by temporary amphibian fencing. However, once this fencing is removed it is likely that GCN's will disperse into the surrounding areas. Foolpenny Hall is separated from the Cronkinson Farm area by a section of London Road. However, this section has been made into a cul-de-sac, which has very little night time traffic. Consequently it can be reasoned that this road does not represent a significant barrier to amphibian dispersal. Due to the physical characteristics of the Foolpenny Hall pond and the presence of fish and waterfowl, it is not thought likely that a breeding population of ordinary newts or GCN could become established in the Foolpenny Hall pond whilst these physical constraints remain. This would not, however, deter GCN or other amphibians from utilising the grounds of Foolpenny Hall for shelter or foraging once the Cronkinson Farm amphibian fencing is removed.

Bat, Badger and Barn Owl Survey

- No evidence was found to suggest that bats roost or have ever roosted in any of the areas on site that were accessible.
- No evidence of nesting or roosting barn owls, past or present was found on the site
- No evidence of badger setts or foraging / commuting activity was found anywhere on site.

Additional Bat Survey

- An inspection has been carried out of a tree noted in 2008 as having limited potential as a bat roost due to the presence of a low cavity. From information provided by you, the tree has been identified as a pollarded sycamore tree, numbered 144 in the arboricultural survey previously undertaken at the site.

- Two cavities were identified by Mike Freeman: 1) a large hollow within the trunk of the main stem (also noted in the arboricultural survey); and 2) a cavity extending approximately 30-45 cm upwards in one of the three main branches from around the point of pollarding (This limb can be seen as the centre of three limbs on image dscf0243 provided by you). The cavities were inspected by ladder and rope access, using a powerful hand lamp and fibre-optic endoscope.

- Cavity 1 is open to the point of pollarding and is therefore exposed and unsuitable as a bat roost. No evidence of bat roosting was found.

- Cavity 2 had limited potential as a bat roost, however no evidence of roosting was found during the inspection.

- Due to the limitations of inspecting such cavities using a fibre-optic endoscope, it is not possible to locate and inspect every crack and crevice for sheltering bats.

- The tree has been identified in the arboricultural survey as being within falling distance of Newcastle Road, and has been recommended for felling. As single or a small number of bats can easily get tucked into relatively insignificant cracks and crevices, care should be taken when felling the tree. It is therefore recommended that the tree is felled using sympathetic methods described below. One of the

following options should be followed. It is not considered necessary for a bat specialist to be present if these methods are used and the tree is felled within the next month.

- If possible, the tree should be retained to provide suitable habitat for wildlife in general, having been made safe following the guidance below:

- The limb with the cavity should be removed from above the first fork, or at the first branch point to retain the cavity.

- The other two branches can be removed at the point of pollarding, or above.

- Should the tree need to be felled at a later date, the tree should be inspected by a bat worker prior to felling, for which advice should be sought from either a licensed bat worker and/or the local bat group.

- If felling of the whole tree is required, the limb with the cavity should be cut and carefully lowered to the ground with rope, using an adjacent tree as a securing/lowering point, if practicable.

- The trunk should also be cut and carefully lowered to the ground using similar methods.

- Both the trunk and limb with cavities should be left on the ground for at least 24 hours before chipping or logging. Care should be taken when cutting through the cavities.

- No other trees with roosting potential were noted at the site during this visit, however, any mature trees due to be felled should be surveyed a maximum of one month before felling. Inspection should be by a bat specialist preferably by rope access into the tree or by directing such activities from the ground.

Tree survey

- All of the trees on site have been assessed and categorised

- A number of trees are identified as requiring urgent attention including some which require felling

- Once a draft layout has been produced a Tree Constraints Plan including the calculation of Root Protection Areas should be prepared in accordance with BS 5837 : 2005, Clause 7

- Once the layout has been finalised a Tree Protection Plan and Arboricultural Method Statement should be prepared in accordance with BS5837 : 2005 Clause 7

- Regular inspections of the trees are recommended

Tree Protection Plan and Arboricultural Method Statement.

- Dwelling numbers 8, 9, 10, 11, 12 and 13 should be repositioned or redesigned to allow at least 1m clearance to the fencing enclosing the protected areas / construction exclusion zones. Alternatively if construction of these units in the positions shown and with the dimensions shown on the drawings is deemed necessary, this would be possible with the use of micropile and beam foundations in accordance with a specific arboricultural method statement. The repositioning / redesign of Unit 11 would be facilitated by the removal of Tree no.67 which is a mature Silver Birch, which although in good condition has a relatively short safe useful life expectancy. If this tree is removed the Root Protection Area and construction exclusion zone should be amended accordingly.

- On receipt of full planning permission and prior to any other works, trees designated or removal should be removed and all remedial tree surgery works recommended in the tree report should be carried out

- Following the completion of tree removal and tree surgery works and prior to the commencement of any ground or construction works. Temporary protective fencing should be constructed.
- The temporary fencing should consist of a back braced scaffold pole framework with a weld mesh covering on the site side.
- The temporary protective fencing must remain in place through the development and must not be removed until all construction groundwork and landscaping works have been completed.
- No groundwork, construction work or works of any nature are to be permitted within the protected areas formed by the temporary protective fencing. No material are to be stockpiled within the protected areas
- In order to avoid disturbance to the physical protection forming the construction exclusion zone it is essential that the considerations detailed at Section 7.2 of BS5837:2005 are adequately addressed and that this can be demonstrated to the Local Planning Authority.
- The roadway from the new site entrance should be constructed using an engineer design "no dig" construction method incorporating the use of a cellular confinement system and geotextile membranes with a final surface of permeable block paving or porous tarmac. This will prevent damage to the root systems of retained trees by excavation and root severance and by compaction.
- All works must be conducted from within the corridor between the construction exclusions zones to either side of the entrance. The road must be constructed working into the site from the public road. Any machinery used is to work ahead starting from the drive entrance and working into the site and must only ever work from (i.e. stand upon) portions of the road which have been completed to at least base level.
- The final required extent of driveway constructed using no dig techniques will be dependent on the final layout. All roads driveway and parking areas which encroach into the root protection areas of retained trees must be constructed using these techniques.

Flood Risk Assessment

- The development is to take place on an already partly serviced site. It is understood that existing combined foul and surface water drains connect with the existing combined public sewer crossing the site
- There is an existing man made feature pond on site and ground levels generally fall toward this pond. There is no local history of this pond overtopping causing flooding on site
- There are no other local bodies of water likely to present risk of flooding on site
- There is no known occurrence of flooding as a result of groundwater levels reaching or increasing above existing ground level
- The possibility of flooding caused by blockage or lack of capacity in surrounding sewer has been considered. United Utilities have been consulted in this respect. At this time United Utilities have not responded to our consultation request and we have no indication that there is any history of flooding with sewers ,local to the site
- The site is in Flood Zone 1. It is land assess by the Environment Agency as having a less than 1 in 1000 annual probability of river or sea flooding.
- The Borough of Crewe and Nantwich Strategic Flood Risk Assessment confirms the area to be within Flood Zone 1 with no history of flooding on site.
- The extent of existing building and rain hard standings on site would suggest a peak run-off during a short 2 year storm to be approximately 12 litres/sec

- Mean annual flood flow for the site is Q_{bar} , is estimated at approximately 10/litres/sec
- The proposed total roof and paved area on site will develop a peak un-attenuated run-off during a short 2 year storm of approximately 6 litres/sec
- Any necessary on site designs for soak away or attenuation measures to limit surface water discharged will incorporate rainfall intensities that have been increased by 20% to take account of the effects of climate change up until the year 2085.
- On site drainage will be designed so as not to compromise the existing United Utilities sewerage system
- All on-site roofs and paved areas to drain to designed surface water disposal measure ensuring no off-site flooding
- By careful design of the drainage elements and flood prevention measures as described above there will be no residual flood related risks that will remain after the development has been completed

8. OFFICER APPRAISAL

Principle of Development

As the proposal involves development on garden land, it is necessary to consider the implications of Planning Policy Statement 3 (Housing) which was amended on 9 June 2010. The amendments relevant to these proposals are as follows:

- The definition of previously developed land in Appendix B of PPS3 has been revised to exclude private residential gardens.
- An additional sentence has been added to paragraph 41 of the PPS, which explains that brownfield land is the priority for development, to say that *“there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed”*.

Notwithstanding these amendments, and although the Regional Spatial Strategy prioritises the use of previously developed land, Local Plan policies allow for the development of sites within settlement boundaries for housing subject to the proposals satisfying a number of criteria. There is nothing in these policies to restrict these developments only to proposals on previously developed land, or to rule out development on Greenfield land where it is located within the settlement boundary.

Consequently, this site, which is located within the settlement boundary, is considered to be suitable in principle for residential development, subject to compliance with Policy RES.2 (Unallocated Housing Sites), of the Local Plan and the Crewe and Nantwich Council SPD on Development in Backland and Gardens which is also relevant and provides more detailed advice. In order to fully accord with Policy RES.2 the development must also be in keeping with the requirements of policies BE.1 – BE.5 and the Councils Supplementary Planning Document on Extensions and Householder Development.

Privacy and Amenity

The Council's Supplementary Planning Document, “Development on Backland and Gardens” states that ideally there should be a distance of 21m between principal elevations and 13.5m between principal elevation and a blank elevation.

Distances in excess of 30m will be maintained between the proposed dwellings and the houses on the opposite side of London Road and equally large distances would remain to the properties on the opposite side of Newcastle Road. A distance of over 30m will also remain between the dwelling at 11 London Road and the nearest proposed property.

A very limited separation of approximately 5m will be achieved between the rear elevation of plot 6 and the side elevation of 18 Pollard Drive. However, neither elevation contains any principal windows. Whilst there is a small first floor window in the gable of no.18 and a pair of kitchen / breakfast room windows in the rear elevation of Plot 6, these are considered to be secondary windows. Approximately 15m will be achieved between the rear elevation of Plot 5 and the flank elevation of no.3 Pollard Drive, and there will be a separation of over 21m between Plot 4 and 5 Pollard Drive. Approximately 21m will be achieved between Plot 2 and the bungalow known as Greenfields. Plot 3 has a much closer relationship with Greenfields, which is approximately 9m at the closest point. However, the principal windows are at 90 degrees to each other and given that Plot 3 is the refurbished Crosslands Cottage, it is not considered that the impact on the living conditions of Greenfields will be significantly worse than the current conditions.

Whilst it is not considered that there would be any direct overlooking or loss of light to principal windows of neighbouring dwellings, there may be some additional overlooking of garden areas of adjoining properties from the first floor windows and external staircases to the proposed dwellings. However, a degree of overlooking of gardens is considered to be inevitable and reasonable within a suburban setting, and it is considered that sufficient separation will be maintained between the windows of the proposed dwellings and the property boundaries to avoid any unacceptable decline in standards of residential amenity.

However, conditions should be applied to ensure that adequate boundary treatments are provided between properties, to avoid direct loss of privacy between gardens. It is also considered to be appropriate to remove permitted development rights for extension alterations, and further openings in the proposed dwellings to protect the privacy and amenity of neighbouring occupiers.

Turning to standards of amenity within the site, where proposed plots are directly facing, the minimum separation distances have been achieved. There is some reduction in separation where properties are at an oblique angle to each other, which is considered to be acceptable, given that direct overlooking between principal windows is unlikely to occur. Appropriate landscaping and boundary treatment will also help to mitigate any overlooking within the site.

The Supplementary Planning Document requires a minimum provision of 50sq.m of private amenity spaces per dwelling. Given the low density of development on this site, which has been dictated by the presence of the trees, this will be easily achieved.

On balance, therefore it is considered that an acceptable standard of amenity will be afforded to all of the neighbouring properties as well as the proposed dwellings. The scheme therefore complies with the requirements of Local Plan Policy BE.1 and the Councils Supplementary Planning Document.

Layout and Design

In terms of layout, the three dwellings at the western end of the site will appear as three, large, individually designed detached dwellings, set within substantial grounds. This is considered to be appropriate, as it allows the retention of the maximum number of existing trees and reflects the pattern of early 20th century ribbon development along the former line of London Road. The eastern end of the site, which includes the refurbished and extended Foolpenny Hall and Crosslands Cottage, presents a denser form of development, arranged around a central courtyard. This is in keeping with the more modern cul-de-sac development of Pollard Drive and Burgess Close, which lie to the east of the site. It also reflects the historic form of the site, which comprised a series of outbuildings clustered around Foolpenny Hall. However, sufficient separation is maintained between the Hall itself and the new development to allow it to continue to be read as a substantial, individual dwelling and the dominant element within the site.

The majority of the proposed buildings are 3 storeys in height, although the development also includes 2, 1.5 and single storey elements. The surrounding development comprises a mix of building heights. Whilst the majority of properties are 2 storeys, they include older dwellings with greater floor to ceiling heights, and therefore ridge heights, than modern houses. There is also a precedent for development of up to three storeys, which has been set by the recent development on the opposite side of London Road and the nearby Cronkinson Farm development. Notwithstanding these points, as originally submitted some of the proposed dwellings, had overall ridge heights of up to 11.5m. However, amended plans have been secured and consequently, the majority of dwellings have a ridge height of 8.5m and none of the proposed dwellings now exceed 9m in overall height.

The elevational detailing of the buildings is essentially contemporary and incorporates modern design features such as flat roofed half dormers, flat roofed and mono-pitched, single storey outriggers and enclosed patio / sun terraces. Furthermore, the high ratio of wall to window does not reflect established architectural principles and appears somewhat defensive. Whilst these features sit somewhat uneasily with the conventional nature of the surrounding suburban development, the rectangular or L shaped footprints and pitched roofs of the buildings are essentially traditional. As well as reducing the overall ridge height, the amended plans show a more traditional roof pitch and wall to roof ratio, which reflects the character of the surrounding development.

The pallet of materials also includes modern finishes such as white render large areas of glazing to the ground floors. However, precedents can be found for the use of these materials elsewhere in Nantwich and amended plans have been secured limiting horizontally timber boarding to use on doors.

The surrounding development comprises a mix of architectural styles ranging from large Victorian and Edwardian villas, like Foolpenny Hall itself, to 1960's and 70's housing estates, and very recent development at Cronkinson Farm. Furthermore, given the densely treed nature of the site, and the low overall density of development, the proposed dwellings will not be highly visible and will not be read in the context of the existing suburban development and therefore on balance, it is not considered that a refusal on design grounds could be sustained.

Tree and Landscape Matters

As stated above, there are a significant number of trees on site, which are the subject of a Tree Preservation Order. As originally submitted, the proposal involved the loss of a number of protected trees, including some which were classified as being worthy of retention. Furthermore, there was also concern that the close proximity of some of the dwellings to protected trees could lead to long term pressure for unnecessary felling or pruning as a result of complaints from occupiers about such problems as shading, detritus, moss growth on paths, root damage to houses, branches hitting windows and roofs, safety concerns and general overbearing influence of the trees.

The applicant has, however, submitted an amended layout to address the above concerns and the Council's arboriculturalist has indicated that he is now satisfied that any loss of significant healthy trees will be avoided, and sufficient separation will now be maintained between proposed dwellings and protected trees to avoid long term pressure from future occupiers for further tree removal or significant pruning.

However, conditions are recommended requiring the submission, approval and implementation of a tree protection scheme and arboricultural method statement, which will need to cover, inter alia, the proposed construction techniques for hardsurfacing and roads under tree canopies. Similarly details are required of the site access arrangements, including visibility splays.

The arboriculturalist's formal response to the amended will be provided via the update report.

Landscaping

The Council's Landscape Officer has examined the application and commented that landscape details in the application are lacking. Given the heavily wooded nature of the site, the unusual layout of properties and the fact that it has two prominent road frontages, achieving the correct scheme of hard and soft landscaping will be vitally important. However, it is considered that all of these details can be secured by condition.

Protected Species

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate "in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment" among other reasons.

The Directive is then implemented in England and Wales by the Conservation (Natural Habitats etc) Regulations 1994 ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

Regulation 3(4) of the Regulations provides that the local planning authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in paragraph 116 of PPS9.

In line with guidance in PPS9, appropriate mitigation and enhancement should be secured if planning permission is granted.

The applicant has submitted a Habitat Study in support of the application. There are two potential protected species issues (bats and Great Crested Newts) associated with the proposed development and a survey for both species has been submitted with the application. The Great Crested Newt survey has identified that the development could pose a risk to the species. However, mitigation measures have been proposed. The Council's ecologist has commented that these are acceptable and conditions can be applied to ensure that they are carried out.

With regard to bats, the survey has concluded that it is unlikely that roosting bats are present within any of the buildings to be demolished as part of the proposed development. The ecologist is satisfied with these conclusions. However, he has commented that the survey should be extended to include the trees on site. A further survey has therefore been carried out and no evidence of bats was recorded during the inspection of the tree at Fool Penny Hall, although the presence of bats cannot be entirely ruled out.

The Council's ecologist has commented that this is not surprising, as trees are notoriously difficult to survey for bats and no single method of survey is entirely reliable.

However, the consultant who undertook the surveys is however a very experienced bats worker. The Council's ecologist has advised, therefore, that for the purpose of determining this application in accordance with PPS9, whilst the presence of bats cannot be entirely ruled out he is satisfied that enough survey effort has been undertaken to conclude that bats are not reasonable likely to be present or affected by the removal of the trees.

The pond on site will be reduced in size as part of the proposed development. Whilst ponds are a Local and UK Biodiversity Action Plan priority habitat the pond at Foolpenny Hall, according to the ecologist, pond appears to have very limited value for nature conservation. He has commented, however, that the retained part of the pond should however be designed to maximise its ecological value. This matter may be dealt with by means of an appropriate planning condition.

Conditions are also recommended to require a breeding bird survey to be carried out if any works are to take place during nesting season, and to make provision within the new development for nesting birds.

Subject to the receipt of a further bat survey and the imposition of the above conditions, it is considered that the proposal is acceptable in terms of its impact on protected species. However, in the event that a further survey is not received, or that the survey concludes that there would be an adverse impact on bats, the development should be refused on the grounds that it is contrary to Policy NE.5 of the local plan.

Flooding

Local residents have expressed concern that their properties are lower than the development site and that additional impermeable surfaces and reduction in size of the lake on the site will increase the amount of runoff water and thus increase the likelihood of flooding into their properties.

A Flood Risk Assessment has been submitted with the application, which concludes that the proposed development would not increase the risk of on-site or off-site flooding. The report has been considered by both United Utilities and the Environment Agency, who have not raised any objection to the proposal subject to the imposition of appropriate conditions to control surface water run-off rates and overland flow.

In the light of these responses, it is not considered that a refusal on flood risk grounds could be sustained because the development complies with Policy NE.20 of the local plan and the provisions of PSS.25.

Highway Matters

The proposed access would be from London Road, which is a cul-de-sac. The two site access points are close to the end of the road, and as a result there is very little traffic passing the site. There is a traffic light controlled junction, giving access to the main road, and as a result the additional vehicle movements generated by the proposal are unlikely to have any impact in terms of traffic congestion or highway safety. The Strategic Highways Manager has commented that there is a change in level between the carriageway and site levels which may prevent good visibility and therefore any permission should be subject to conditions requiring detailed drawings of the access arrangements to be submitted approved and implemented.

Third party objectors have raised the issue of inadequate street lighting along the London Road cul-de-sac and have requested that the developer make a contribution towards its upgrading.

With regard to the provision of further off-site highway improvements including new lighting, advice on the use of conditions can be found in "Circular 11/95: Use of Conditions in Planning Permission". According to the circular, *"Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42, which include, inter alia, "necessary", "relevant to the development to be permitted" and "reasonable in all other respects."*

Where highway works are concerned, the implication of this is that the extent of the works must be proportionate to the size and nature of the development proposed. Furthermore, the works required by condition must be to deal with a highway problem, such as traffic congestion, which would be created by the development concerned. Developers cannot be asked to provide infrastructure improvements to deal with a problem which already exists, which would not be exacerbated by the development proposed. For the reasons detailed above, it is not considered that it would be reasonable to request that the developer enhance lighting that is already inadequate and would not be made worse by the development.

Circular 05/2005 (Planning Obligations) sets out key tests that must be met in order to require a developer to deliver off site works or contribute towards them. These, are similar to those relating to the use of conditions, as set out above and include the requirement for the works to be necessary to make the proposed development acceptable in planning terms. In this instance the Strategic Highways Manager has concluded that no off-site works are necessary to ensure that the development complies with the Development Plan and therefore the proposal would not conflict with the local plan policies. Accordingly it is not therefore considered necessary or reasonable to require the applicant to provide additional contributions in this instance.

Affordable Housing

The scheme is located within the settlement boundary for Nantwich where the threshold for affordable housing provision is 15 units. The proposal is for 9 new-build dwellings and the refurbishment of 2 properties. Consequently, there is no affordable housing requirement in this case.

9. CONCLUSIONS

Following due consideration it is concluded that the proposed development would be acceptable in principle, and would not have any adverse impacts on the privacy and Amenity of neighbouring occupiers, the character and appearance of the area, flooding and groundwater, highway safety or protected trees.

Subject to the implementation of appropriate mitigation measures it is not considered that the proposal will have any adverse effect on Great Crested Newts. However, on the basis of the submitted information the applicant has failed to demonstrate that the proposal will not adversely affect potential bats roosts within the trees on site. The applicant has been made aware of this issue and in the event that a satisfactory assessment of the trees on site is submitted and the Ecologist withdraws his objection, the application is recommended for approval.

However, in the event that a survey is not submitted and the Ecologist does not withdraw his objection, the proposal is considered to be contrary to Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and accordingly it is recommended for refusal.

10. RECOMMENDATIONS

APPROVE subject to the following conditions:-

- 1. Standard**
- 2. Plans**
- 3. Materials**
- 4. Submission / approval / implementation of boundary treatment**
- 5. Submission / approval / implementation of a scheme of drainage to include the following:-**
 - a. surface water shall not be discharged to the foul / combined sewer**
 - b. surface water discharge to the soakaway / SUDS / Pond**
 - c. a scheme to limit the surface water run-off generated by the proposed development,**
 - d. The discharge of surface water from the proposed development to mimic that which discharges from the existing site.**
 - e. a scheme to manage the risk of flooding from overland flow of surface water,**
- 6. No building over public sewer**
- 7. Submission / approval / implementation of a landscape management plan**
- 8. Submission / approval / implementation of a access arrangement**
- 9. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds.**
- 10. Submission / approval / implementation of features into the scheme suitable for use by roosting bats and breeding birds.**
- 11. Submission / approval / implementation of design for retained part of pond**
- 12. Contaminated land report**
- 13. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.**
- 14. Submission / approval / implementation of details of any pile driving operations.**
- 15. Submission / approval of a scheme of landscaping**
- 16. Implementation of landscaping**
- 17. Scheme of tree protection**
- 18. No works within protected areas**
- 19. Arboricultural method statement**
- 20. Remove permitted development rights.**

Location Plan : Licence No 100049045

