

Application No: 17/0858N  
Location: Jolly Tar Inn, NANTWICH ROAD, WARDLE, CW5 6BE  
Proposal: Erection of 15 Dwellings and Access Works  
Applicant: Commercial Development Projects Ltd  
Expiry Date: 04-Jul-2017

## **SUMMARY**

The proposed development would be contrary to Policies NE.2 and RES.5 and the development would result in a loss of open countryside. However Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

The adverse impacts of the development would be the loss of open countryside and agricultural land.

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

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

The brownfield nature of the site is also a material consideration as although the proposal would be contrary to Policy NE.2 it would meet one of the core planning principles contained within the NPPF which states that planning should ‘encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value’.

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

## **RECOMMENDATION**

**APPROVE**

### **REFFERAL**

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

### **PROPOSAL**

The application seeks full planning consent for the erection of 16 dwellings and access works

The dwellings would comprise 5 terraced style properties and 11 detached properties. With a mixture of 3 and 4 bedrooms properties with brick/render walls and tiled roofs.

Access, both vehicular and pedestrian would be taken from a single point off Nantwich Road.

Trees are shown as being retained on the north-eastern boundary.

### **SITE DESCRIPTION**

The application site comprises a rectangular parcel of brownfield land which previously houses the Jolly Tar Inn. It measures 0.93 hectares in size, situated off Nantwich Road in between settlements to the north-west and south-east. The land is designated as being within the open countryside in the adopted local plan.

The site is predominantly flat and the boundary treatment is a buffer of trees to all boundaries except the road frontage which is open with a small group of 7 trees to the north-eastern boundary.

The canal is sited to the north of the site.

### **RELEVANT HISTORY**

Various application for extensions, signage, car parking and temporary caravans for storage purposes however none relevant to the current proposal.

7/17713 – Detached agricultural dwelling – approved 06-Dec-1989

P08/0957 – Change of Use of Agricultural Land to Form All Weather Caravan Pitches/Camp Site – approved 16-Oct-2008

16/1403N – Demolish Former Public House, Managers Dwelling and Two Detached Concrete Panel Garages – approval not required 11-Apr-2016

### **NATIONAL & LOCAL POLICY**

## **National Policy**

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

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

Development Plan

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside.

The relevant Saved Policies are:

NE.2 (Open countryside)

NE.5 (Nature Conservation and Habitats)

NE.8 (Sites of Local Importance for Nature Conservation)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

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)

RES.5 (Housing in the Open Countryside)

RES.7 (Affordable Housing)

RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)

TRAN.9 (Parking Standards)

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

## **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

PG2 – Settlement Hierarchy

PG5 - Open Countryside

PG6 – Spatial Distribution of Development

SC4 – Residential Mix

SC5 – Affordable Homes

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE3 – Biodiversity and Geodiversity

SE5 – Trees, Hedgerows and Woodland

SE 1 - Design

SE 2 - Efficient Use of Land

SE 4 - The Landscape

SE 5 - Trees, Hedgerows and Woodland

SE 3 - Biodiversity and Geodiversity  
SE 13 - Flood Risk and Water Management  
SE 6 – Green Infrastructure  
IN1 – Infrastructure  
IN2 – Developer Contributions

**Supplementary Planning Documents:**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing  
Interim Planning Statement Release of Housing Land  
Development on Backland and Gardens

**CONSULTATIONS**

**CEC Highways:** No objection to condition requiring the footway to be constructed prior to first occupation

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

**CEC Environmental Health:** Object due to lack of information regarding noise to future occupiers given the close proximity to Nantwich Road. Various conditions/informatives offered in all other regards such as piling, dust, travel pack, electric vehicle charging points, working hours and contaminated land

**CEC Education:** No objection subject to a contribution of £32,685 towards secondary education

**CEC Housing:** No objection subject to provision of 5 affordable units

**CEC Public Rights of Way (PROW):** No objection however advisory notes offered to the applicant

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

**United Utilities:** No objection subject to drainage conditions

**Canal and River Trust:** No objection however consider that landscaping would be important to soften the visual impact of the proposal from the canal

**VIEWS OF THE PARISH/TOWN COUNCIL**

No comments received at the time of writing the report

**REPRESENTATIONS**

No comments received at the time of writing the report

**APPRAISAL**

## **Principle of Development**

The site lies largely in the Open Countryside as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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

Although the proposal would be contrary to Policy NE.2 it would meet one of the core planning principles as contained within the NPPF which states that planning should;

‘encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value’

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

## **Housing Land Supply**

On 20 June 2017 Inspector Stephen Pratt published his final report on the Cheshire East Local Plan Strategy, thus bringing the Plan’s Examination to a close. He has concluded that with the recommended Main Modifications, the Cheshire East Local Plan Strategy meets the criteria for soundness in the National Planning Policy Framework, and is capable of adoption.

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

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

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

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

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

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

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

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

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

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

"This plan is now at an advanced stage of preparation, with the consultation on the main modifications having started on 6 February 2017. It was indicated that apart from a minor modification to the wording of the supporting text, the Local Plan Inspector has not suggested any modifications to this policy. As such, it is proposed that it would be adopted in its current format. In the light of this, and in accordance with paragraph 216 of the National Planning Policy Framework (the Framework), I consider that substantial weight can be given to this policy"

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

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

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

The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in

2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

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

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

## Public Open Space

The number of dwellings proposed is below the threshold which requires contributions towards open space.

## Education

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

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

Development	Jolly Tar Inn				Number of Dwellings	15					
Planning App Number	17/0858N				Primary Yield	3					
Date Prepared	5.5.2017				Secondary Yield	2					
					SEN Yield	0					
PUPIL FORECASTS based on October 2015 School Census											
Primary Schools	PAN Sep 16	PAN Sep 17	NET CAP May.16	Any Known Changes	2016	2017	2018	2019	2020	Comments	
Calveley Primary Academy	15	15	105	105	88	94	90	90	92		
Developments with S106 funded and pupil yield included in the forecasts				0							
Developments pupil yield not included in the forecasts					0						
Pupil Yield expected from this development					3						
OVERALL TOTAL	15	15	105	105	88	94	90	90	95		
OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP											
					17	11	15	15	10		
PUPIL FORECASTS based on October 2015 School Census											
Secondary Schools	PAN Sep 16	PAN Sep 17	NET CAP May.16	Any Known Changes	2016	2017	2018	2019	2020	2021	2022
Malbank School and Sixth Form College	210	210	1,050	1,050	907	985	1,016	1,066	1,086	1,122	1,159
Tarporely is catchment but malbank is nearest CE ( not within the 3 miles)											
Please Note: All figures quoted exclude any allowance for 6th Form Pupils											
Developments with S106 funded and pupil yield included in the forecasts				71							
Developments pupil yield not included in the forecasts					100						
Pupil Yield expected from this development					2						
OVERALL TOTAL	210	210	1,050	1,121	907	985	1,016	1,066	1,086	1,122	1,261
OVERALL SURPLUS PLACES PROJECTIONS											
					214	136	105	55	35	.1	.140

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

2 x £17,959 x 0.91 = £32,685.38 (secondary)

Total education contribution: £32,685.38

As such there is a requirement for a contribution from this development towards secondary school and the sum of £32,685.38 will be secured as part of a S106 Agreement.

## Health

There is a medical centre in Bunbury (Bunbury Medical Practice) within 2.7 mile of the site and according to the NHS choices website this practice is currently accepting patients indicating that they have capacity.

### **Location of the site**

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue.

In this instance no such assessment has ben provided with the application. However it is clear that the site would not be located near to a number of key services. Nevertheless this is not untypical for houses in the countryside and will be the same distances for the existing residential properties on Nantwich Road to the northwest and southeast of the site.

There is a bus stop located 95m to the south-east of the site. This is served by the No.84 bus which goes to Chester, Tarvin, Duddon, Tarporley, Nantwich, Willaston & Crewe with 13 services Monday-Saturday until 10pm but with a slightly reduced service on Sunday until approx. 5pm. The bus stop to the north of the road is assessable by footpath. The footpath to the south of the road is assessable by grass verge however the proposal seeks to replace this with a footpath. As a result many of the services in these centres would be readily available without the need for car travel.

As a result, whilst the location of the site would be distant from a number of key facilities and would in some circumstances encourage the use of the car, it is considered that the regular bus service to the nearby large service centres of Crewe, Nantwich and Chester, that the site would represent a sustainable location, albeit at a marginal level, and as such would adhere to the NPPF.

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

## **ENVIRONMENTAL SUSTAINABILITY**

### **Residential Amenity**

The main residential properties affected by this development are properties to the North known as Junction House.

However the edge of the application site to the boundary of these properties is 50m with the actual interface distances between main face elevations being 58m which is well above the 21m interface distance as recommended in the SPG to prevent significant harm to living conditions.

It is also considered that residential use of the site for 16 dwellings would likely result in a neutral impact in general noise and disturbance over the existing use as a public house.

Environmental Protection have raised an objection that the applicant provides insufficient information to consider the impact of road noise on future occupiers. A noise assessment has since been received

however this was too late to be considered before the committee report deadline. Therefore further comments will be provided on this matter in the update report or at the committee meeting itself.

### **Contaminated Land**

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

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

The Councils Public Rights of Way Team have been consulted regarding the application and have not raised any objections. They have however offered advisory notes to the applicant which can be added to any decision notice as an informative.

### **Highways**

The proposal is a full application for 16 dwellings with an amended access onto Nantwich Road and off-road parking.

A new access is to be provided for the A51 Nantwich Road, roughly in the position of the existing access serving the previous public house. It is proposed that the access will be 5.5m wide with 2m pavements on either side. The drive will be gated at a distance well over 10m from the junction with Nantwich Road. Curve radii of 7m are achieved. Each of the properties is provided with at least two off street parking areas with all but the semi-detached 3 bed properties also having integral garages.

The proposal has been assessed by the Councils Highways Department who consider that the access design is acceptable and the unobstructed visibility splays of 120m are sufficient. Parking provision is in accordance with CEC requirements. The development will be gated and remain private but refuse vehicles can still enter the site if need be.

A new footway to the bus stop approximately 120m south of the site is proposed which could be utilised by residents of the properties and the local area. Highways have requested this to be implemented prior to first occupation of the proposed dwellings which can be secured by condition.

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

### **Landscape**

The application site is identified as Open Countryside in the Crewe and Nantwich Local Plan, there are no landscape designations on the application site and within the Cheshire Landscape Character Assessment the application site is located on the boundary of the East Lowland Plain Landscape Type, specifically the Ravensmoor Character Area (ELP1).

The Jolly Tar Inn formerly stood on the site; this has now been demolished. There is a good network of existing hedgerows and trees around the perimeter of the site and while the Design and Access Statement indicates that the existing hedgerows around the site will be retained, there is no further information included with the submission, nor are the existing hedgerows clearly shown on the

Proposed Site Plan C (Drawing No: (SK) 03J, further clarification is needed relating to existing perimeter vegetation.

The Councils Landscape Architect has considered the proposal and concludes that the application site could accommodate residential development however suggests conditions requiring a landscaping scheme for both hard and soft landscaping.

As a result it is considered that the proposal could be accommodated into the existing landscape without causing significant harm to its character/appearance.

## **Trees**

The application has been assessed by the Councils Arborist who concludes that there are no significant Arboricultural implications associated with this application.

The Nantwich Road linear group of trees which are identified for retention are considered to be low value Category C specimens none of which individually or collectively are worthy of formal protection under a TPO.

The main body of the proposed development site is devoid of any meaningful tree cover, with only mature hedges and scattered trees forming other than the Nantwich Road aspect the boundaries to the site. The hedges are identified for retention so they cannot be considered under the 1997 Hedgerow Regulations; should the application proceed their status cannot be re-visited once a hedge forms part of a domestic garden curtilage.

In order to ensure the retained boundary planting is not compromised during the construction period, suitable tree protection details will be required, this can be addressed by condition.

As a result it is not considered that the proposal would cause significant harm to the existing tree stock.

## **Design**

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

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

The site was previously occupied by the Jolly Tar Inn Public House, the site however currently lies vacant with the building demolish excluding the parking area to the front.

The locality consists of mixed character and property types. It is considered that terrace and detached style properties could be accommodated without causing significant harm to the character and appearance of the locality.

Property footprints, heights and garden areas would be comparable to others in the area. The properties would also be set back from the road by approximately 8m which would retain the existing level of openness to the site frontages and ensure that the visual prominence of the buildings are reduced.

The proposed materials comprise brick/render walls and tiled roofs, which would match the material pallet of the local area.

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

## **Ecology**

The proposal has been assessed by the Councils Ecologist who advises that the risks to Great Crested Newts would be adequately mitigated against by the implementation of reasonable avoidance measures detailed within the provided Amphibian Assessment dated 9th June 2017, which should be secured by condition.

As a result it is not considered that the proposal would cause any significant harm from an ecology perspective.

## **Flood Risk**

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

The United Utilities have been consulted as part of this application and have raised no objection to the proposed development subject to conditions regarding foul and surface water and a drainage hierarchy. The Councils Flood Risk team have also raised no objection subject to condition requiring a drainage strategy.

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

## **ECONOMIC SUSTAINABILITY**

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

## **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

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

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

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

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

## **PLANNING BALANCE**

The proposed development would be contrary to Policies NE.2 and RES.5 and the development would result in a loss of open countryside. However Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

Whilst the proposal is technically contrary to Policy NE. 2, the brownfield nature of the site, it would meet one of the core planning principles as contained within the NPPF which states that planning should ‘encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value’.

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

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

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

## **RECOMMENDATION:**

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

## Conditions

1. Time limit
2. Plans
3. Materials
4. Removal of permitted development rights – plots 12-16 for extensions/outbuildings and plots 5-11 enclosures
5. Levels
6. Foul and surface water drainage
7. Drainage strategy
8. Piling
9. Electric vehicle charging
10. Dust
11. Travel information pack
12. Contaminated land
13. Management scheme of the PROW
14. Landscaping scheme
15. Tree Protection measures
16. Construction of new footpath prior to first occupation
17. Reasonable avoidance measures detailed within the provided Amphibian Assessment dated 9th June 2017

## Informative

1. PROW

## Heads of terms

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
  - The numbers, type, tenure and location on the site of the affordable housing provision
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. Secondary Education Contribution of £32,685.38

