

Application No: 21/2975M

Location: The Swan Hotel, CHESTER ROAD, BUCKLOW HILL, CHESHIRE, WA16 6RD

Proposal: Part demolition of existing buildings, conversion and alteration of retained buildings for residential use (Use Class C3) and erection of residential development (Use Class C3) with associated open space, landscaping, access, car parking and infrastructure

Applicant: Mr Andrew McMurtrie, PH Property Holdings Limited and Premier Inn Hotels Ltd

Expiry Date: 27-Aug-2021

## REASON FOR DEFERRAL

At the Cheshire East Council Northern Planning Committee held on the 22<sup>nd</sup> February 2022, the committee resolved to defer this application for the following reasons:

- *to allow further consideration of the submitted marketing information.*

In addition, it has been identified in the intervening period that there was an error in the Vacant Building Credit calculations originally presented meaning that now, an affordable housing contribution is required in the event of approval. However, the final figure is yet to be agreed.

For completeness this update report sets out that updated comments have been received from United Utilities in response to the revised plans. In addition, the late representations received on behalf of an objector just prior to the previous committee (reported to committee by way of a verbal update), are now also set out.

## CONSULTATIONS (External to Planning)

**United Utilities** – No objections, subject to the following conditions including: the implementation of the drainage principles within the submitted Flood Risk Assessment and the submission/approval of a sustainable management and maintenance plan

## REPRESENTATIONS

Just prior to the previous Northern Planning Committee, a further objection from one of the original objectors was received in response to the content of the committee report. The main issues raised were as follows:

- Loss of Public House / community asset
  - There is interest to take the buildings on to run as a pub / restaurant
  - The interested party includes a design proposal for their intentions

- The interested party contacted the marketing company (via phone) in September 2020, but had an offer immediately rejected
- Whilst this offer was after closing date for 'best and final offers', contrary to Officer's committee report that set out that no approaches have been made from pub or hotel operators or persons looking to continue the use. Misleading to report that there has been no interest
- Interested party also contacted landowners directly (writing and phone) demonstrating intentions to acquire
- Not clear why site was not marketed in specialist publications
- Marketing was clearly an exercise to sell the site for residential use
- Proposal represents a breach of local and national policies which seek to protect community facilities

## **OFFICER APPRAISAL**

### **Loss of Public House**

#### **Policy context**

Planning Law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

#### **Development plan**

There are no adopted or saved Cheshire East Council development plan policies that prohibit or restrict the loss of a public house (or a community facility). Whilst Policy EG2 of the CELPS refers to instances where planning would support the retention of community facilities such as public houses, this is in the context of application proposals that propose to retain such facilities, not those that propose their loss.

As such, attention then turns to other relevant material policy considerations.

#### **Other material policy considerations**

In this instance, this includes any reference to community facilities within the National Planning Policy Framework (NPPF) and draft policy within the Cheshire East emerging Site Allocations Development Plan Document (SADPD).

Paragraph 93 of the NPPF advises planning policies and decisions should guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day-to-day needs.

Reference has been drawn to one of the draft policies within the SADPD, draft Policy REC5. The crux of draft Policy REC5 is that development proposals should seek to retain, enhance and maintain community facilities that make a positive contribution to the social or cultural life of a community. In addition, it sets out that any such facility which makes a positive contribution should be retained unless an alternative provision is made. Finally, it sets out that proposals for new community facilities will be supported. This final point is not relevant to the application proposals.

## Assessment

### National Planning Policy Framework (NPPF)

In order to assess the acceptability of the loss of the public house in line with paragraph 93 of the NPPF consideration needs to be given to whether the facility to be lost is valued and its loss would reduce the community's ability to meet its day-to-day needs on one hand. On the other hand consideration needs to be given to whether the loss of the facility is unnecessary.

#### *Whether The Swan is a 'valued' community facility*

The vast majority of the representations received from 24 separate addresses refer to the loss of the public house and the role it plays in the community. More specifically, amongst various reasons put forward by objectors as to the public house's importance, it has been repeatedly commented upon that The Swan was an important facility in the community for social interaction.

Therefore, there is some evidence that The Swan had some value as a community facility and therefore its loss is a material consideration in this case. However, it is not known how representative of the local community as whole the views expressed in the letters from the 24 addresses are. Furthermore, it is questionable whether its loss, given that it has been vacant for a number of years and the nature of how it served the community, particularly reduces the community's ability to meet its day-to-day needs.

It should be noted that the Swan is not currently listed by Cheshire East Council as an Asset of Community Value (ACV). In addition, it is understood that there are currently no applications that have been submitted to the Council to list the public house as an ACV. Having AVC status effectively pauses to sale process for six months, so it allows community groups the opportunity to make an expression of interest to make a bid.

However, it should be noted that even if an application to list the public house as an ACV was submitted and approved by Cheshire East Council, this status only allows time for the community to put a bid together. After that window closes, it is entirely up to the landowner to sell to whoever they choose. There is no scope for a community group to purchase at a 'reduced rate' but simply gives them a little extra time to perhaps pull on resources to make a bid.

#### *Is the loss of the public house 'unnecessary'?*

A further understanding of the business, the reasons for its closure and an understanding of any attempts made for possible continued use as a public house / hotel under a new owner/operator are considered to be relevant factors in the consideration as to whether the loss of the public house should be deemed 'unnecessary'.

Reason for closure of The Swan:

The application sets out that the business formally closed on the 4<sup>th</sup> August 2020. The agent for the application advises that the location of the Swan and Premier Inn meant much of its business resulted from its strategic location on the highway network, which provided a link between the West Midlands and Manchester, and Manchester Airport. It is advised that a significant part of The Swan's business was overnight stays and parking for travellers using Manchester Airport. It is stated that the opening of the new A556 bypass in 2017 dramatically

reduced passing traffic and changed the location of the pub and hotel from that of a strategic location, to a local B-road. Competition from more modern airport and city hotels was also impacting business.

#### Viability:

In a letter received from the owners, financial details have been provided showing a steady decline in profits of the business from 2014 through to the 2019/2020 financial year when a loss was recorded. The profits appeared relatively healthy for the 2014/15, 2015/16 and 2016/17 financial years, but took a notable drop-off in the 2017/18 financial year and showed little sign of improvement after resulted in a loss in 2019/20. This would appear to substantiate the applicant's reasoning as to why the business closed.

The agent advises that these factors meant there was no business case to support the landowner's continued presence at the site, or future investment - estimated in excess of £500k to bring the building up to a reasonable state. Despite various objectors suggesting otherwise, the reasons behind the closure of the public house are considered to have been substantiated.

#### Likelihood of continued use (Marketing):

If weight is to be given to the retention of the existing use, there has to a reasonable chance of that use continuing should permission be refused. A Marketing Statement was provided during the application process to address this point. It sets out the following key points which have been supplemented during the application process by the agent for the application:

- Gerald Eve were instructed to market the freehold for the site in January 2019
- A six-page marketing brochure was produced, along with a dedicated data room of further detailed information of the site
- The opening page of the marketing brochure (seen by the Council) identified the site as *'Freehold hotel, restaurant and public house with potential for a number of alternative uses including residential, care or retirement living'*
- Under *'The opportunity'* section of the brochure, it is stated that *'The Site offers the potential for redevelopment for alternative uses including residential, care or retirement living'*. Whilst re-use of the existing use is not expressly listed, it did not preclude interest from the continued use of the site for public house and hotel uses. Under the *'method of sale'* within the marketing brochure, it is stated that *'Offers are invited for the freehold interest via informal tender process on an unconditional or conditional (subject to planning basis)'*
- The site was marketed for a continuous period of approximately 2 ½ years between March 2019 and September 2021 on the Estates Gazette website (within no minimum asking price) and Gerald Eve's website.
- The story of the sale was also covered locally in an article on the Knutsford Guardian's website dated 8<sup>th</sup> January 2019
- The initial results of the marketing generated approximately 100 initial enquiries and 56 requests for access to the specific marketing data
- Following an initial call for bids in July 2019, offers from 15 separate parties were received. The majority of these were from developers looking to redevelop the site for residential use
- *Note: It has been advised that no offers were received from either pub or hotel operators or persons looking to continue the use within the 2 ½ year period*

- 5 shortlisted parties were then invited to submit a best and final offer on the 4<sup>th</sup> December 2019. The applicant (PH Property) was chosen as the preferred purchaser in March 2020
- Gerald Eve conclude that the marketing exercise has demonstrated that there are no viable offers for the site from either pub or restaurant operators despite it being marketed for approximately 2.5 years.

This report demonstrates that marketing was undertaken for a considerable length of time with no evidence of offers coming forward to take the site on for its existing use which includes the public house.

It is acknowledged that the marketing brochure did not specifically advertise the continued use of the site as a public house and hotel, but it did also not exclude it as an option either. It simply suggested what alternative uses were possible. In addition, the front page of the brochure advertised the description of the site as *'Freehold hotel, restaurant and public house with potential for a number of alternative uses including residential, care or retirement living'*. As such, any interested party could see what the existing use was if an interest in continuing that use was held.

Following the receipt of further information from an objector, it is now apparent that interest in the application site was expressed from a party looking to purchase the site to continue a community use. Based on the evidence submitted within this further late objection (reported verbally to committee), it is now apparent to the Council that an interested party contacted the landowners to express an interest in the site on two occasions, September 2021, and January 2022. It should also be highlighted that a brochure produced by the interested party demonstrating what they intend to do with the premises if they did acquire the site was also received alongside their earlier objections.

Although a representative of the interested party claims they contacted the marketing company in September 2020, (after 'best and final offers') and *'had an offer for the pub immediately rejected'*, it remains that case that there is still no hard evidence before the Council that an actual offer from this interested party has ever been made to the applicant or Gerald Eve by the said interested party, nor to the applicant of the current planning application (PH Property), according to the planning agent for the application.

Conclusions:

It is clear from the objections received that the public house on this site did have some value as a community facility. However, it is deemed that the reason for the closure of the business has been substantiated. In addition, the business has been marketed for a significant period of time and there is no evidence that an offer has been made by an individual or group looking to continue the existing use. For these reasons combined, is it not deemed that the loss of this facility for an alternative use, whilst regrettable, is 'unnecessary'.

### Draft Policy REC5

Before addressing the specifics of this draft policy, it is deemed important to set-out the current stage of the draft Cheshire East Site Allocations Development Plan Policy (SADPD) because this determines the weight afforded to policies that fall within it.

The Site Allocations and Development Policies Document (SADPD) is the second part of the council's Local Plan. The purpose of the SADPD is to provide further, non-strategic planning policies and land allocations, in line with the overall strategy set out in the CELPS. It has been prepared to support the policies and proposals of the CELPS by providing additional policy detail.

The next stage in the SADPD examination will be for the Council to publish Main Modifications for a minimum 6-week period of public consultation. The timing of this is in the hands of the Inspector but is expected in late spring 2022. Subject to the consideration of any representations received, the Inspector's conclusions will then be set out in his final report accompanied by a final set of Main Modifications. The SADPD, incorporating these Main Modifications, will then need be considered for adoption at a Full Council meeting.

Although at a relatively advanced stage, the draft SADPD is still in draft format and as such, so are its policies. At this stage, it is considered that any weight afforded to these policies is moderate at best.

Draft Policy REC5 includes two parts relevant to the application proposals. The first sets out that development should seek to retain, enhance and maintain community facilities that make a positive contribution to the social or cultural life of a community. The second is that any community facility that makes a positive contribution to the social or cultural life of a community should be retained unless suitable alternative provision is made.

It is considered that the crux of this first part of this draft policy is similar to that assessed as part of the NPPF above; that valued community facilities should be retained. As such, the conclusions for the assessment of this part of the draft policy are the same as NPPF conclusions above. Whereas the NPPF sets out that planning should guard against the unnecessary loss of valued community facilities, draft Policy REC5 sets out that planning should seek to retain facilities that make a positive contribution to the social or cultural life of a community (valued facilities).

However, as set-out, the weight afforded to this draft policy is moderate at best for the reasons set-out.

In consideration of the requirement to provide a replacement facility under draft Policy REC5, for the reasons that the loss of the public house has been accepted in conjunction with the status of the draft policy, it is not deemed reasonable to insist that a replacement facility should be provided in this instance.

#### Loss of public house conclusions

Whilst the loss of the Swan as community facility is regrettable, the weight afforded to its loss as a valued community facility is limited at best, for various reasons. These include: that the site has been vacant for almost 2 years, because the site had been marketed for over 2 ½ years without any evidence that a single formal offer has been received for its continued existing use, the submitted evidence that the business was increasingly unviable in its current guise due to factors largely outside of the control of the owner and the amount of investment identified as being required for continued use and

For the above reasons, the loss of the public house is accepted.

## **Flooding and Drainage**

In consideration of matters of drainage, United Utilities have raised no objections, subject to the following conditions: implementation of the drainage principles within the submitted Flood Risk Assessment and the submission/approval of a sustainable management and maintenance plan. It is considered that these are still relevant given that the drainage strategy has not significantly altered.

Subject to the suggested conditions, along with those suggested by the Council's Flood Risk Officer previously reported upon, the application is considered to adhere with Policy SE13 of the CELPS.

## **Affordable Housing**

Policy SC5 of the CELPS refers to Affordable Housing. It states that in residential developments, 30% affordable housing will be provided in developments of 15 or more dwellings (or 0.4 hectares) in Principal Towns and Key Service Centres or in developments of 11 dwellings or more (or that have a combined gross floorspace of more than 1000sqm) in Local Service Centres and all other locations.

The applicant has not proposed any affordable housing as part of the proposals. They advise that this is because the site qualifies for the Government's Vacant Building Credit which incentivises brownfield redevelopment and regeneration by reducing affordable housing requirements on qualifying sites.

Government guidance on this incentive is provided within the Planning Obligations NPPG. To be applicable, there are qualifying criteria. These are:

1. That the buildings on site must be vacant for at least 6 months; and
2. The buildings need to have been vacant for reasons other than the redevelopment of the site

The applicant has set out why they consider the proposals adhere with these requirements. More specifically:

1. That the buildings have been vacant since February 2020, a period in excess of 12 months; and
2. The reason for them becoming vacant was the impact upon trade of the opening of the new A556 link road between the M6 and M56

Where a vacant building is either demolished to be replaced by a new building or re-used, the developer is offered a financial credit equivalent to the existing gross floorspace of the relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

It has been calculated that the floorspace of the proposed development (3751m<sup>2</sup>) compared to the floor space that is either being demolished or reused (3712m<sup>2</sup>) is marginally greater, 39m<sup>2</sup>.

## The Vacant Building Credit Calculation

- Proposed development of 3,751 sqm results in 17 homes
- Policy SC5 (affordable homes) of the CELPS requires 30% affordable homes
- 30% of 17 homes = 5.1 (rounded up to 6 homes)
- There is an existing vacant building on site with a floorspace of 3,712 sqm
- The difference between the gross floorspace of the existing vacant building and the proposed new build floorspace is 39 sqm
- Therefore, the affordable housing requirement for this site is  $(39/3751) \times 6 = \mathbf{0.062}$ .

As such, the most appropriate way to secure this would be through a financial contribution towards off-site provision. Although the proposed development is in Bucklow Hill, there is insufficient sales data for this area due to its rural location to assist in determining average house prices. Therefore, average sales figures for Knutsford were considered.

Recent sales figures in Knutsford for comparable smaller units of which there is an identified need, range from a 2-bedroom flat sold for £213,000 to a 3-bedroomed terraced house valued as £385,000

Even when multiplied by the 0.062 affordable housing requirement, these sales figures generate a healthy commuted sum which can be invested by the local authority into affordable housing. Therefore, Council's Housing Officer seeks a financial contribution based on local property values.

The calculation to determine the commuted sum would be (values to be confirmed)

- Property OMV - £300,000
- RP offer (typically around 70% of OMV) - £210,000
- Difference between offer and OMV - £90,000
- £90,000 x AH requirement of 0.062 = **£5,580**

To confirm the final sum, the Council's Housing Officer requests the applicant provide the team with a range (between 3 – 5 examples) of smaller 2 or 3 bed properties which have sold within the Knutsford area within recent months. Then, between the Council and the applicant, we can then agree a general Open Market Value (OMV) for what should be the affordable housing.

Subject to this contribution, the specific figure to be agreed and secured via a S106 in the event of approval, the development is deemed to adhere with the affordable housing policy of the development plan.

## Heads of Terms

If the application is approved, a Section 106 Agreement will be required to secure the following:

- Contribution of £5,580 (TBC) towards off-site affordable housing provision



- Contribution of £68,000 towards off-site Public Open Space (POS), Recreation and Outdoor Sports improvements (£51,000 towards off-site POS improvements & £17,000 towards off-site Recreation & Outdoor Sport improvements)
- Requirement to provide a private management plan to manage landscaping outside of domestic curtilages

### **CIL Regulations**

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

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

A contribution of £5,580 (or the final figure to be agreed) is deemed necessary to ensure the required policy provision of affordable housing is provided in accordance with policy.

The total financial contribution of £68,000 is deemed necessary to ensure that the impact of the development upon nearby Public Open Space and Recreation and Outdoor Sports is mitigated.

The requirement to establish/hire a Management Company to manage the landscaping of the site outside of residential curtilages is required to ensure the development remains well screened from the most public vantage points in perpetuity.

The requirements are therefore considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

### **Conclusions**

The site lies entirely within the Cheshire Green Belt. Planning policy seeks to control new development within the Green Belt and does not support the construction of new buildings or uses within it, unless it is for one of the purposes set out in the policy. Those purposes include: the re-use of buildings provided they are permanent and substantial, and the development preserves the openness of the Green Belt and purposes of including land within it. In addition, it includes the re-development of previously developed land so long as the development does not have a greater impact on the openness of the Green Belt than the existing development.

The proposed development is deemed to fall within and adhere with the requirements of these Green Belt policy exceptions. As such, the proposals are deemed to represent appropriate development in the Green Belt.

Although the built form of the most historic elements of the on-site public house (The Swan) are to be retained as part of the development (as a conversion), the loss of the public house as a community facility is a material consideration.

The applicant has submitted financial and marketing information to the Council which is deemed to effectively validate the reasons why the now former public house closed. It also demonstrates

that the business was marketed for a sufficient period of time (2 ½ years) and there is no evidence that any formal offers for the continuation of the use have been received.

As such, whilst the loss is regrettable, the weight afforded to its loss is limited at best. It is not the purpose of the planning system to perpetuate the continuation of a non-viable use in order to meet social objectives. It is also not the role of this application to consider alternative proposals for the site when no such proposals have been submitted for consideration/assessment at this time.

Although the location of the site is relatively isolated from larger communities and their associated public facilities, making it highly likely that the future occupiers would rely heavily of the use of private motor vehicles to travel to and from the site, this has historically been the case on this site given that the previous use was that of a public house and a hotel.

Planning benefits are derived from the re-use of two of the three most historical buildings on site. These are not formal heritage assets but have been identified as 'non-designated heritage assets' during the application process and as such, the retention of these, as well as the on-site milepost, as part of the development is welcomed.

No issues are deemed to be created by the application proposals with regards to design, amenity, highway safety, landscape, trees, ecology or flood risk and drainage, subject to a S106 Agreement to secure the management of the landscaping outside of the curtilages on site and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space and affordable housing, in line with policy. This is proposed to be secured via S106 Agreement in the event of approval. The development does not trigger the requirement to provide health of education contributions due to the number of dwellings sought.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping outside of curtilages in addition to securing the required commuted sums towards off-site open space improvements and off-site affordable housing, along with planning conditions, the application is recommended for approval.

However, until the final affordable housing commuted sum figure is agreed, the recommendation is that authority be delegated to the Head of Planning in consultation with the Chairman of the Northern Planning Committee (or in their absence the Vice Chair), to APPROVE the application for the reasons set out in the report, subject to the finalised affordable housing commuted sum, the commuted sum towards off-site public open space provision, the requirement to provide an on-site management company, and conditions.

## RECOMMENDATIONS

**That authority be DELEGATED to the Head of Planning, in consultation with the Chairman of Northern Planning Committee (or in their absence the Vice Chair), to APPROVE the application for the reasons set out in the report, subject to;**

S106	Amount	Trigger
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Affordable Housing – Commuted Sum	£5,580 (TBC)	Prior to occupation
Public Open Space & Recreation and Outdoor Sports – Commuted Sum	£51,000 towards off-site POS improvements  £17,000 towards off-site Recreation & Outdoor Sport improvements	Prior to commencement
Requirement to provide an on-site Management Company	Secure requirement to provide on-site Management Company to manage out of curtilage landscaping	Prior to occupation of any of the development

**And the following conditions:**

1. **Time (3 years)**
2. **Plans**
3. **Submission/approval of facing, roofing and external hard surfacing materials**
4. **Retention of Milestone**
5. **Submission/approval of new or replacement window and door details to (Buildings 1 and 3)**
6. **Any new or replacement fenestration to Buildings 1 and 3 should include reveals to match**
7. **Removal of Permitted Development Rights (Part 1, Classes A-E and Part 2 Class A)**
8. **Obscure Glazing provision (Plot 11 & 12 – First-floor side bathroom window, Plot 13 & 14– Both first-floor, side bathroom windows and Plot 15 – First-floor en-suite window on southern elevation)**
9. **Implementation of electric vehicle charging infrastructure details**
10. **Submission/approval an updated Conceptual Model (contaminated land)**
11. **Submission/approval of a verification report (contaminated land)**
12. **Submission/approval of a soil verification report**
13. **Works should stop in the event that contamination is identified**
14. **Submission/approval of cycle storage details**
15. **Submission/approval of updated Landscaping scheme (incl boundary treatment)**
16. **Landscaping – Implementation**
17. **Submission/approval of levels details**
18. **Tree retention**
19. **Submission/approval of a Tree Protection Plan**
20. **Submission/approval of an updated Arboricultural Method Statement**
21. **Submission/approval of a service/drainage layout (trees)**

- 22. Ecological Mitigation - Implementation**
- 23. Submission/approval of a Construction Environmental Management Plan (CMP)**
- 24. Further Bat survey required if works do not start by May 2022**
- 25. Nesting/breeding birds**
- 26. Submission/approval of Ecological Enhancement Strategy**
- 27. Implementation of FRA**
- 28. Submission/approval of detailed overall drainage strategy**
- 29. Submission/approval of a drainage management and maintenance plan**

## **SUMMARY**

The proposed development is deemed to fall within and adhere with the requirements of Green Belt policy exceptions, specifically, the re-use of buildings and the re-development of previously developed land. As such, the proposals are deemed to represent appropriate development in the Green Belt.

The loss of the public house as a community facility is a material consideration. The applicant has submitted financial and marketing information to the Council which is deemed to effectively validate the reasons why the now former public house closed (2020) and demonstrates that the business was marketed for a sufficient period of time (2 ½ years) without any formal offers for the continuation of the use being received. As such, whilst the loss is regrettable, the weight afforded to its loss is limited at best.

Although the location of the site is relatively isolated from larger communities and their associated public facilities, making it highly likely that the future occupiers would rely heavily of the use of private motor vehicles to travel to and from the site, this has historically been the case on this site given that the previous use was that of a public house and a hotel.

Planning benefits are derived from the re-use of two of the three most historical buildings on site. These are not formal heritage assets but have been identified as 'non-designated heritage assets' during the application process and as such, the retention of these, as well as the on-site milepost, as part of the development is welcomed.

No issues are deemed to be created by the application proposals with regards to design, amenity, highway safety, landscape, trees, ecology or flood risk and drainage, subject to a S106 Agreement to secure the management of the landscaping outside of the curtilages on site and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space in line with policy. This is proposed to be secured via S106 Agreement in the event of approval. No affordable housing is required as part of the development proposals when Vacant Building Credit is applied. The development does not trigger the requirement to provide health of education contributions due to the number of dwellings sought.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping outside of curtilages in addition to securing the required commuted sums towards off-site open space improvements, along with planning conditions, the application is recommended for approval.

## **RECOMMENDATION**

**APPROVE subject to a S106 Agreement to secure:**

## **REASON FOR REFERRAL**

This application is referred to Cheshire East Council's Northern Planning Committee because it's for a residential development between 1ha and 4ha (1.29ha).

## **DESCRIPTION OF SITE AND CONTEXT**

This application relates to the vacant Swan public house and hotel located on a corner plot between the B5569 to the west and the A5034 and Ciceley Mill Lane, both to the south. The application site covers an area extending 1.286 hectares.

The site lies entirely within the Green Belt and a Designated Local Landscape (Former ASCV).

## **DETAILS OF PROPOSAL**

Full planning permission is sought for the part demolition of existing buildings, conversion and alteration of retained buildings for residential use (Use Class C3) and erection of residential development (Use Class C3).

In total, 17 dwellings are proposed. The housing schedule of the development sought comprises of:

- Partially converted pub (Swan) – 5-bed detached (Plot 1)
- House type A (New build) – 4-bed detached (Plot 2)
- House type B (New build) – 5-bed detached (Plot 3)
- House type C (New build) – 5-bed detached (Plots 4 & 5)
- House type D1 (New build) – 5-bed detached (Plots 6 & 8)
- House type D2 (New build) – 4-bed detached (Plot 9)
- House type E (New build) – 4-bed detached (Plots 7 & 10)
- House type F (New build) – 4-bed detached (Plots 11 & 12)
- House type G (New build) – 5-bed detached (Plots 13 & 14)
- Converted 'Building 3' – x3 dwellings – 3-bed mews (Plots 15, 16 & 17)

Revised plans were received during the course of the application making the following main changes:

- Change in scope of the application so it now includes the retention and conversion of the older part of the Swan and the adjacent building to the north to residential use, in response to heritage concerns
- Reduction in the number of dwellings from 19 to 17 to account for the retention of the above buildings
- Removal of the originally proposed on-site Public Open Space (POS) due to ANSA Open Space Officer concerns. Off-site POS contribution proposed instead.

## **RELEVANT HISTORY**

**07/2691P** (Premier Inn) - Enclosure of ground and first floor walkways to existing bedrooms and formation of ground floor access ramps – Approved 28<sup>th</sup> December 2007

**06/2844P** (Swan Hotel) - Raised decking area within existing courtyard providing improved disabled access – Approved 20<sup>th</sup> February 2007

**06/1060P** (Premier Lodge) - 1no. Internally illuminated projecting sign (resubmission of 06/0147p) – Refused 26<sup>th</sup> June 2006

**06/0812P** (Swan Hotel) - 1no. Externally Illuminated Double Sided Freestanding Sign – Refused 1<sup>st</sup> June 2006

**06/0147P** (Premier Lodge) - 1no. Internally Illuminated Projecting Sign – Refused 13<sup>th</sup> April 2006

**04/2915P** (Premier Travel Inn) - Retention Of 2no. Non-Illuminated Fascia Signs, 1no. Externally Illuminated Fascia Sign And 1no. Internally Illuminated Fascia Sign. And 1no. Internally Illuminated Post Mounted Sign – Approved 14<sup>th</sup> January 2005

**04/2119P** (The Swan) - Installation of 1no. Externally illuminated fascia sign and 2no. Totem signs, 1no. Internally illuminated menu case, various directional signs and wall-mounted plaques (advertisement consent) – Approved 7<sup>th</sup> October 2004

**03/0675P** (Swan Hotel) - Installation of rising stop barrier to car park entrance – Refused 27<sup>th</sup> May 2003

**01/0644P** (Swan Hotel) - Externally Illuminated Fascia Signs and Free-Standing Signs – 4<sup>th</sup> May 2001

**99/2268P** (Swan Inn) - Extensions and Alterations to Provide 51 Bedrooms. Additional Car Parking – Refused 10<sup>th</sup> April 2000

**98/0559P** (Swan Inn) - Restaurant Extension and Alterations to Access – Approved May 1998

**97/2285P** (Swan Inn) - Restaurant Extension and Alterations to Access – Withdrawn 27<sup>th</sup> January 1998

**97/1622P** (Swan Inn) - Single-Storey Front Extension, Additional Car Parking and Alterations – Refused 16<sup>th</sup> October 1997

**77714P** (Swan Inn) - Externally-illuminated signs and non-illuminated fascia – Approved 15<sup>th</sup> June 1994

**76461P** (Swan Hotel) - Boundary wall on Chester Road frontage – Approved 1<sup>st</sup> February 1994

**20315P** (Swan Inn) - Erection of bulk gas storage tank and compound – Approved 21<sup>st</sup> November 1979

**14985P** (Swan Hotel) - Managers Bungalow and Bungalows to Form Staff Block – Approved 31<sup>st</sup> July 1978

**14984PB** (Swan Hotel) - Alterations & Extensions to Form New Bedroom Accommodation And Enlarged Dining Room (Listed Building) – Approved 31<sup>st</sup> July 1978

**14922P** (Swan Hotel) - Erection of Two Illuminated Signs – Approved 24<sup>th</sup> May 1978

**12400P** (Swan Inn) - Alterations & Extension to Kitchens – Approved 21<sup>st</sup> November 1977

**10823P** (Swan Hotel) - Provision of Car Parking Area and Landscaping – Approved 6<sup>th</sup> July 1977

## **ADOPTED PLANNING POLICIES**

The relevant aspects of the Cheshire East Council Development Plan subject to this application are: the Cheshire East Local Plan Strategy and the Macclesfield Borough Local Plan. The relevant policies within these include:

### Cheshire East Local Plan Strategy (CELPS)

PG1 - Overall Development Strategy, Policy PG2 - Settlement Hierarchy, PG3 – Green Belt, PG6 – Open Countryside, PG7 – Spatial Distribution of Development, SD1 - Sustainable Development in Cheshire East, SD2 - Sustainable Development Principles, SE1 - Design, SE2 - Efficient Use of Land, SE3 - Biodiversity and Geodiversity, SE4 - The Landscape, SE5 - Trees, Hedgerows and Woodland, SE6 – Green Infrastructure, SE7 – This Historic Environment, SE9 - Energy Efficient Development, SE12 Pollution, Land Contamination and Land Instability, SE13 – Flood Risk Management, SC4 – Residential Mix, SC5 - Affordable Homes, IN1 - Infrastructure, IN2 - Developer Contributions, CO1 – Sustainable Travel and Transport

### Macclesfield Borough Local Plan (MBLP)

NE1 – Areas of Special County Value, NE11 - Nature Conservation, Policy GC1 - Green belt (new buildings), GC8 – Reuse of Rural Buildings – Employment and Tourism, GC9 – Reuse of Rural Buildings – Residential, H9 – Occupation of Affordable Housing, DC3 - Protection of the amenities of nearby residential properties, Policy DC6 - Circulation and Access, Policy - DC8 – Landscaping, Policy DC9 - Tree Protection, Policy DC38 - Guidelines for space, light and privacy for housing development and Policy

## **Other Material planning policy considerations**

National Planning Policy Framework (NPPF) 2021

National Planning Policy Guidance (NPPG)

- Planning Obligations

There is no Neighbourhood Plan for the area.

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

**Head of Strategic Transport (CEC Highways)** – No objections



**Environmental Protection (CEC)** – No objections, subject to a number of conditions including the implementation of electric vehicle charging infrastructure details, the submission/approval an updated Conceptual Model (contaminated land), the submission/approval of a verification report (contaminated land); the submission/approval of a soil verification report and; works should stop in the event that contamination is identified. A number of infomatives are also proposed.

**Flood Risk Manager (CEC)** – No objections, subject to the following conditions: Implementation in accordance with submitted Flood Risk Assessment and the Submission/approval of an overall drainage strategy and associated management and maintenance plan.

**Housing Officer (CEC)** – No objections. Although proposals would normally trigger an on-site affordable housing requirement, the policy need to provide this is negated when nationally prescribed Vacant Building Credit is applied.

**Education Officer (CEC)** – No claim for education contributions.

**ANSA Greenspace (CEC)** – Commuted sum of £51,000 towards off-site improvements and amendments to the play and amenity facilities within High Leigh. Commuted sum of £17,000 towards Recreation and Outdoor Sport which would be used to make additions, improvements and amendments within the Council’s Playing Pitch Strategy in the Knutsford analysis area. Total sum: £68,000.

**NHS CCG** – No comments received at time of report.

*Note: The proposed number of units fall short of triggering a Health contribution*

**Natural England** – No objections, subject to the inclusion of a Construction Environmental Management Plan (CEMP) condition

**United Utilities** – No comments received in relation to the revised proposals

*Comments in response to the original scheme: No objections, subject to a number of conditions including: the implementation of the submitted surface water drainage strategy and the submission/approval of a sustainable management and maintenance plan*

**Cadent Gas Ltd** – No comments received in relation to the revised proposals

*Comments in response to the original scheme: Note that Cadent Gas apparatus is within the vicinity of the application site that maybe affected by the proposals.*

**Rostherne Parish Council** (*within which the Majority of the site falls*) – No comments received in relation to the revised proposals

*Comments in response to the original scheme: Wish to make a number of observations which are summarised below:*

- *That part of the Swan Hotel has heritage value and this should be taken into consideration. Strongly recommend that the existing building be kept and refurbished*
- *Would like to see the retention of the existing ‘Milestone’*

- *Suggests that the plans are reviewed to ensure that the houses that back on to Cicely Mill Lane have their rear gardens fully bordering the road*
- *Seek clarification as to who will be responsible for the maintenance of the land adjacent to Cicely Mill Lane*
- *Highways – concerned about traffic volume on Cicely Mill Lane and that the proposed junction would not be safe. As such, proposed it be re-sited*
- *Concern about the lack of affordable housing provision*
- *Request the provision of electric charging points*
- *Ask that the developer consider a play area and help to campaign to restore bus frequency and a new bus shelter as there are currently no provisions for public transport*
- *Landscaping – request native planting and that the white posts on Cicely Mill Lane be extended*

**Mere Parish Council** (*within which the Minority of the site falls*) – Concerned about the loss of the public house and support alternative proposals for its re-use

## REPRESENTATIONS

In response to the re-consultation exercise, at the time of writing this committee report, letters of representation have been received from 24 address, 23 of which raise the following objections:

- Loss of Public House / community asset
  - Principle of the loss of the Public House as a community facility
  - Associated impact upon mental health
  - The Swan is the focal point for 3 parish councils (Millington, Rostherne & Mere), all of which oppose the application
  - Contrary to emerging SADPD policy REC5 & paragraph 92 of NPPF, & EG2 of CELPS
  - At no point was the Public House marketed publicly as a public house/restaurant. Advise that the marketing specifically referred to the site as being potentially re-developed for 'housing, care or retirement living'
  - Local parishes or residents not approached for their views on the loss of the Public House
  - Loss has not been justified nor have alternative options been thoroughly considered
  - It is not whether the current owner is able to viably operate the site as a Public House, but whether the premises themselves are no longer able to support a viable business. There are other successful gastropubs in remote locations that are thriving
  - Adjacent BP garage also impacted by change in road, but still operating, why is the Public House any different
  - Do not accept that there is no 'footfall' past the site, there is still passing traffic
  - Applicant uninterested in selling to local who wants to run as a gastro-pub (which would also offer numerous community facilities)
  - No attempts have been made to provide a community facility elsewhere
  - No need for additional housing
- Heritage
  - Loss of heritage asset as part of the community heritage

- Locational sustainability
  - Site is not located close to community facilities to support the proposed housing
  - Lack of access to public transport
- Highways
  - Resultant increase in traffic

Of the 24 comments received, 1 was received in support of the application proposals.

In response to the original consultation exercise, representations were received from 6 residences, a neighbouring Parish Council (Millington) and the Campaign for Real Ale (CAMRA). All of these consultation responses raised objections or concerns for the following reasons:

- Loss of Public House / community asset
  - No apparent attempt to assess its viability - Should be marketed for a period of at least 12 months before an alternative use is considered (CAMRA)
  - Only community facility in the Mere/Rostherne/Millington area. Has operated as such for more than 170 years. Important facility in the community for social interaction
- Locational sustainability
  - Rural hamlet with few facilities for its community. Other areas that need housing that will result in less of an impact upon the environment
  - Lack of public transport in area
- Procedural
  - Suggestion that paragraph 17 of the application is incorrect as the floorspace added is on the same line as the floorspace eliminated for Class C3 Hotels whereas the floorspace added should be a separate line under Class C3(a) dwellinghouses
  - Did not receive notice of the application (The Moorings)
- Heritage
  - Proposal has not sufficiently considered/accounted for the historical or archaeological value of The Swan
  - Existing 'Milestone' should be retained
  - Small part of the ancient building should be preserved
  - Is the building listed?
- Design
  - Suggests that the plans are reviewed to ensure that the houses that back on to Cicely Mill Lane have their rear gardens fully bordering the road

- Suggest the erection of a red brick wall along Cicely Mill Lane perimeter to provide security and a boundary that is aesthetically pleasing
- Amenity
  - Dwellings proposed backing onto Chester Road are too close to the road (creation of privacy and noise concerns)
  - Concerns about construction phase such as noise and air pollution & where the site compound will be located and general nuisance from construction
  - Overlooking concerns due to building orientation
  - Distance from existing buildings to prevent nuisance
  - Request the provision of electric charging points
- Contributions – Developer should be requested to make a contribution towards public art possibly from CIL contributions
- Highways
  - Unclear what the traffic, parking and junction arrangements will be
  - Proposals will result in a considerable increase in traffic
  - Suggest that a better line of sight is achieved for the Cicely Mill Lane access
- Affordable housing – concerned about the lack of
- Landscaping – Lack of information about what is proposed
- Ecology – Impact of development upon rural wildlife
- Other
  - Suggest site could be a park or the public house retained
  - Query why a large portion of the land is not being incorporated into the development (Plot 8)

## **OFFICER APPRAISAL**

### **Principle of development**

#### Whether or not Inappropriate development in the Green Belt

The site lies entirely within the Cheshire Green Belt.

Policy PG3 of the Cheshire East Local Plan Strategy (CELPS) seeks to control new development within the Green Belt and does not support the construction of new buildings within it, unless it is for one of the purposes set out in the policy.

These purposes include; buildings for agriculture or forestry, appropriate facilities for outdoor sport and outdoor recreation, for cemeteries and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; extensions or

alterations to buildings provided that it does not result in a disproportionate additions over and above the size of the original dwelling; replacement buildings provided that the replacement is within the same use and not materially larger; limited infilling in villages, and limited affordable housing; limited infilling or the partial or complete redevelopment of previously developed sites provided they would not have a greater impact upon openness; mineral extraction, engineering operations, local transport infrastructure, the re-use of buildings provided that are permanent and substantial and development brought forward under a Community Right to Build Order.

The revised application proposals would fall into two separate categories within PG3 of the CELPS:

- The re-use of buildings provided that they are of permanent and substantial construction (Plots 1 & 15-17)
- Re-development of previously developed sites which would not have a greater impact upon openness of the Green Belt and the purpose of including land within it than the existing development (Remainder of plots)

### Re-use of buildings

The dwellings proposed on Plots 1, 15, 16 and 17 involve the re-use of existing buildings (Buildings 1 and 3). As stated above, the principle of the conversion of existing buildings in the Green Belt is acceptable, subject to the buildings being permanent and substantial.

Although no structural surveys accompany the submission, from a visual inspection only, the buildings appeared to be of a solid construction, suitable for conversion.

This Green Belt exception also includes a pre-cursor that any such development should also preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

As part of the proposed conversions, additional development is proposed to buildings 1 and 3. However, it is deemed that this is balanced out / more than compensated for by the associated proposed demolition to the buildings. As such for this element of the proposal, it is considered that the openness of the Green Belt would be preserved, and the proposals would not conflict with the purposes of including land within the Green Belt. Therefore, this element of the application proposals is deemed acceptable in principle.

### Previously Developed Land (PDL)

The first consideration of this exception is whether the remainder of the site sought for development qualifies as 'previously developed land' (or PLD or brownfield land).

PDL is defined within the glossary of the NPPF as:

*'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation*

*grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'*

The buildings sought for demolition, the adjacent highways maintenance depot and the associated land within the red edge of this application are deemed to fall within this exception.

The second part of the Green Belt assessment is therefore whether the development sought would have a greater impact on the openness of the Green Belt than the existing development.

Paragraph 001 (2019) of the Green Belt NPPG sets out what factors can be taken into account in the assessment of openness. Three factors are listed and include-

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.*

To assist in assessing openness in visual and spatial terms a comparison exercise between the existing and proposed development is required. The agent has provided some figures within their submission and the Officer undertaken measurements. A summary of these is set-out below:

	Footprint (m2)	Floorspace (m2)	Building Height range (m)	Volume (m3)
Existing buildings (Excluding retained parts of B1 and B3)	2101 (agent - 2132)	3013	5.11-10.37	11,376
Proposed buildings (Excluding retained parts of B1 and B3)	2151 (agent - 2111)	3116 (agent - 3051)	4.7-8.48	12,532 (agent - 12,709)
Percentage difference	2% increase (agent - 1% decrease)	3% increase (agent - 1% increase)	General reduction	10% increase (agent - 12% increase)

This shows that there is not a large variation between the Agent's and the Officer's calculated figures between the existing and proposed built form.

In general terms, it is deemed that the proposed development would comprise of a similar footprint and floor space to the development being replaced and would amount to only a 10-12% increase in volume, a figure not deemed significant.

None of the built form proposed would be taller than that being replaced. Indeed, the maximum height of the buildings proposed would be almost 2 metres lower than the tallest existing buildings. As such, the proposed development in terms of its height is not deemed to result in a greater impact upon openness to the Green Belt compared to the existing development.

Consideration also needs to be given to the spread of the proposed development on the site compared to the spread of the existing built form. This assists in assessing the impact of openness with regards to its spatial context. The existing built form is largely located to the north and west of

the site. The layout of the proposed development is largely reflective of this arrangement albeit extending built form further to the south. However, to counterbalance this impact, built form is not proposed to extent as far to the east as the existing built form. As such, it is not deemed that the proposed development would result in a greater impact upon openness in terms of the proposed spread of built form.

In consideration of the final aspect of openness, degree of activity, the proposed use is not deemed to result in any notable greater degree of activity than the existing use.

For the above reasons, it is not deemed that the development would have a greater impact upon the openness of the Green Belt than the existing development. The proposals are therefore deemed to represent appropriate development in the Green Belt and would adhere with the Green Belt policies of the development plan.

## **Other Development Plan considerations**

### Loss of Public House

Paragraph 84 of the NPPF refers to a prosperous rural economy. It states that planning policies and decisions should enable *'d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.'*

Paragraph 93 c) of the NPPF advises planning policies and decisions should *'guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day-to-day needs.'*

Draft Policy REC5 from the emerging Cheshire East Site Allocations and Development Plan Document (SADPD) specifically relates to Community Facilities.

This draft policy sets-out that development proposals should seek to retain, enhance and maintain community facilities that make a positive contribution to the social or cultural life of a community. The second criterion of the policy is that any community facility that makes a positive contribution to the social or cultural life of a community should be retained unless suitable alternative provision is made.

As the SADPD is yet to be adopted, the Council's Spatial Planning Team have advised that any policies within this document can only be afforded moderate weight at most at this moment in time. This is despite the interim findings of the Inspector not questioning any aspects of this particular draft policy.

It is therefore for the Local Planning Authority to firstly consider whether the loss of this facility is a material planning consideration and if so, how much weight to attach to it in the decision-making process.

The vast majority of the objections received to the planning application relate to the loss of the public house and the role it plays in the community. More specifically, amongst various reasons put forward by objectors as to the site's importance, it has been repeatedly commented upon that the Swan was an important facility in the community for social interaction. As such, it is deemed

that the loss of the public house use, due to the role it has played in the local community, is a material consideration in this case. Subsequently, thought needs to be given to the weight to afford to the loss of the public house use as part of the planning balance. To do this, further understanding of the business, the reasons for its closure and an understanding of any attempts for possible continued use under a new owner/operator are considered.

The application sets out that the business formally closed on the 4<sup>th</sup> August 2020.

The agent for the application advises that the location of the Swan and Premier Inn meant much of its business resulted from its strategic location on the highway network, which provided a link between the West Midlands and Manchester, and Manchester Airport. It is advised that a significant part of The Swan's business was overnight stays and parking for travelers using Manchester Airport. It is stated that the opening of the new A556 bypass in 2017 dramatically reduced passing traffic and changed the location of the pub and hotel from that of a strategic location, to a local B-road. Competition from more modern airport and city hotels was also impacting business.

In a subsequent letter received from the owners, financial details have been provided showing a steady decline in profits of the business from 2014 through to the 2019/2020 financial year when a loss was recorded. The profits appeared relatively healthy for the 2014/15, 2015/16 and 2016/17 financial years, but took a notable drop-off in the 2017/18 financial year and showed little sign of improvement after resulted in a loss in 2019/20. This would appear to substantiate the applicant's reasoning as to why the business closed.

The agent advises that these factors meant there was no business case to support Whitbread's continued presence at the site, or future investment - estimated in excess of £500k to bring the building up to a reasonable state. Despite various objectors suggesting otherwise, the reasons behind the closure of the public house are considered to have been substantiated.

If weight is to be given to the retention of the existing use, there has to a reasonable chance of that use continuing should permission be refused. A Marketing Statement was provided during the application process to address this point. It sets out the following key points:

- Gerald Eve were instructed to market for the site in January 2019
- The site was marketed for a continuous period of approximately 2 ½ years between March 2019 and September 2021 on the Estates Gazette website (within no minimum asking price) and Gerald Eve's website. A 6-page brochure was produced
- The story of the sale was also covered locally in an article on the Knutsford Guardian's website dated the 8<sup>th</sup> January 2019
- The initial results of the marketing generated approximately 100 initial enquiries and 56 requests for access to the specific marketing data
- Following an initial call for bids in July 2019, offers from 15 separate parties were received. The majority of these were from developers looking to redevelop the site for residential use
- Note: It has been advised that no offers were received from either pub or hotel operators or persons looking to continue the use within the 2 ½ year period
- 5 shortlisted parties were then invited to submit a best and final offer on the 4<sup>th</sup> December 2019. The applicant was chosen as the preferred purchaser in March 2020



- Following this selection, Gerald Eve continued to monitor interest in the site and whilst there have been at least 13 additional approaches, it has been advised that none of these have been either from pub or hotel operators or persons looking to continue the use
- Gerald Eve conclude that the marketing exercise has demonstrated that there is no viable interest in the site from either pub or restaurant operators despite it being marketed for approximately 2.5 years

This report demonstrates that marketing was undertaken for a considerable length of time with no offers coming forward to take the site on for its existing use which includes the public house. In addition, it has been demonstrated that the public house became unviable largely as a result of circumstances outside of the applicant's control, the creation of a new road which took away passing trade. The public house is not a designated or a nominated Asset of Community Value (ACV).

For these reasons, whilst the loss of this former community facility is regrettable, the weight afforded to its loss is limited at best. It is not the purpose of the planning system to perpetuate the continuation of a non-viable use in order to meet social objectives. It is also not the role of this application to consider alternative proposals for the site when no such proposals have been submitted for consideration/assessment.

### Locational Sustainability

Policy SD2 of the CELPS refers to sustainable development principles. It is stated that one of these principles is that new development should provide access to a range of forms of key services and amenities. In order to assess this in more detail, a table is provided within the subtext of the policy which outlines recommended distances from application sites to amenities. An assessment of the scheme undertaken by the applicant using this table, is set out below.

It should be noted that the figures below are based on walking distances (not as the crow flies) but on real life distances.

- Amenity open space (500m) – 100m (Fields off Chester Road)

The accessibility of the site shows that following services and amenities meet the minimum standard:

- Post Box (500m) – 350m (Chapel Lane/Crescent Rd Junction)
- Convenience Store (500m) – 250m (Hursts at BP Petrol Station)
- Bank or Cash Machine (1km) – 240m (BP Petrol Station)

The following amenities/facilities are all over the distances suggested:

- Bus stop (500m) – 1.9km (Chester Rd bus stop)
- Public right of way (500m) – 570m (Mere Footpath 6)
- Railway station (2km where possible) – 5.7km (Ashley Station)
- Children's Playground (500m) – 4.5km (Tatton Park Playground)
- Outdoor Sports (500m) – 1.7km (Rostherne Cricket Club)
- Supermarket (1km) – 5.3km (Co-Op, Knutsford)
- Pharmacy (1km) – 5.2km (Cohen's Chemist, Knutsford)
- Primary School (1km) – 4.3km (High Legh Primary School)

- Secondary School (1km) – 5.6km (Knutsford Academy)
- Medical Centre (1km) – 5km (Manchester Rd Medical Centre)
- Leisure Facilities (1km) – 5.3km (Knutsford Leisure Centre)
- Public house (1km) – 2.4km (Kilton Inn)
- Child-care facility (nursery or creche) (1km) – 2km (The Mere Day Nursery)
- Post Office (1km) – 2.3km (Mere Post Office)
- Local meeting place/Community Centre (1km) – 6.9km The Jubilee Centre, Bowden
- Public Park or Village Green (1km) – 2.4km (Tatton Park)

To summarise the above, the scheme is within just 3 of the recommended distances of the public services listed. These findings suggest that the application site is locationally unsustainable meaning that the future occupiers of the site would be reliant on the use of a car to satisfy most of their day-to-day needs. Although this is indeed likely to be the case given the site's most recent use as a public house and hotel, it is not deemed that this harm would be any greater than the previous use.

### Heritage

Policy SE7 of the CELPS refers to the Historic Environment. The crux of Policy SE7 is to ensure all new development avoids harm to heritage assets and makes a positive contribution to the character of Cheshire East's historic and built environment, including the setting of the assets and where appropriate, the wider historic environment.

There are no designated heritage assets on or within close proximity to the site. However, a number of local residents / interested parties have emphasised the age of part of the Swan Hotel building and the Milestone adjacent. Indeed, accompanying one of the objections is a commissioned short heritage assessment of the site.

This assessment concludes that the main part of the Swan itself, is of historic and architectural interest and should be classified and assessed as a 'non-designated heritage asset'. As part of the original application proposals, it was proposed that this building be demolished in its entirety along with its associated outbuildings. The Council's Heritage Officer went a step further, advising that they considered that a range of the buildings on-site (referred to a building's 1, 2 and 3 within the submission) represented 'non-designated heritage assets'. The applicant's Heritage consultant disagreed with this conclusion, setting out within their submitted Heritage Statement that they consider only Buildings 1 and 2 should be regarded as 'non-designated heritage assets'. The old Milestone on site was agreed by all as having historical value.

Despite the conflicting opinions, the applicant, following negotiations with the Council's Heritage Officer, agreed to the retention and conversion of Building 1 and Building 3 and subsequently, revised plans were submitted.

Paragraph 203 of the NPPF sets-out that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The Council's Heritage Officer, in response to the revisions, has advised that the repair of the Inn and conversion back to a dwelling with attention to repairing the historic fabric and improving the vernacular character would create a positive impact. In terms of the retention and conversion of

Building 3, the Council's Heritage Officer has advised that this is also welcomed. Due to the extent of alterations to Building 2 its loss, whilst regrettable, is accepted when considered in conjunction with the heritage benefits now achieved with the retention of buildings 1 and 3.

The Council's Heritage Officer subsequently withdraws their original objection, subject to a number of conditions in the event of approval. These include: the retention of Milestone, the submission/approval of any new or replacement facing or roofing materials, the submission/approval of new or replacement window and door details to buildings 1 and 3, that any fenestration should include reveals to match and the withdrawal of Permitted Development Rights for buildings 1 and 3.

Subject to these conditions, the application is deemed to now adhere with the requirements of Policy SE7 of the CELPS and the NPPF.

### Design

Policy SE1 of the CELPS advises that the proposal should achieve a high standard of design and: wherever possible, enhance the built environment. It should also respect the pattern, character and form of the surroundings. Policy SD2 of the CELPS states that development should contribute positively to an area's character and identity, creating or reinforcing local distinctiveness in terms of; height, scale, form and grouping, choice of materials, external design features, massing of development, green infrastructure and relationship to neighbouring properties and streetscene. These policies are supported by the Cheshire East Design Guide SPD.

### *Context*

The site is located towards the centre of the village of Bucklow Hill on the corner of the A5034 Chester Road and Cicely Mill Lane. It currently contains the Swan Hotel, which fronts Chester Road with a 70-bed Premier Inn Hotel to the rear of this. The two-storey Swan Hotel building shows signs of heavy modification and is of no particular architectural merit. The linear hotel wings are unattractive and sit in large areas of hard surfacing. There are also some single storey staff accommodation blocks to the eastern end of the site.

### *Layout*

The original layout resulted in two initial design concerns. Firstly, the inward facing nature of the design and secondly, that the rear boundaries of the properties to the south of the site would back-on to the highway, potentially causing concerns in relation to fences, garden sheds etc being erected and therefore becoming visible within the streetscene.

In response, this was a matter originally discussed with the agent for the application at pre-application stage. As a result of those discussions, the scheme was revised so the most visible parts of the site within the streetscene, the area on the Chester Road / Mereside Road junction would be designed so they would indeed, be outward facing. This has now been achieved. The concept regarding the remainder of the site was around the creation of a central courtyard/farmyard design which responds to historic farmstead principles seen at the outer edges of Bucklow Hill. It provides a sense of enclosure, natural surveillance and encourages social interaction. In addition, the provision of gardens to the rear helps soften the edge of the site where it transitions into open

fields. Following further correspondence with the Council's Urban Design Officer, the Officer is now supportive of the current layout.

The Council's Urban Design Officer has also advised that the former problematic issue of the southern boundary to Cicely Mill Lane has been resolved with the retention of a landscape buffer on the boundary with Mereside Road that would fall outside of these curtilages. A Management Plan has also been submitted which highlights the extent of the land (outside of the curtilages) that would be subject to being managed by a private management company. An updated Landscaping plan would be conditioned to ensure the detail of this landscaping is acceptable.

In the event of approval, it is proposed that the requirement to provide a private Management Company to ensure this landscaping is maintained outside of residential curtilages in perpetuity is secured via a S106 Agreement.

### *Scale and Massing*

The new build elements of the scheme are all two-storeys and this is considered appropriate and presents a varied roofline with the presence of garages. As a result, the scale and massing of these proposals gives rise to no concern.

### *Parking*

Parking levels are considered to be appropriate for this location and the spaces are located in-curtilage in the main, or within a parking court (north-west corner), all being close to the associated dwellings. It is felt that cars would not dominate the street scene. The parking court is small, utilises an appropriate material palette and is well-integrated with landscape elements reducing the impact of the parked cars to the street.

### *Mix*

Policy SC4 of the CELPS sets out that new residential development should provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. The Policy also sets out how development should be able to meet and adapt to the long-term needs of the boroughs older residents.

The application proposes a mix of 3 to 5-bed properties and a mixture of detached and mews/terraced properties. It is considered that there is a sufficient mix and variation to create a mixed, balanced and inclusive community.

In response to how the development would be able to meet and adapt for the long-term needs of the borough's older residents, the agent has advised that this mix will offer something to older residents by comprising a mix to meet needs for larger properties or for those wanting to downsize. The mix of family homes will also free up smaller properties that may be suited to older people elsewhere. There is also scope for future adaptations if required.

### *Appearance*

The architecture is essentially traditional in both style and detail and it clearly draws from the local vernacular without resorting to pastiche. A suitably limited materials palette is suggested. However, to ensure that quality materials are used in the event of approval it is recommended a

condition be imposed requiring the prior submission/approval of the specific detail of all facing, roofing and external hard surfacing materials.

### *Summary*

The previous urban design concerns have been addressed and the revised proposals are now supported. As such, it is considered that the proposal would respect the local rural character and adhere to Policies SE1 and SD2 of the CELPS, the Cheshire East Design Guide SPD and the NPPF.

### Amenity

Policy DC3 of the MBLP states that development should not significantly injure the amenities of adjoining or nearby residential property or sensitive uses due to (amongst other considerations): loss of privacy, sunlight and daylight, an overbearing impact and environmental considerations. Policy DC38 of the MBLP provides minimum separation distances.

Policy SE1 of the CELPS states that development should ensure an appropriate level of privacy for new and existing residential properties.

The closest neighbouring residential properties to the application site are the occupiers of Holly Tree Cottage to the north, Whitehouse Farm to the north-east, Aldrin and Willowdale to the south and Brook Lodge to the south-east.

Given how far away all of these residential properties are to the site, in excess of 65 metres, it is not deemed that the development would result in any unacceptable neighbouring impacts in terms of loss of privacy, light or an overbearing impact.

In relation to environmental matters, the Council's Environmental Protection Officer has reviewed the application proposals and advised that they have no objections, subject to a number of conditions including the implementation of electric vehicle charging infrastructure details, the submission/approval an updated Conceptual Model (contaminated land), the submission/approval of a verification report (contaminated land); the submission/approval of a soil verification report and; works should stop in the event that contamination is identified. A number of infomatives are also proposed including that the team would expect future reporting in relation to contaminated land to reflect the revised proposals.

Having regard to the future occupiers of the proposals themselves, subject to a number of openings being conditioned to be obscurely glazed to prevent loss of privacy, it is not deemed that the future occupiers of the proposed development's amenities would be harmful as a result of the layout and arrangement of the development proposed. Sufficient private amenity space for the future occupiers is being proposed.

As such, subject to the above conditions and informatives, it is considered that the development would adhere to Policies DC3 and DC38 of the MBLP and the amenity aspect of Policy SE1 of the CELPS.

### Highways

Policy CO1 of the CELPS and saved Policy DC6 of the MBLP consider matters of highway safety.

The application is supported by an updated Transport Statement in conjunction with the revised layout, which has considered the following matters: Accessibility, trip generation and sustainable travel plan measures.

### *Traffic Impact*

The Council's Highway's Officer has advised that given the previous use of the site, the proposed 17 residential units represents a significant reduction in traffic generation compared to the previous use of the site and is a highway benefit of the scheme.

### *Access and Visibility*

The existing access is to be used to serve the main part of the development. The carriageway width is 4.8 metres with a 2-metre footway on the western side and 1.5 metre on the eastern side. The rear of the site is a shared surface arrangement serving four dwellings. This main access provides 2.4 metre x 43 metre splays which is deemed acceptable.

No access or visibility concerns are raised in relation to the 2<sup>nd</sup> access proposed onto Chester Road to serve plots 15-17.

### *Parking/Cycle parking*

The level of parking for each unit is in compliance with CEC parking standards. In the event of approval, a condition requiring the submission/approval of cycle parking and storage within the curtilage of the dwellings is proposed.

### *Summary*

This is a previously developed site being re-used for private residential use with the access arrangements largely remaining the same. The Council's Highway's Officer advises that the internal road layout is an acceptable standard to serve the units proposed and provides a sufficient level of parking. As such, no highway objections are raised

The proposals are therefore deemed to adhere with Policy DC6 of the MBLP.

### Landscape

The crux of Policy SE4 (Landscape) of the CELPS is to conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes.

The submission includes a Visual Impact and Settlement Character Appraisal Document and a Landscape and Visual Appraisal. This identifies that the application site lies within the boundary of a designated landscape the 'Rostherne/Tatton Local Landscape Designation Area' and offers baseline information on the application site and surrounding area, which is located within the area identified in the Cheshire East Landscape Character Assessment as LCT 5: Wooded Estates and Meres and specifically LCA 5d: Tatton and Rostherne and the wider landscape on the western side of the Chester Road falls within the LCT 7: Lower Wooded Farmland area and specifically LCA 7a: Arley.

The Visual Appraisal identifies a number of receptors, identifies as those using Public Rights of Way on Footpaths FP1 Rostherne, FP6 Mere and FP3 Mere, and Road Users on Cicely Lane, Mereside Road/Chester Road and Bucklowhill Lane/Chapel Lane. These indicate that there will be partial and oblique views that reduce as landscape proposals mature, as will the visual effects for road users. The Landscape Appraisal indicates that the proposals will, in the longer term, result in minor beneficial effects, although in the shorter term they can be expected to generate neutral landscape and visual effects. The Council's Landscape Officer broadly agrees with the appraisal.

The Council's Landscape Officer does not consider that the proposals will result in any significant landscape or visual impacts. Should this application be recommended for approval, the Officer recommends a condition requiring the submission/approval of a landscaping scheme for the site and an associated landscaping implementation condition. Subject to these conditions, it is considered that the proposals would adhere with Policy SE4 of the CELPS.

### Trees & Hedgerows

Policy SE5 of the CELPS relates to trees, hedgerows and woodland. The crux of the policy is to protect trees that provide a significant contribution to the amenity, biodiversity, landscape or historic character of the surrounding area.

The application site boundary includes the former Swan Hotel which comprises of occasional established trees with groups of closely spaced semi-mature and early mature planting of lower quality trees. The site is not within a Conservation Area and no statutory protection applies to any of the tree cover on the site.

The application has been supported by an Arboricultural Implications Assessment (AIA) and Arboricultural Method Statement (AMS). The survey has identified 6 individual trees, 7 groups of trees and 3 hedgerows on the site comprising of 1 individual and 2 groups of moderate quality B Category trees, five individual and 4 groups of low-quality C Category trees and 1 poor quality U Category group unsuitable for retention irrespective of development. Of these, 4 individual (T2, T3, T5 & T6) and 4 groups (G1, G3, G5, G6) of low-quality trees and a small section of moderate quality group G7 will be removed for the access and a substation, all of Hedgerow H2 and part of H3 are proposed for removal to accommodate the proposal. The Council's Tree Officer has advised that none of the individual or groups of trees shown for removal are of any arboricultural significance which renders them worthy of formal protection.

The retention of moderate quality trees, boundary screening along Cicely Mill Lane and a wooded area to the eastern corner of the site will serve to maintain some of the existing screening which these trees collectively provide the site from the south and east. However, the Council's Tree Officer advises that opportunities exist to further strengthen boundary planting around the site.

The submitted AIA and AMS have appraised a layout which has now been superseded by a revised layout as indicated on the Landscape Proposals (M3113-PA-01-V6). The revised layout shows alterations in terms of position of plots to offsite tree T4. However, the Council's Tree Officer has advised that this can be addressed in an updated AIA and AMS should this application be approved.

The Council's Tree Officer advises that the revised layout does not appear to present any significant additional impacts in terms of further tree removals although the amendments to the layout and position of garden boundaries to plots 3-8 appear to have arisen in a reduction in the extent of the indicative new planting originally proposed on Landscape Proposal Plans (M3113-PA-01-V4).

Local Plan Policy SE 5 requires that all developments should ensure the sustainable management of trees, woodlands and hedgerows including the provision of new planting within new development to retain and improve canopy cover, enable climate adaptation resilience, and support biodiversity. Given the extent of tree removals proposed it is considered this planning application provides an opportunity to incorporate new planting in accordance with this policy which demonstrates adequate mitigation has been provided, and a commitment to strengthening and enhancing the existing boundary screening. It is recommended that if planning permission is granted a condition should be attached which requires the submission of a landscape scheme which addresses the requirements of this policy.

As such, subject to policies to conditions to ensure; remaining tree retention, the submission/approval of a tree protection plan, the submission/approval of an updated AMS and the submission/approval of a service/drainage layout, the proposal is deemed to adhere with Policy SE5 of the CELPS.

### Nature Conservation

The application is supported by various ecology surveys. The key ecology considerations are broken down below.

#### *Rostherne Mere SSSI Impact Zone*

The proposed development falls within Natural England's SSSI impact zone. Natural England ask that for proposed developments in this location they are consulted on the potential risk from 'Any residential developments with a total net gain in residential units'.

Due to the site's proximity to a RAMSAR site (Rostherne Mere), the Council's Nature Conservation Officer undertook an Assessment of Likely Effects (ALSE) as part of the Habitat Regulations Assessment process which the Council's Officer does to assess the anticipated impact of the development upon a European designated site. The conclusion of the ALSE was that due to a risk of aquatic pollution, a significant effect is likely as a result of the proposals.

The next stage of the HRA process was to complete an *Appropriate Assessment* (AA), which can take into consideration proposals made in the submitted *Ecological Statement* (Rachel Hacking Ecology, 20/09/2021). The conclusion of the AA was that provided the mitigation measures were adhered to, a significant effect on the RAMSAR is not likely to occur.

As such, in the event of approval, the Council's Nature Conservation Officer recommends a condition be imposed requiring adherence to the mitigation measures proposed in the Ecological Statement.



Natural England have requested that the HRA is re-run following the submission of a Construction Environmental Management Plan (CEMP). In the event of approval, the requirement to provide a CEMP is required and a requirement that it should include the ecology elements included within the submitted Ecological Statement.

### *Bats*

A daytime inspection and activity surveys were carried out late in the 2020 bat season. Some evidence of bats was recorded during the daytime survey. Due to this and the suitability of the building for roosting bats, the ecologist who undertook the survey has recommended that further bat activity surveys are undertaken in order to gather sufficient data to make a confident assessment of the likely presence of legally protected roosts on site.

The required surveys were carried out in optimum conditions during the 2021 bat season. No legally protected roosts were identified. The Council's Nature Conservation Officer advises that no further survey effort is required for bats for this application provided works commence before May 2022. Should the start of works be delayed beyond that date an update assessment may be required. A condition to this effect is proposed in the event of approval.

### *Breeding Birds*

If planning consent is granted, a condition is requested to protect nesting/breeding birds.

### *Schedule 9 Species*

Japanese knotweed is present on the proposed development site.

If the applicant intends to move any soil or waste off site, under the terms of the Environmental Protection Act 1990 any part of the plant or any material contaminated with Japanese knotweed must be disposed of at a landfill site licensed to accept it and the operator should be made aware of the nature of the waste.

An informative to this effect will be put on the decision notice in the event of approval.

### *Ecological Enhancement*

Policy SE3(5) of the CELPS requires all developments to aim to positively contribute to the conservation of biodiversity. This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development in accordance with this policy. The Council's Nature Conservation Officer therefore recommends that if planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy.

Subject to the above conditions, it is considered that the proposal adheres with Policy SE3 of the CELPS and Policy NE11 of the MBLP.

## Flooding and Drainage

The application site does not fall within a Flood Risk Zone 2 or 3, but within Flood Risk Zone 1 – the lowest flood risk category which covers all of England. However, due to the size of the application site, the application is required to be supported by a Flood Risk Assessment (FRA). This has been provided, as have various other drainage documentation, updated to reflect the current layout iteration.

The Council's Flood Risk Officer has reviewed the proposals and advised that they have no objections in principle, subject to a condition that the development be carried out in accordance with the submitted Flood Risk Assessment and a condition requiring the submission/approval of an overall detailed drainage strategy (which restricts the maximum discharge rate for this development) and associated management and maintenance plan.

In consideration of matters of drainage, United Utilities have not commented on the revised proposals. However, in response to the original layout, they raised no objections, subject to the following conditions: implementation of the submitted surface water drainage strategy and the submission/approval of a sustainable management and maintenance plan. It is considered that these are still relevant given that the drainage strategy has not significantly altered.

Subject to the suggested conditions, the application is considered to adhere with Policy SE13 of the CELPS.

## Affordable Housing

Policy SC5 of the CELPS refers to Affordable Housing. It states that in residential developments, 30% affordable housing will be provided in developments of 15 or more dwellings (or 0.4 hectares) in Principal Towns and Key Service Centres or in developments of 11 dwellings or more (or that have a combined gross floorspace of more than 1000sqm) in Local Service Centres and all other locations.

The applicant has not proposed any affordable housing as part of the proposals. They advise that this is because the site qualifies for the Government's Vacant Building Credit which incentivises brownfield redevelopment and regeneration by reducing affordable housing requirements on qualifying sites.

Government guidance on this incentive is provided within the Planning Obligations NPPG. To be applicable, there are qualifying criteria. These are:

3. That the buildings on site must be vacant for at least 6 months; and
4. The buildings need to have been vacant for reasons other than the redevelopment of the site

The applicant has set out why they consider the proposals adhere with these requirements. More specifically:

3. That the buildings have been vacant since February 2020, a period in excess of 12 months; and

4. The reason for them becoming vacant was the impact upon trade of the opening of the new A556 link road between the M6 and M56

Where a vacant building is either demolished to be replaced by a new building or re-used, the developer is offered a financial credit equivalent to the existing gross floorspace of the relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

It has been calculated that the floorspace of the existing buildings sought to either be re-used or demolished is greater than the floorspace of the development proposed. As such, there is no affordable housing requirement. This conclusion is accepted by the Council's Affordable Housing Officer.

### Education

The Council's Education Officer has advised that it is not necessary for the proposals to provide a financial contribution to either primary, secondary or special education needs at this time.

### NHS

The proposals will not trigger the provision of a contribution towards health.

### Public Open Space (POS) & Recreation and Outdoor Sport

Policy SE6 of the CELPS requires all developments to protect and enhance existing open spaces and recreation facilities, encourage improvements in their quality and provide adequate open space (to name a few). In order to assess the adequacy of the open space, a table (13.1) is provided within the subtext of Policy SE6 which sets out open space standards.

Being a major development, the provision of Public Open Space [play and amenity] and Recreation and Outdoor Sport is required in line with Policy SE6 of CELPS.

The Council's ANSA Green Space Officer advises that as this is not being provided on-site, a commuted sum in lieu of on-site provision will be required, for the provision of those facilities off site.

The POS commuted sum required will be £3,000 per family dwelling, a total of £51,000 and which will be used to make additions, improvements and amendments to the play and amenity facilities within High Legh. The commuted sum will be required on commencement of development and there will be a 15 year spend. The council regularly works with the local community of High Legh on improving these facilities, for which there is high demand.

The commuted sum for Recreation and Outdoor Sports will be £1,000 per family dwelling, a total of £17,000 and which will be used to make additions improvements and amendments in line with the Council's adopted Playing Pitch Strategy in the Knutsford analysis area, in which the application site sits. Again, the commuted sum will be required on commencement of development and will have a 15 year spend period.

This would be secured via a Section 106 Agreement in the event of approval and the applicant has agreed to the requirements.

### Other matters

In response to points raised by objectors which have not already been addressed:

Criterion 6 from CELPS policy EG2 (Rural Economy) sets out that within locations such as the application proposals, developments that support the retention and delivery of community facilities such as shops and public houses, and villages will be supported, where they further adhere with various other requirements. Objectors have advised that the application proposals are contrary to this policy.

In response, Policy EG2 is silent on the loss of community services and does not provide any criteria against which to address a loss.

It is recognised that draft policy REC5 from the draft SADPD sets out that any community facility that makes a positive contribution to the social or cultural life of a community should be retained 'unless suitable alternative provision is made'. In response, the public house has been closed for almost 2 years so does not currently provide a positive contribution. Although the former public house appeared to be highly valued by the local community, the public house is not a formal Asset of Community Value. In addition, only moderate weight at most is to be afforded to emerging policies in the SADPD at this time. When this is considered in conjunction with the fact that the applicant has marketed the facility for 2 ½ years with no offers being received from any party who wishes to continue the use, it is not deemed necessary to insist that a replacement facility should be provided in this instance.

An objector has suggested that at no point was the public house was marketed publicly as a public house/restaurant. The objector has advised that the marketing specifically referred to the site as being potentially re-developed for 'housing, care or retirement living'. In response, the agent for the applicant has advised that the site was marketed with no minimum asking price and on conditional and unconditional basis, therefore operators interested in a continued public house/restaurant use would not be deterred from making an offer. 'Housing, care and retirement' were suggested as potentials to widen the marketing search, which the agent for the application sets out was clearly needed as no pub or hotel operator or other persons interested in continuing the existing use made an offer.

An objector has suggested that other rural public houses are thriving in Cheshire East therefore suggesting that it's difficult to believe that the use as a public house is not viable. In response, the applicant has provided financial justification to demonstrate the year-on-year decline of the business and has marketed the site for a lengthy period without another group or persons putting in an offer to continue the use. In such circumstances, it is deemed reasonable to consider alternative uses.

### **Heads of Terms**

If the application is approved, a Section 106 Agreement will be required to secure the following:

- Contribution of £68,000 towards off-site Public Open Space (POS), Recreation and Outdoor Sports improvements (£51,000 towards off-site POS improvements & £17,000 towards off-site Recreation & Outdoor Sport improvements)
- Requirement to provide a private management plan to manage landscaping outside of domestic curtilages

## **CIL Regulations**

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

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

The total financial contribution of £68,000 is deemed necessary to ensure that the impact of the development upon nearby Public Open Space and Recreation and Outdoor Sports is mitigated.

The requirement to establish/hire a Management Company to manage the landscaping of the site outside of residential curtilages is required to ensure the development remains well screened from the most public vantage points in perpetuity.

The requirements are therefore considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

## **Conclusions**

The site lies entirely within the Cheshire Green Belt. Planning policy seeks to control new development within the Green Belt and does not support the construction of new buildings or uses within it, unless it is for one of the purposes set out in the policy. Those purposes include: the re-use of buildings provided they are permanent and substantial, and the development preserves the openness of the Green Belt and purposes of including land within it. In addition, it includes the re-development of previously developed land so long as the development does not have a greater impact on the openness of the Green Belt than the existing development.

The proposed development is deemed to fall within and adhere with the requirements of these Green Belt policy exceptions. As such, the proposals are deemed to represent appropriate development in the Green Belt.

Although the built form of the most historic elements of the on-site public house (The Swan) are to be retained as part of the development (as a conversion), the loss of the public house as a community facility is a material consideration. The applicant has submitted financial and marketing information to the Council which is deemed to effectively validate the reasons why the now former public house closed and demonstrates that the business was marketed for a sufficient period of time (2 ½ years) without any formal offers for the continuation of the use being received. As such, whilst the loss is regrettable, the weight afforded to its loss is limited at best. It is not the purpose of the planning system to perpetuate the continuation of a non-viable use in order to meet social

objectives. It is also not the role of this application to consider alternative proposals for the site when no such proposals have been submitted for consideration/assessment at this time.

Although the location of the site is relatively isolated from larger communities and their associated public facilities, making it highly likely that the future occupiers would rely heavily of the use of private motor vehicles to travel to and from the site, this has historically been the case on this site given that the previous use was that of a public house and a hotel.

Planning benefits are derived from the re-use of two of the three most historical buildings on site. These are not formal heritage assets but have been identified as ‘non-designated heritage assets’ during the application process and as such, the retention of these, as well as the on-site milepost, as part of the development is welcomed.

No issues are deemed to be created by the application proposals with regards to design, amenity, highway safety, landscape, trees, ecology or flood risk and drainage, subject to a S106 Agreement to secure the management of the landscaping outside of the curtilages on site and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space in line with policy. This is proposed to be secured via S106 Agreement in the event of approval. No affordable housing is required as part of the development proposals when Vacant Building Credit is applied. The development does not trigger the requirement to provide health of education contributions due to the number of dwellings sought.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping outside of curtilages in addition to securing the required commuted sums towards off-site open space improvements, along with planning conditions, the application is recommended for approval.

<b>S106</b>	<b>Amount</b>	<b>Trigger</b>
Public Open Space & Recreation and Outdoor Sports – Commuted Sum	£51,000 towards off-site POS improvements  £17,000 towards off-site Recreation & Outdoor Sport improvements	Prior to commencement
Requirement to provide an on-site Management Company	Secure requirement to provide on-site Management Company to manage out of curtilage landscaping	Prior to occupation of any of the development

**And the following conditions:**

**30. Time (3 years)**

- 31. Plans**
- 32. Submission/approval of facing, roofing and external hard surfacing materials**
- 33. Retention of Milestone**
- 34. Submission/approval of new or replacement window and door details to (Buildings 1 and 3)**
- 35. Any new or replacement fenestration to Buildings 1 and 3 should include reveals to match**
- 36. Removal of Permitted Development Rights (Part 1, Classes A-E and Part 2 Class A)**
- 37. Obscure Glazing provision (Plot 11 & 12 – First-floor side bathroom window, Plot 13 & 14– Both first-floor, side bathroom windows and Plot 15 – First-floor en-suite window on southern elevation)**
- 38. Implementation of electric vehicle charging infrastructure details**
- 39. Submission/approval an updated Conceptual Model (contaminated land)**
- 40. Submission/approval of a verification report (contaminated land)**
- 41. Submission/approval of a soil verification report**
- 42. Works should stop in the event that contamination is identified**
- 43. Submission/approval of cycle storage details**
- 44. Submission/approval of updated Landscaping scheme (incl boundary treatment)**
- 45. Landscaping – Implementation**
- 46. Submission/approval of levels details**
- 47. Tree retention**
- 48. Submission/approval of a Tree Protection Plan**
- 49. Submission/approval of an updated Arboricultural Method Statement**
- 50. Submission/approval of a service/drainage layout (trees)**
- 51. Ecological Mitigation - Implementation**
- 52. Submission/approval of a Construction Environmental Management Plan (CMP)**
- 53. Further Bat survey required if works do not start by May 2022**
- 54. Nesting/breeding birds**
- 55. Submission/approval of Ecological Enhancement Strategy**
- 56. Implementation of FRA**
- 57. Submission/approval of detailed overall drainage strategy**
- 58. Submission/approval of a drainage management and maintenance plan**

*In order to give proper effect to the Committee`s intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice*





