

Application No: 15/4447N
Location: Red Lion Hotel, BARONY ROAD, NANTWICH, CW5 5QS
Proposal: Demolition of Public House/Hotel and the development of 21 new dwellings and ancillary works.
Applicant: Renew Land Developments Limited
Expiry Date: 01-Jan-2016

SUMMARY:

The site is within the Settlement Zone Line of Nantwich, where there is a presumption in favour of sustainable development.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing within an existing settlement where there is existing infrastructure and amenities.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, ecology, drainage, landscape and design.

RECOMMENDATION:

Approve subject to conditions subject to the completion of a Section 106 Agreement to secure a contribution to education and affordable housing provision

PROPOSAL

This application seeks full planning permission for the demolition of the public house and ancillary buildings and the erection of 21 dwellings and ancillary works

The dwellings would comprise 4 one bedroom flats, 12 three bedroom houses and 5 four bedroom houses. A single access would be taken from Barony Road ending in a turning head at the end of the site.

SITE DESCRIPTION

The application site comprises an existing public house situated on the southwestern side of Barony Road, Nantwich. There are a series of outbuildings set within areas of parking and hard standing and an area of landscaped garden to the eastern boundary and a green buffer to the southwest boundary.

Currently there are two vehicular access points taken from Barony Road. The existing buildings on the site comprise single storey outbuildings and the three storey public house building. One of the buildings houses a small gym, which does not appear to have the benefit of a separate planning permission, but could possibly be considered as an ancillary use to the public house.

RELEVANT HISTORY

There are several historic applications on this site none are relevant to this proposal.

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Development Plan:

Borough of Crewe and Nantwich Replacement Local Plan 2011

The relevant Saved Policies are: -

- 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
- NE.20 – Flood Prevention

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy Proposed Changes (Consultation Draft) March 2016 (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

- SD 1 Sustainable Development in Cheshire East
- SD 2 Sustainable Development Principles
- SE 1 Design
- SE 2 Efficient Use of Land
- SE 3 Biodiversity and Geodiversity
- SE 4 The Landscape
- SE 5 Trees, Hedgerows and Woodland
- SE 9 Energy Efficient Development
- SE 12 Pollution, Land Contamination and Land Instability
- SC 4 Residential Mix
- SC 5 Affordable Homes

PG 1 Overall Development Strategy
PG 2 Settlement Hierarchy
PG6 Spatial Distribution of Development
EG1 Economic Prosperity

CONSULTATIONS:

Highways: The Head of Strategic Infrastructure (HSI) is satisfied that the development proposals can be safely accommodated on the adjacent highway network; accordingly, the HSI has no objection to the planning application subject to conditions and an informative.

Environmental Protection: No objection subject to conditions and informatives relating to noise and disturbance, contaminated land and electric vehicle charging points.

United Utilities: No objection subject to conditions relating to foul and surface water drainage.

Flood Risk Manager: No objection subject to conditions.

Education: Require a contribution of £81,566.94 towards primary and secondary education provision.

Sport England: Have objected to the application but not in an official role as a statutory consultee.

Town Council:

This site will add an additional 21 units to the housing supply figures for Nantwich. Is the housing target in the Nantwich Town Strategy still valid?

- The Council regrets the loss of another public house but the site within the settlement boundary and a brownfield site and therefore is acceptable in principle
- A standard layout with unusual house types with eaves extending over balconies
- There is concern that allowing access to Vauxhall Road will create the opportunity for a "rat run" through to Barony Road.

REPRESENTATIONS:

Neighbour notification letters were sent to neighbouring properties and a site notice posted.

At the time of report writing 78 representations have been received which can be viewed in full on the Council website. In addition a letter of support for the objectors has been submitted by the local MP, this was accompanied by a petition against the application containing approximately 509 signatures. The objections raise the following concerns:

- Loss of a valuable community asset
- Loss of a 'clubhouse' for local sports clubs to use
- Loss of a gym
- Highway safety
- Traffic congestion

- Car parking
- Impact on wildlife
- Lack of infrastructure – schools doctors etc
- Loss of employment
- Impact on tourism
- Overlooking and loss of privacy
- No affordable housing being offered
- Uninspiring generic housing estate
- Overdevelopment
- Disruption during construction
- Site not identified in local plan strategy
- Contrary to paragraphs 69 and 70 of the NPPF
- Already too much development in the area
- Plenty of Brownfield sites in Crewe
- Not proven that the pub is not viable
- Well used by students
- The pub should be listed
- Greedy developers

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of Development

The site lies within the Settlement Boundary as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where there is the presumption in favour of sustainable development.

The issue in question is whether this proposal represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the presumption in favour of sustainable development.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations.

Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

There are, however, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

ENVIRONMENTAL SUSTAINABILITY

Landscape and Trees

The frontage of the site and the frontage of the existing apartment block to the west have a wide grass verge separating the development from Barony Road. The development proposals do not maintain this feature and locate development relatively close to the road although some planting is indicated in front gardens, inside a low boundary wall. This would have some impact on the street scene in the vicinity. In the event of approval, a detailed landscape scheme will be required together with details of boundary treatments.

The submission is supported by an Arboricultural Implication Statement (AIS) dated September 2015 which incorporates a tree survey and tree constraints plan.

The survey identifies 7 Grade C trees and 3 further specimens are identified for removal on grounds of poor condition. The AIS indicates that the proposed development would require the removal of 4 trees; 3 low grade trees and 1 defective specimen. 2 trees are identified for removal on grounds of condition. Four trees would be retained on the southern site boundary and the opportunity for additional planting is identified.

Whilst existing tree cover should not present a significant constraint on this site, the Landscape Officer considers that plot 11 would benefit from greater separation from the southern boundary with more than half the garden area under the canopy of a mature Ash. The Arboricultural Consultant for the applicant has put forward that the tree has a limited life span and that there should be a sympathetic drawing back of the northerly extending crown to give additional separation from the property on plot 11 and this is considered to be acceptable.

A condition should be imposed to ensure protection of trees on the site.

Ecology

The supporting Bat Survey report (revised version) indicated occupation of the Red Lion building by small numbers of non breeding bats. The acting ecology consultants are known to the Council's Ecologist and concurs with the findings and mitigation recommendations as stated in the report.

A Natural England EPS licence will be required to undertake the proposed mitigation measures, and a commitment to apply for same is stated by the applicant. The Council's Ecologist is satisfied that the level of detail on mitigation as stated in the report is satisfactory to allow the LPA to determine the application and allow assessment of the application under the Habitats Regulations three tests.

The Habitat Regulations 2010 require Local Authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- the proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment ;
- there is no satisfactory alternative;
- there is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative, or because there are no conceivable "other imperative reasons of overriding public interest", then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Test 1: "preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment"

The benefits of this application in respect of providing a supply of housing to meet identified needs is a beneficial consequence of the proposal. Whilst there would be some impact on bats this could be satisfactorily mitigated.

Test 2: No satisfactory alternative

The alternative option is a 'do nothing scenario'. However this would result in the public house closing and possibly falling into disrepair and possible adverse impact on the bats.

Test 3: "the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range".

The Council's Ecologist has assessed the submitted information relating to bats and is satisfied that the mitigation proposed is satisfactory and therefore that the development would not be detrimental to the maintenance of the species.

Overall, therefore it is considered that the development contributes to meeting an imperative public interest, there are no satisfactory alternatives, and that the interest is sufficient to override the protection of, and any potential impact on bats, setting aside the proposed mitigation. It is considered that Natural England would grant a licence in this instance.

Design & Layout

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

The layout would comprise access from Barony Road, leading onto a cul-de-sac with a turning head at the top. Four properties would face onto Barony Road giving an active frontage. The properties would be two and two and a half storey and materials would be red brick and grey roof tiles that would be appropriate. There are a variety of property types in the vicinity and it is considered that the development would appear appropriate in its context.

The proposal is therefore considered to be in compliance with Policy BE.2 of the adopted local plan.

Highways

The Head of Strategic Infrastructure (HSI) has reviewed the highways report submitted by the applicant in support of the development proposals and finds the following:

The site is within a reasonable walking distance of Nantwich town centre, which provides sustainable access to a range of facilities. In terms of cycling, the whole of Nantwich is accessible by bicycle and the western outskirts of Crewe are also within a reasonable cycle distance.

The nearest bus stops to the site are located on Middlewich Road to the south of the site and are located within the preferred maximum walking distance of 400m.

The HSI considers the site to be in a sustainable location and is well positioned to encourage travel by modes of transport other than the private car.

Leading from Barony Road the proposed site access is 5.5m wide for the first 8.0m thereafter reducing to 4.8m wide, the access includes 2.0m wide footways on both sides of the carriageway. A turning head is provided at the end of the access and vehicle swept path analysis has been submitted to confirm a large refuse vehicle can enter and exit the site in a forward gear.

A total of 38 off-street parking spaces are provided within the site, which is five short of CEC's recommended parking standards for the proposed mix of housing; however, having regard for the sustainable location of the site, the small shortfall is acceptable to the HSI.

Access to the site is taken from a new priority controlled junction with Barony Road. The layout comprises:

- A site access carriageway width of 5.5m;
- Corner radii of 6.0m;
- 2.0m footways on both sides of the carriageway; and
- Visibility splays of 2.4m x 43m are achievable in both directions along Barony Road.

In terms of junction geometry, layout and visibility the access proposals are considered to be acceptable to serve a development of 21 dwellings in this location.

A development of 21 dwellings would be expected to generate less than 15 two-way trips during the morning and evening commuter peak periods; this level of traffic generation would not be expected to have a material impact on the operation of the adjacent or wider highway network.

The HSI is satisfied that the development proposals can be safely accommodated on the adjacent highway network; accordingly, the HSI has no objection to the planning application.

Air Quality

Whilst the scheme itself is of a relatively small scale, and as such would not require an air quality impact assessment, there is a need for the Local Planning Authority to consider the cumulative impacts of developments in Nantwich. In particular, the impact of transport-related emissions on Local Air Quality Management.

Nantwich Town has one Air Quality Management Area, and as such, the cumulative impact of developments in the town is likely to make the situation worse, unless managed.

Modern Ultra Low Emission Vehicle Technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such, it is considered appropriate to create infrastructure to allow home charging of electric vehicles in new, modern properties. As such a condition should be imposed requiring electric vehicle charging points for each new dwelling.

Contaminated Land

The application site has a history of commercial use, therefore there is the possibility that the land is contaminated. New residential properties are a sensitive end use and a Phase I preliminary risk assessment submitted with the application recommends the submission of a Phase II ground investigation to ensure that the site is suitable for a sensitive end use. As such a condition should be imposed requiring this to be carried out.

Flood Risk

The Flood Risk Manager has assessed the application and has no objection in principle on flood risk grounds, subject to conditions relating to a Flood Risk Assessment and surface water run-off.

ECONOMIC SUSTAINABILITY

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Nantwich, including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

SOCIAL SUSTAINABILITY

The site is close proximity to Nantwich town centre with all the facilities and services that are available there.

Affordable Housing

The Councils Interim Planning Statement for Affordable Housing states that affordable housing is required on all windfall sites and the general minimum proportion of affordable housing required will be 30%.

The Strategic Housing Market Assessment 2010 has been updated in 2013 and shows that for the sub-area of Nantwich, there is a requirement for 72 new affordable units per year, made up of a need for 40 x 1 beds, 15 x 3 beds, 35 x 4+ beds and 16 x 1 bed older persons units. (The SHMA Update 2013 shows an oversupply of 2 beds and 2 bed older persons accommodation).

In addition to the housing need information from the SHMA Update 2013, information taken from Cheshire Homechoice which is the Choice Based Lettings system used to allocate social rented housing across Cheshire East shows that for the area of Nantwich town centre there are currently 72 applicants, these applicants require 34 x 1 beds, 27 x 2 beds, 9 x 3 beds and 1 x 4 beds

Therefore as there is affordable housing need in Nantwich, there is a requirement that 30% of the total units at this site are affordable, which equates to up to 6.3 affordable dwellings. The Affordable Housing Interim Planning Statement (IPS) also states that the tenure mix split the Council require is 65% rented affordable units and 35% intermediate affordable units. This means that 4 rented and 2 intermediate tenure properties should be provided.

The Affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of

open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

The Affordable Homes should be integrated with the open market homes and not be segregated in discrete or peripheral areas. It is the Council's preference that any social or affordable rented units are transferred to a Registered Provider and the units will need to meet the Government's Nationally Described Space Standards and technical standards.

The affordable housing provision should therefore be secured by Section 106 Agreement.

Residential Amenity

The proposal is for 21 dwellings on this site. The required separation distances would be achieved between the existing and proposed dwellings, meaning that there would be no significant adverse impact on privacy or light levels.

Adequate private residential amenity space could be provided within the domestic curtilage of the properties to provide recreational space and bin storage.

Should the application be approved a condition should be imposed relating to piling operations.

Health

There are at least 10 medical centres within 0.5 to 5 miles of the site, all of which are accepting patients. As such a contribution to health care could not be justified.

Education

The development of 17 dwellings is expected to generate 3 primary school children and 3 secondary school children.

The development is forecast to increase an existing shortfall predicted for 2015 and beyond for primary provision, and 2021 and beyond for secondary provision, in the immediate locality. To alleviate forecast pressures, the following contributions would be required:

$3 \times \text{£}11,919 \times 0.91 = \text{£}32,538.87$ (primary)

$3 \times \text{£}17,959 \times 0.91 = \text{£}49,028.07$ (secondary)

Total education contribution: **£81,566.94**

Without a secured contribution of **£81,566.94**, Children's Services raise an objection to this application. This objection is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. The objection would be withdrawn if the financial mitigation measure is agreed.

Loss of Community Facilities

Policy CF.3 relates to the loss of community facilities which make a positive contribution to the social or cultural life of a community. A statement has been submitted by Punch Taverns, the

owners of the site and this details the reasons that they no longer wish to retain the site. In this statement they explain that the pub has had four different operators in the last nine years and struggles to be a profitable and sustainable pub for the operator.

It goes on to state that the rent has to be set at such a low level in order for an operator to make any profit, that the company makes no profit in this level of rent and effectively subsidises the operator.

They appreciate that “feelings can run deep within a community when a pub is lost to alternative use; however I have to ask how many of these residents actively supported the pub. If the pub was well supported by local residents (upon which it is reliant for its success) then our company would not be considering the sale and would be prepared to invest in the pub for the future. Unfortunately the opposite is the case.

It should be noted that the pub could have been closed by the owners before submitting the application and the owners have stated that even if the planning application fails, they will no longer trade this site.

Sport England is not a statutory consultee on an application such as this but was asked to comment by interested parties. As such, should the application be approved, their comments are given only in an advisory capacity and there would be no requirement to refer the application to the National Planning Casework Service. They put forward an objection as they had been informed that the pub was a clubhouse for the local rugby team and other clubs.

Acton Nomads Rugby Club maintain that the pub is their clubhouse; however they play their home fixtures at the Barony Sports Complex, where there are excellent changing facilities, so the loss of the public house would not lead to them being unable to carry on as a rugby team. It is considered that it would not be reasonable to force the owners of the site to retain a public house, which is a privately owned business in order to accommodate the rugby team or other clubs that use it, especially when the owners could close it regardless of whether this planning application is approved.

Whilst the loss of the public house is unfortunate, it is not the role of the Local Planning Authority to force private companies to keep open unviable businesses.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report.

S106 Contributions:

LEVY (CIL) REGULATIONS

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

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

As explained within the main report, contributions to primary and secondary education are directly related to the development and fairly and reasonably related in scale and kind to the development. The contribution would help to make the development sustainable.

Conclusion – The Planning Balance

The site is within the Settlement Zone Line of Nantwich, where there is a presumption in favour of sustainable development.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing within an existing settlement where there is existing infrastructure and amenities.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, ecology, drainage, landscape and design.

RECOMMENDATION

Approve subject to the conditions listed below and the completion of a s106 Agreement for a contribution of £81,566.94 to primary and secondary education and the provision of 30% affordable housing.

1. **Commencement**
2. **Approved plans**
3. **Details of materials to be submitted**
4. **Retention of trees identified for retention within the site**
5. **Submission of tree protection measures**
6. **Submission and approval of a Construction Management Plan including a construction compound within the site**
7. **Restriction on hours of piling to 9am to 5.30pm Monday to Friday, 9am to 1pm Saturday and no working on Sundays or public holidays.**
8. **Submission of a Phase II Contaminated Land Report**
9. **Provision of electric vehicle charging points for each dwelling**
10. **Submission of a Flood Risk Assessment**
11. **Submission of details of foul and surface water drainage**
12. **Submission of a detailed drainage scheme**
13. **Boundary Treatment Details to be submitted and approved**

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

Should this application be the subject of an appeal, authority is agreed to enter into a s106 Agreement for a contribution of £81,566.94 to primary and secondary education and the provision of 30% affordable housing.

