

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: 12-Aug-2022

SUMMARY

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 listed exceptions set out in the policy. Those exceptions 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 two 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.

It is deemed that the reason for the business closure has been substantiated. In addition, the business has been marketed for a significant period of time and there is no evidence that an offer was made by an individual or group looking to continue the existing use before the preferred bidder was selected. It is deemed that the length of the marketing period did provide suitable opportunity for the public house use to be continued, and 'enable' its retention. Due to viability reasons as well as the presence of the unsuccessful Asset of Community Value application which determined that there was a lack of evidence that the Swan *'furthered the wellbeing or interests of the local community'*, it is deemed that the loss of the public house would not lead to the 'unnecessary' loss of a valued facility and the subsequent ability of the community to meet its day-to-day needs. As such, the loss of the public house in this instance is accepted.

Although the location of the site is some distance from many 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 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/habitat outside of the curtilages on site and the monitoring and maintenance of the required reed beds in perpetuity, and conditions, where deemed necessary.

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

The scheme is found to accord with the development plan taken as a whole, and no material considerations would justify a departure from the plan.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping/habitat outside of curtilages and monitor and manage the required reed beds in perpetuity, 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.

RECOMMENDATION

APPROVE subject to a S106 Agreement to secure:

- **£5,314.02 toward off-site affordable housing**
- **£68,000 towards off-site Open Space additions, improvements and amendments to nearby facilities identified for such works**
- **Requirement to provide a Management Company to manage on-site incidental landscape/habitat & to monitor and manage the required on-site reed beds in perpetuity**

And conditions

REASONS FOR REFERRAL AND DEFERRAL

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

The application has been deferred by Northern Planning Committee on two previous occasions, firstly on the 23rd February 2022 for the following reason:

'...in order to allow further consideration of the submitted marketing information by the applicant'

And secondly, on the 23rd March 2022, for the following reason:

'...in order for further consideration of the nutrient impact upon Rostherne Mere (RAMSAR site).'

For the benefit of clarity, because there have been numerous written committee updates, verbal updates, further consultation responses and updated versions of various sections of the report in the lead-up to previous committee's and following the above deferrals, this report consolidates all of these updates into a single, overall assessment of all aspects of the application proposals. This now also includes reference to emerging Cheshire East Council Site Allocation Development Plan Document (SADPD) policies as the weight afforded to these has increased since the consideration of the original committee report.

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 Area of Special County Value).

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, and 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) – 5-bed detached (Plot 9)
- House type E (New build) – 5-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 process to primarily attempt to address consultee and officer concerns in relation to heritage, open space and landscaping. A re-consultation exercise was undertaken on the main amendments in January 2022. Further minor amendments were received post re-consultation however, the changes were minor in nature relating to small changes to the elevational treatment of some of the proposed new dwellings and changes to the extent of the proposed residential curtilages to account for ecology mitigation. Given the minor nature of these changes, it was deemed unnecessary to undertake a further re-consultation exercise.

RELEVANT HISTORY

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

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

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

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

06/0147P (Premier Lodge) - 1no. Internally Illuminated Projecting Sign – Refused 13th 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 14th 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 7th October 2004

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

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

99/2268P (Swan Inn) - Extensions and Alterations to Provide 51 Bedrooms. Additional Car Parking – Refused 10th 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 27th January 1998

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

77714P (Swan Inn) - Externally-illuminated signs and non-illuminated fascia – Approved 15th June 1994

76461P (Swan Hotel) - Boundary wall on Chester Road frontage – Approved 1st February 1994

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

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

14984PB (Swan Hotel) - Alterations & Extensions to Form New Bedroom Accommodation and Enlarged Dining Room (Listed Building) – Approved 31st July 1978

14922P (Swan Hotel) - Erection of Two Illuminated Signs – Approved 24th May 1978

12400P (Swan Inn) - Alterations & Extension to Kitchens – Approved 21st November 1977

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

PLANNING POLICY

Adopted Planning Policies

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

Cheshire East Local Plan Strategy 2017 (CELPS)

MP1 – Presumption in Favour of Sustainable Development, 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, SC3 – Health and Well-Being, 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, SC3 – Health and Well-being, SC4 – Residential Mix, SC5 - Affordable Homes, IN1 - Infrastructure, IN2 - Developer Contributions, CO1 – Sustainable Travel and Transport & CO3 – Digital Connections

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There are however policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

Macclesfield Borough Local Plan 2004 (MBLP)

NE1 – Areas of Special County Value, NE11 - Nature Conservation, NE12 – SSSI's, SBI's and Nature Reserves, NE18 – Accessibility to Nature Conservation, BE2 – Historic Fabric, RT5 – Open Space Standards, GC1 - Green belt (new buildings), GC8 – Reuse of Rural Buildings – Employment and Tourism, GC9 – Reuse of Rural Buildings – Residential, H9 – Occupation of Affordable Housing, DC2 – Extensions and Alterations, DC3 - Protection of the amenities of nearby residential properties, DC6 - Circulation and Access, DC8 – Landscaping, DC9 - Tree Protection, DC13 & DC14 – Noise, DC15 – Provision of Facilities, DC17, 19 & 20 – Water Resources, DC35 – Materials and Finishes, DC36 – Road Layouts and Circulation, DC37 – Landscaping, DC38 - Guidelines for space, light and privacy for housing development, DC40 – Children's Play and Amenity Space, DC63 – Contaminated Land

Other Material planning policy considerations

Emerging Cheshire East Site Allocations Development Plan Document (SADPD)

The Site allocations and Development Policies Document (SADPD) is at an advanced stage of preparation. The Plan was submitted for examination in April 2021, hearings took place in October and November 2021. Draft Main Modifications were consulted on during April and May 2022. Noting the relatively advanced stage of the SADPD it is considered that at least moderate

weight should be applied to relevant policies, including the proposed modifications. Relevant policies include:

PG12 – Green Belt and safeguarded land boundaries, GEN1 - Design principles, GEN5 – Aerodrome safeguarding, ENV1 - Ecological network, ENV2 - Ecological implementation, ENV3 - Landscape character, ENV5 – Landscaping, ENV6 - Trees, hedgerows and woodland implementation, ENV7 - Climate change, ENV12 - Air quality, ENV13 – Aircraft noise, ENV14 - Light pollution, ENV15 - New development and existing uses, ENV16 - Surface water management and flood risk, ENV17 - Protecting water resources, HER1 – Heritage assets, HER2 – Heritage at risk, HER7 – Non-designated heritage assets, RUR11 – Extension and alterations to buildings outside of settlement boundaries, RUR14 – Re-use of rural buildings for residential use, HOU1 – Housing mix, HOU6 – Accessibility and wheelchair housing standards, HOU10 – Amenity, HOU11 – Residential Standards, HOU12 – Housing density, HOU14 – Small and medium-sized sites, INF1 - Cycleways, bridleways and footpaths, INF3 - Highways safety and access, INF9 – Utilities, REC5 – Community facilities

Other

National Planning Policy Framework (NPPF) 2021
National Planning Policy Guidance (NPPG)

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 informatives 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, subject to £5,314.02 being provided towards off-site affordable housing provision following the application of Vacant Building Credit

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 appropriate mitigation being secured. The required mitigation includes the submission/approval of a Construction Environmental Management Plan (CEMP) and the submission/approval of details of an on-site reed bed and its subsequent management to absorb the increased nutrient load from the development

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

Manchester Airport Safeguarding Authority – No comments received at time of report

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

Comments in response to the original layout: Note that Cadent Gas apparatus is within the vicinity of the application site that maybe affected by the proposals. This would be informative in the event of approval

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

Following the closure of the public consultation exercise, numerous objections were received on behalf of an objector/interested party looking to purchase the site. The main points raised include:

18th February 2022

- Advise that the submitted marketing information is misleading in that it suggests that there was no interest in the site from an operator or individual wishing to continue a pub use, this is not the case
- Interest in the site by the objector/interested party should be taken seriously as designs have been drawn up for how they intend to re-use the public house as a pub and a community facility
- Advise objector/interested party contacted the marketing company by phone in September 2020 (after best and final offers), but had an offer for the pub immediately rejected
- Objector made a direct approach to the landowner via e-mail indicating a wish to acquire the site
- Whilst the site was advertised in the Estates Gazette, its not clear whether or not the site was marketed in specialist publications or marketed by specialist agents who specialise in marketing pubs and hospitality business, which may have generated more interest from pub operators
- The marketing brochure contained feasibility studies for residential development only, evidence that the campaign was to sell for residential use
- There is still an opportunity for the current landowner to engage with the objector so the pub can be brought back into a community use
Request that the Council consider issuing a part approval (development to rear and part refusal (development to the frontage buildings) or defer a decision so negotiations can occur between the objector and landowner
- Clearly the case that local and national policies are breached with regard to planning policies that seek to protect community facilities.
- If Members follow the officer recommendation, the decision to grant planning permission will be 'unsafe and potentially challengeable in the High Court'

18th-21st March 2022

Over three e-mails:

- That the objector/interested party has now formally offered to purchase the front part of the site. However, this was subsequently rejected and as such, suggests that the applicant has only one goal in mind, the biggest return possible irrespective of what that will mean for the local community
- That a submitted Asset of Community Value (ACV) application strongly supports the community support for the retention of the public house
- State that the submitted Marketing Report is flawed for various reasons supported by submitted, commissioned independent review which raises the following points:
 1. *The marketing brochure prepared on behalf of the applicant has been skewed towards the redevelopment of the site;*
 1. *The marketing brochure includes references to a feasibility study, planning appraisal and architectural plans and the costs incurred for the preparation of these specialists documents indicate that the target market was property developers;*

2. *Whilst the marketing material does not explicitly preclude interest from pub/restaurant operators, the weighting and focus of the brochure is strongly weighted towards the development prospects of the site;*
3. *There is information that would be expected in a marketing brochure for a pub / restaurant / hotel that is either extremely brief or is absent from the marketing materials. For example:*
 - a. *There is no breakdown of the floor areas between the various parts of the property. Scale and massing appears to be the focus, rather than a description of the existing property.*
 - b. *There is no attempt made to discuss the potential drivers of trade to the property (Tatton Park, Trafford Centre, airport etc.).*
 - c. *While we are told there are 68 bedrooms; the size, condition, configuration and specification is unknown. At the very least, we would expect to see whether these are en-suite rooms, and a breakdown between double/single/family room provision.*
 - d. *There is no description of the pub/dining facilities at all. It is highly irregular for marketing particulars for a pub/restaurant to omit the number of covers.*
 - e. *There is no description of the staff accommodation or back-of-house facilities (catering kitchen etc.).*
 - f. *There is no explanation of the position in respect of trade fixtures and fittings.*
 - g. *While trading information has subsequently been made available to the council, there is no reference to this in the particulars. It would be common practice for serious purchasers to be provided with accounts on a confidential basis.*
4. *The marketing brochure makes no serious attempt to attract purchasers interested in the existing use of the property;*
5. *The property does not appear to have been advertised in any of the specialist publications which collate listings of pubs and hotels for the leisure trade;*
6. *It is unclear whether direct approaches were made to local or regional leisure operators;*
7. *No minimum asking price as provided in the written particulars, however the value of the site as a development opportunity is likely to have been in excess of its value in its existing use;*
8. *Following discussions with local leisure agents, the universal view was that they were under the impression that the granting of residential planning permission is fait accompli, thereby suppressing interest from such parties and their client following;*
9. *On the basis of the marketing exercise undertaken by the applicant, no leisure operator would be able to compete on price if planning permission were granted for residential development - as such, the sales process undertaken to date could be regarded as "self-selective"*
10. *In terms of the viability of any bids, Gerald Eve have not provided an explanation as to why such interest was not viable - there is a risk of circular reasoning if the assumption is made that pub operators would have to compete with residential developers to purchase the site - the viability of bids from leisure operators should be assessed against existing use value. As far as Eddisons are aware, no formal valuation of the site has been undertaken to establish the existing use value of the*

property, and it is unclear what the vendor would consider to be an acceptable offer for the continuation of the use;

- 11. From a purely commercial point of view, it is understandable that the agent would not wish to publicise a lower existing use price and thereby invite interest from leisure operators which could provide the existence of demand for the retention of the community asset.*
- 12. The choice of Gerald Eve as the agent is also raised in the report, as those employed to undertake the marketing have specialisms in the sale and acquisition of development sites for developers. It would have been expected to have used an established leisure agent in the marketplace, such as Christie & Co. and Fleurets and Whitbread are aware of agents with such specialisms. In other words, the choice of agent appears to have been driven by targeting the highest value of the site. It is otherwise accepted practice in which a property is likely to appeal to two distinct markets to appoint joint agents.*
- 13. It was stated in the marketing information set out in the committee report that the property requires an investment of £500,000 to bring it up to standard, however under-investment in the property prior to its closure may have also been a contributing factor to its decline. Public consultation on the A556 bypass began in 2012. It is unlikely that Whitbread would have invested significantly in a site that would eventually become unsuited to their business model.*
- 14. The marketing exercise undertaken by Gerald Eve did not consider or promote the possibility of splitting the site - the maximisation of sales value appears to have been the primary consideration.*
- 15. There is no substantiation of the claim that no business could viably make use of the site and retain the community facility. Rural and semi-rural locations can and do support public houses*

- Advise that the site was only ever marketed with one result in mind (residential)
- State that no serious attempt has been made to find another leisure operator or to consider splitting the site to allow the retention of the community facility to take place
- Making a decision in the above circumstances would be 'un-safe and challengeable'
- Request that the application be deferred for 6 months to allow a proper marketing campaign and consider the proposal again or issue a part approval (development to rear and part refusal (development to the frontage buildings) or refuse the application entirely and call upon the developer to go through the process again after a proper marketing campaign.

12th September 2022

- Advise that an objector/interested party has now made an offer to purchase the whole of the site
- Recommend that the application be deferred to allow time for the submitted marketing report be independently checked to determine whether proper testing of the market for leisure use took place
- Advise that should the application be approved at committee, then a Pre-Action Protocol Letter will be submitted in advance of a proposed Judicial Review of the decision. A copy of the draft Pre-Action Protocol Letter has been provided. The basis for the claim would be:
 - The Council failed to properly interpret or apply development plan policy and key material considerations, more specifically in relation to:

- Policy GC9 of the MBLP
- Paragraphs 84(d) and 93(c) and (d) of the NPPF
- Emerging Policy REC5 of the SADPD
- That the submitted marketing information is flawed, and the members are being significantly misled by the suggestion that the marketing exercise was a fair test of the market for leisure/community uses.
- That it would be irrational for the Council to conclude that there is no reasonable prospect of retaining a pub, restaurant, hotel community use on site.

In response to the formal re-consultation exercise, which closed on the 7th February 2022, letters of representation were 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
 - Its 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

Policy PG3 of the CELPS, is the most up to date of the adopted or saved Green Belt policies within the development plan and 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.

Certain other forms of development are also not deemed inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt, these include 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. Policy PG3, for the purposes of this application, is considered to be consistent with national Green Belt policy in the NPPF.

The application proposals are deemed fall into two separate exception categories within Policy PG3, namely:

- the re-use of buildings provided that the buildings are of permanent and substantial construction; (Plots 1 & 15-17)
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the 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).

Policy PG3 of the CELPS supports the conversion of rural buildings, subject to the buildings being permanent and substantial. 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. This part of the policy is consistent with the NPPF so is afforded full weight.

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

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 in accordance with Policy PG3 of the CELPS and the NPPF.

Overall, the re-use element of the application proposals are deemed to adhere with Policy PG3 of the CELPS and the NPPF and are therefore not inappropriate development in the Green Belt.

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 highway maintenance depot and the associated land within the red edge of this application are deemed to fall within this exception. As such, the application site is accepted as Previously Developed Land.

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

The more up to date NPPF (2021) Green Belt exception (para 149) differs to Policy PG3 in so far that where affordable housing is proposed, the test is whether the development would cause 'substantial' harm to openness where the proposal would contribute to meeting an identified affordable housing need. However, because the policy required 30% on-site affordable housing is not being provided in this case as Vacant Building Credit is applied and only a very small contribution proposed (referred to later within the report), it is not deemed that this exception applies. As such, the test is simply whether the proposed development would have a greater impact upon the openness of the Green Belt compared to 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 for the application has provided some figures within their submission and the Officer has also undertaken measurements and calculations. 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 re-use of PDL element of the application proposals would have a greater impact upon the openness of the Green Belt than the existing development. The proposals are therefore deemed not to represent inappropriate development in the Green Belt and would adhere with Policy PG3 of the CELPS and the NPPF.

The new build elements of the application proposals would not be in accordance with saved Policy GC1 of the MBLP as none of the development proposed would fall into any of the listed exceptions to inappropriate development. However, as this policy is not consistent with the more up to date PG3 of the CELPS or the NPPF, where the exception which permits the re-development of previously developed land is present, no weight is afforded to Policy GC1 in this instance.

Green Belt conclusions

Both the re-use element of the application proposals and the re-use of previously development land (new build) element are both deemed to fall within their respective Green Belt exceptions as set out within Policy PG3 of the CELPS and the NPPF. The proposals are therefore deemed to represent appropriate development in the Green Belt.

Loss of Public House

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 village halls will be supported, where they further adhere with various other requirements. Objectors have advised that the application proposals are contrary to this policy. However, Policy EG2 is silent on the loss of community services and does not provide any criteria against which to address a loss.

Paragraph 84 d) of the NPPF states that planning policies and decisions should enable 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. In a similar way Policy SC3(5) of the CELPS seeks to “protect existing community infrastructure”.

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”. Paragraph 93 d) of the NPPF sets out that planning policies and decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Draft Policy REC5 of the SADPD relates to Community facilities. 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.

Saved Policy GC9 of the MBLP concerns the reuse of buildings for residential purposes. It sets out that where an existing building is not suitable for a business use, the reuse and adaption of existing buildings in the countryside for residential purposes will be allowed provided that: 1. The criteria in GC8 are met, 2. The proposal would not result in isolated residential development, unless the criteria in GC1 are satisfied and 3. Any curtilage would not adversely affect the character of the countryside.

The supporting text at para. 4.24 provides: In considering planning applications for residential conversions, the applicant will need to demonstrate that either the property is not suitable for non-residential use or every reasonable attempt has been made to secure a non-residential use. In the latter case, details of the marketing exercise should be submitted with the planning application. Proposals for residential conversions will be examined with particular care, given the potential number of redundant buildings.

Whereas the policy text itself requires that an existing building must be deemed “not suitable” for a business use before the policy can be relied on, the supporting text suggests that an applicant can demonstrate either that the property is not suitable or that “every reasonable attempt has been made to secure a non-residential use”.

Insofar as the policy requires a building to be “unsuitable” for business use, this could be interpreted in two different ways. If it is a narrower question of whether the building is designed or adapted for business use, and could be used for that purpose, then it is clear that the existing building in this case is still “suitable” for business use and there would be unavoidable conflict with policy GC9. However, if the question of suitability is broader and covers issues of viability and market demand, which would be more consistent with the supporting text at para. 4.24, then it is a question of considering the marketing information provided by the applicant (as to which see below).

Regardless of which interpretation is correct, officers consider that the policy is significantly out-of-date and therefore any conflict should be afforded very limited weight. The policy is due to be

deleted upon adoption of the SADPD. The supporting text refers to national policy from 25 years ago. The requirement to demonstrate that a building is “unsuitable” for business use (whether on design or market demand grounds) before it can be converted to residential is not found in the CELPS or in the NPPF. It is a highly restrictive pre-condition to residential conversion which officers consider to be inconsistent with more up-to-date local and national policy.

Furthermore, emerging SADPD Policy RUR14, which relates to the re-use of rural buildings for residential use does not include this requirement. Under this policy, which can be given at least moderate weight given the advanced stage of the emerging SADPD, provides that the residential re-use of existing rural buildings will be permitted where the building is of permanent and substantial construction so as not to require extensive alteration or rebuilding; and of a size that is able to accommodate a satisfactory living environment in the new dwelling and would not require extending. Other requirements in the policy also apply, but none requires a demonstration of unsuitability of the existing use.

Notwithstanding the policy being significantly out-of-date, the specific assessment criteria listed within Policy GC9 of the MBLP will be considered.

The first criterion requires the development to meet the requirements of saved Policy GC8. Policy GC8 of the MBLP refers to the reuse and adaption of existing buildings in the countryside for commercial, industrial, institutional, recreational uses or as holiday accommodation. It sets out that development for such uses will not be permitted unless: 1. There is no materially greater impact than the present use on the openness of the countryside, 2. The building is of permanent and substantial construction capable of being converted without major or complete reconstruction, 3. The form, bulk and general design of the building is in keeping with its surroundings and 4. The proposal respects the local building styles and materials. The extension of reused buildings and the associated uses of surrounding land must not reduce the openness of the countryside. Within the Green Belt such proposals must not conflict with the purposes of including land within it.

In response to the criteria of saved Policy GC8, the proposals have already been assessed as being acceptable in consideration of matters of Green Belt when assessed against the more up-to-date Policy PG3 and the NPPF, which includes an assessment of openness and the permanent and substantial nature of the building to be converted. Matters of design are considered later in this assessment, however, overall, are found to be acceptable. As such, criterion 1 of Policy GC9 is deemed to be satisfied.

Criterion 2 of Policy GC9 relates to whether the proposed conversion works would result in isolated residential development. Given that there is built form nearby, including dwellings, it is not deemed that residential use would be isolated.

The final criterion is that any curtilage should not adversely affect the character and appearance of the countryside. Given that the extent of the site does not extend beyond the extent of the land accepted as representing previously development land, it is not deemed that any curtilage would adversely affect the character of the countryside.

In order to assess the acceptability of the loss of the public house in line with paragraphs 84 and 93 of the NPPF and Policy SC3 of the CELPS, consideration needs to be given to whether a) the retention of the public house has been ‘enabled’, b) whether the facility to be lost is ‘valued’ and

whether its loss would reduce the community's ability to meet its day-to-day needs and c) whether the loss of the facility is unnecessary.

Has the retention of the public house been 'enabled'?

To consider this point, the application is supported by marketing information for the application site. Reference to the need to provide marketing information is not set out anywhere in the development plan policies. However, there is reference to the submission of such evidence within the supporting text of saved Policy GC9 of the MBLP. Although for reasons given above the weight afforded to this policy is significantly reduced due to out-datedness, the marketing information is nonetheless relevant in applying the more recent and up-to-date local and national policy. The key points within the submitted marketing statement, supplemented during the application process by correspondence from the agent for the application are:

- 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 the 8th 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
- 5 shortlisted parties were then invited to submit a best and final offer on the 4th 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 is 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 (2.5 years) within which no evidence of actual offers coming forward to take the site on for continued use were received from pub or hotel operators.

As noted above, a third-party objector has criticised the adequacy of the marketing exercise undertaken. Whilst the marketing brochure did not specifically and clearly openly welcome continued use of the site as a public house and hotel, it did also not exclude it as an option either, it simply suggested what alternative uses were possible. Following such a long marketing period

within which no offers were received for a continued use, drawing attention to other *possible* uses has been shown not to be an unreasonable approach. No minimum asking price was set and offers were sought on a conditional and unconditional basis. Therefore, there appears no reason why operators interested in a continued public house/restaurant use would be deterred from making an offer. 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, yet still no offers were received during a 2 ½ year marketing exercise according to the information submitted by the applicant.

Gerald Eve, who undertook the marketing exercise, is a national firm of property advisors and surveyors advising across all property sectors across the UK. Of relevance, their website lists hotel, pubs and clubs, restaurants and cafes and leisure as sectors they cover. As such, there appears no reason to question the credentials of the company selected to undertake the marketing campaign. Officers do not accept the suggestion made by the third-party objector, supported by a report from Eddisons dated 18 March 2022 which reviews the marketing exercise, that marketing the site via other agents or in specialist publications would have resulted in a different outcome, or that the considerably long marketing exercise (open to offers for a range of uses including community uses) was otherwise inadequate in testing the market. If any potential business use sought further particulars in relation to the site prior to putting in an offer, such particulars could have been requested and made available.

Whilst the application site could have been split-up for marketing purposes, it is understandable why it was not marketed as such given that the whole site was in single ownership. There is nothing in policy to suggest that a site needs to be split up for marketing purposes before residential use can be justified.

Therefore, it is deemed that the applicant has suitably sought to 'enable' the retention of the public house through the marketing exercise in accordance with paragraph 84 of the NPPF.

Paragraph 93 (d) of the NPPF sets out that planning policies and decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community. Policy SC3 of the CELPS states that community facilities should be protected.

For the above reasons, it is considered that due to the length of the marketing campaign, ample time was afforded for a third party looking to continue the existing use to purchase the site to enable it to be developed and modernised (if necessary), yet no such offer was received. It is also questionable whether the public house, given how long it has been closed, represents an 'established' facility and service.

Whether The Swan is a 'valued' community facility?

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 public house'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 Swan does have some value as a community facility and therefore its loss is a material consideration in this case.

Just how 'valued' the facility is, is difficult to measure. However, one such measure is whether the public house is listed as an Asset of Community Value (ACV).

The Localism Act 2011 introduced a new community right (through The Assets of Community Value Regulations 2012) which allows town and parish councils and community groups to ask for certain land and building assets to be listed as being of community value, Assets of Community Value (ACV). The purpose of this is to assist local community groups to preserve buildings or land of importance to community social well-being, by regulating that when a listed asset comes up for sale there is a delay in the sale process, giving the local community a chance to bid to buy the asset.

An application to list the public house as an ACV was received and determined during the planning application process.

The Cheshire East Council Executive Director of Place made the decision not to approve an application to list the Swan as an ACV. The reason for the decision was because *'insufficient evidence was provided to confirm that there was a time in the recent past when the actual use of the asset furthered the social wellbeing or interests of the local community.'*

Overall, despite the receipt of a number of objections, this recently considered application concluded that there was not enough evidence to suggest that The Swan 'furthered the wellbeing or interests of the local community'. As such, this notably reduces the weight afforded to the 'value' of The Swan as a community facility and the subsequent ability of the community's ability to meet its day-to-day needs if its use was lost. It should be noted that officers' consideration of The Swan's value is not dictated solely by the outcome of the ACV application, albeit this is a significant material factor.

As a matter of planning judgment, although The Swan does have some value as evidenced by the local objections, officers do not consider that, for the purposes of paragraph 93 c) of the NPPF, that The Swan is a "valued facility". The loss of the public house would not "reduce the community's ability to meet its day-to-day needs".

Whether the loss of the public house is '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 deemed 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 4th 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 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 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 and there is no evidence to the contrary.

It is deemed that the reason for the business closure has been substantiated. In addition, the business has been marketed for a significant period of time and there is no evidence that an offer was made by an individual or group looking to continue the existing use before the preferred bidder was selected.

It is necessary to note that a third party allegedly made a "verbal offer" to buy the public house in September 2020 (which has not been adequately evidenced), followed by an offer to acquire part of the site (including the hotel / public house) in March 2022, and a further offer to acquire the whole of the site in September 2022. All of these offers were purportedly made with a view to continuing the community use of the site. It is understood that the applicant has rejected these offers. The applicant's agent has advised that the site is no longer for sale, reiterating that the time for an offer to be made was during the marketing period, which has long since ended. Whilst these more recent offers, which post-date the marketing period, are noted by officers, there is no evidence before the Council, in the form of a business case, for example, that any proposed continuation of use would be viable. A brochure has been provided setting out what the objector intends to do with the premises if they did acquire the site, but limited weight can be given to this in the absence of a properly evidenced business case and viability information. There is nothing to counter the clear evidence from the applicant suggesting that such a use is not viable any longer.

Overall, notwithstanding all of the representations made by the third-party objectors, it is concluded that the length and nature of the marketing exercise did provide suitable opportunity for the public house use to be continued, therefore attempting to 'enable' its retention. Due to well-evidenced viability reasons from the applicant as well the presence of the unsuccessful ACV application which determined that there was a lack of evidence that The Swan 'furthered the wellbeing or interests of the local community', it is deemed that the loss of the public house would not lead to the 'unnecessary' loss of a valued (or established) facility and the subsequent ability of the community's ability to meet its day-to-day needs.

For the avoidance of doubt, the officers disagree with the claims in the submitted draft Pre-Action Protocol Letter as to misinterpretation or misapplication of policy, or as to members being significantly misled, or as to the irrationality of the officers' conclusions about the prospects of retaining a community use on site.

The proposals are therefore not deemed to contravene paragraphs 84 or 93 of the NPPF or Policy SC3 of the CELPS.

Draft Policy REC5 assessment

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 Plan was submitted for examination in April 2021, hearings took place in October and November 2021. Draft Main Modifications were consulted on during April and May 2022.

Noting the relatively advanced stage of the SADPD it is considered that at least moderate weight should be applied to relevant policies, including the proposed modifications. Following subsequent correspondence with the Council's Spatial Planning Team, it has been advised that given that draft Policy REC5 did not have any main modifications proposed to the policy then the amount for potential future change is limited. As such, it is deemed that significant weight can be attributed to this draft policy.

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. The difference being 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.

The conclusions for the assessment of this part of the draft policy are the same as NPPF conclusions. The Swan is not deemed to represent a facility that makes a positive contribution to the social or cultural life of a community. This conclusion is made partly as a result of the findings of the recent ACV application decision, but also because the pub has now been closed for a considerable period of time and re-opening for the same use has been shown by the applicant to be unviable.

In consideration of the requirement to provide a replacement facility under draft Policy REC5, this is only a requirement if it is considered that the facility being lost makes a positive contribution to the local community, which it has been determined that it does not. As such, this requirement is not deemed relevant.

As such, it is not deemed that the application proposals conflict with emerging Policy REC5 of the SADPD.

Loss of public house conclusions

The NPPF sets out that planning policies and decisions should enable to retention of local services and community facilities, such as public houses. In addition, it states that planning policies and decisions should guard against the unnecessary loss of valued community facilities particularly where this would reduce the community's ability to meet its day-to-day needs. Policy SC3 of the CELPS sets out that community facilities should be protected.

For the reasons given above, the proposals are not deemed to contravene paragraphs 84 or 93 of the NPPF or Policy SC3 of the CELPS. Similarly, the proposals would comply with draft policy REC5 (as well as with policy RUR14).

In relation to saved policy GC9, there is conflict with this policy depending on how the requirement to show that an existing building is "not suitable" for a business use is interpreted. On one view the building is still "suitable" for such a use. However, by reference to para. 4.24 of the supporting text, the applicant must either demonstrate unsuitability or that "every reasonable attempt has been made to secure a non-residential use", by reference to details of a marketing exercise. For the reasons given above in relation to the marketing exercise undertaken for the site, it is concluded that every reasonable attempt has been made to secure a non-residential use. If the requirement of "suitability" is interpreted in light of that supporting text, then there is policy compliance. In any event, for the reasons given above, any conflict identified with this policy can only be given very limited weight due to it being significantly out-of-date.

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 sites 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.

Saved Policy BE2 of the MBLP seeks to ensure the historic fabric of the environment is preserved and enhanced.

Emerging SADPD policies HER1 (Heritage assets), HER2 (Heritage at risk) and HER7 (Non-designated heritage assets) are also material considerations. These policies set out what documentation applications that impact heritage assets should be accompanied by, relate to the re-use of heritage assets and non-designated heritage assets.

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 as buildings 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 withdrew 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, saved Policy BE2 of the MBLP, the NPPF and emerging SADPD heritage policies.

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.

Saved policies DC2 (Extensions and alterations), DC35 (materials and finishes) & DC36 (Road Layouts and Circulation) are also relevant.

Draft policies GEN1 (Design principles), HOU1 (Housing mix), HOU6 (Accessibility and wheelchair housing standards), HOU12 (Housing density) and HOU14 (small and medium sized sites) of the SADPD are also a material consideration.

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. It is recommended that this buffer would be managed by a private management company. An updated Landscaping plan would be conditioned to ensure that the extent and 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, massing & density

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.

Emerging SADPD Policy HOU12 relates to density and Policy HOU14 relates to small and medium sized sites.

The amount of development proposed in this instance is led by the amount of development being replaced given that the proposals represent the redevelopment of previously developed land. The overall density of the application proposals are deemed to be acceptable. Furthermore, draft Policy

HOU14 states that well design new homes on small and medium sized sites up to 30 homes, will be given positive weight in determining applications.

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. Emerging SADPD Policy HOU1 also relates to housing mix and Policy HOU6 relates to accessibility.

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 the relevant design policies of the development plan, supplementary design guidance, the NPPF and emerging design policies within the SADPD.

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. There is also guidance on separation distances within the Cheshire East Council Design Guide SPD.

Saved policies DC13 & DC14 of the MBLP relate to noise pollution and Policy DC63 of the MBLP relates to contaminated land.

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

Emerging policies HOU10 (Amenity), HOU11 (Residential Standards), ENV12 (Air quality), ENV13 (Aircraft noise), ENV14 (Light pollution) and ENV15 (New development and existing uses), of the SADPD are largely reflective of these policies and/or expand upon a number of the amenity considerations.

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, DC13 & DC14, DC38 and DC63 of the MBLP, the amenity aspect of Policy SE1 of the CELPS and emerging amenity policies within the SADPD.

Highways

Policy CO1 of the CELPS and saved Policy DC6 of the MBLP consider matters of highway safety. Emerging SADPD Policy INF3 considers highways safety and access.

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 2nd 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 CO1 of the CELPS, saved Policy DC6 of the MBLP and emerging SADPD Policy INF3.

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. Saved Policies DC8 and DC37 of the MBLP set out what landscaping & landscaping schemes should achieve. Saved Policy NE1 of the MBLP relates to Areas of Special County Value (now Local Landscape Designated Areas). Emerging Policy ENV3 of the SADPD is largely reflective of this policy. Emerging Policy ENV5 of the SADPD sets out what should be included in landscaping plans.

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, along with a levels condition, it is considered that the proposals would adhere with Policy SE4 of the CELPS, saved policies NE1, DC8 & DC37 of the MBLP and emerging SADPD landscaping policies.

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.

Saved Policy DC9 of the MBLP and emerging Policy ENV6 of the SADPD are largely reflective of this policy.

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).

Policy SE5 of the CELPS 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, saved Policy DC9 of the MBLP and emerging Policy ENV6 of the SADPD.

Nature Conservation

Policy SE3 of the CELPS refers to Biodiversity and Geodiversity. The crux of the policy is to protect and enhance these considerations. Saved Policy NE11 of the MBLP is largely reflective of these requirements. Saved Policy NE12 of the MBLP seeks to protect SSSI's. Emerging Policy ENV1 of the SADPD relates to ecological networks and Policy ENV2 relates to ecological mitigation.

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, it was necessary to undertake an *Assessment of Likely Significant Effects* (ALSE) (part of the Habitat Regulations Assessment (HRA) process). Additionally, following recent new guidance from Natural England, the new Nutrient Neutrality (NN) assessment process was followed first by the Council's Nature Conservation Officer and

subsequently again by the applicant's ecologist. Following some discussion between the Council's Nature Conservation Officer, the applicant's team, and Natural England, a consensus was reached. The results show a predicted increase in phosphorus and nitrogen which, without mitigation, would result in an impact on the designated site.

The conclusion of the ALSE was that due to a risk of aquatic pollution, and increased nutrient loads, 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) and in an evidenced, nutrient mitigation proposal (*NN Response to CEC*, PH Properties Ltd, 15/07/2022) detailing how through the creation of at least 267m² of reed bed on the southern margin of the development site, the required phosphorus/nitrogen mitigation will be achieved. 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.

Natural England were re-consulted and have commented that they have no objections provided appropriate pre-commencement conditions or legal obligations are applied which require a Construction Environmental Management Plan (CEMP) which details all measures to prevent any pollutants impacting Rosthere Mere as outlined in the Ecological Statement, and detailed reed bed (of at least 267m²) design proposals including planting specification and monitoring programme (in perpetuity), based on the submitted mitigation proposal.

A subsequent site/landscape plan was submitted during the application process which indicatively shows the position of the proposed reed bed. This indicative location has been agreed by the Council's Nature Conservation Officer and Natural England had seen this proposed location when formulating their comments. As such, subject to conditions requiring: the submission/approval of a CEMP, adherence to the mitigation measures proposed in the Ecological Statement and the submission/approval of reed bed details along with a S106 agreement to ensure the monitoring and maintenance of the ecological reed beds in perpetuity, it is deemed that the Nutrient Neutrality harm would be effectively mitigated.

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 surveys were updated in 2022 and continued absence on the site was confirmed. No further survey effort for bats is required in support of this application.

Breeding Birds

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

Schedule 9 Species

Japanese knotweed is present on the proposed development site.

Under the terms of the Wildlife and Countryside act 1981 it is an offence to cause this species to grow in the wild.

Disturbance of soil on the site may result in increased growth of Japanese knotweed on the 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.

As part of an updated site/landscaping plan received during the application process, a further area of habitat mitigation has been introduced to the far east of the site on land which previously formed part of the domestic curtilages of plots 8 and 9.

The Council's Nature Conservation Officer is satisfied that through a combination of the required ecological enhancement strategy in conjunction with this additional habitat creation along with the reed bed provision, the proposal should result in a net gain in biodiversity. The management of the additional habitat mitigation should be controlled via a S106 agreement.

Overall, subject to the above conditions and legal agreement, it is considered that the proposal adheres with the relevant ecology policies of the development plan, the NPPF and emerging SADPD ecology policies.

Flooding and Drainage

Policy SE13 of the CELPS relates to Food Risk and Water Management. The crux of this policy is to ensure development integrate measures for sustainable water management to reduce flood risk. Saved policies DC17, DC19 and DC20 of the MBLP seek to ensure development is not proposed in areas that flood, ensure groundwater resources are not damaged and protect the water quality of watercourses.

Emerging policies ENV16 (Surface water management and flood risk) and ENV17 (Protecting water resources) are largely reflective of these policies.

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 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, the application is considered to adhere with Policy SE13 of the CELPS, saved policies DC17, DC19 and DC20 of the MBLP and emerging SADPD flood risk and drainage policies.

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.

Saved Policy H9 of the MBLP considers matters in relation to the occupation of affordable housing.

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 (3751m²) compared to the floor space that is either being demolished or reused (3712m²) is marginally greater, 39m².

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 $(39/3751) \times 6 = \mathbf{0.062}$ (or 1 dwelling (rounded)).

The Council's Affordable Housing Officer acknowledges that providing 1 on-site affordable dwelling is not realistic given the low value. As such, an off-site financial contribution is explored. To confirm the sum, the Council's Housing Officer requested the applicant provide a range (between 3 – 5 examples) of smaller 2 or 3 bed properties which have sold within the area within recent months.

The applicant's approached a local Estate Agents for 3 recent examples of sales on 2- or 3-bedroom cottages all located with 0.5 miles of the application site.

The sales were the following amounts:

- 3 New York Cottages, Bowden View Lane, Mere: £272,100
- The Crescent, Bucklow Hill: £270,000
- 1 Hope Cottage, Chapel Lane, Bucklow Hill £315,000

Based upon the above sales, the average sales amount is: **£285,700**

Using these figures, the below formula calculates the required affordable housing contribution:

- Property OMV - £285,700
- RP offer (typically around 70% of OMV) - £199,990
- Difference between offer and OMV - £85,710
- £85,710 x AH requirement of 0.062 = **£5,314.02**

The Council's Affordable Housing Officer is satisfied with these findings and conclusions. Subject to this contribution to be secured via a S106 in the event of approval, the development is deemed to adhere with the affordable housing policies of the development plan.

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.

Health

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.

Saved Policy RT5 of the MBLP also refers to minimum standards for open space provision. Saved Policy DC40 of the MBLP sets out children's play and amenity open space provision requirements.

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

Further to the Council's Heritage Officer recommendation that Permitted Development (PD) rights be removed in relation to plots 1 & 3 in the event of approval for heritage reasons, it is proposed that PD rights be removed for all of the proposed dwellings (Part 1, Classes A-E and Part 2 Class A), given the sensitive nature of the site in relation to matters of green belt, ecology, design and landscape.

Heads of Terms

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

- Contribution of £5,314.02 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/habitat outside of domestic curtilages & monitor and maintain the required reed beds in perpetuity

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 £5,314.02 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/habitat areas of the site outside of residential curtilages is required to ensure the development remains well screened from the most public vantage points in perpetuity and to ensure the suitable ongoing management of habitat. The requirement for the monitoring and maintenance of the required reed beds in perpetuity is required to ensure adequate mitigation is provided onsite to account for nutrient neutrality harm created.

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 exceptions set out in the policy. Those exceptions 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 two of the 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.

It is deemed that the reason for the business closure has been substantiated. In addition, the business has been marketed for a significant period of time and there is no evidence that an offer was made by an individual or group looking to continue the existing use before the preferred bidder was selected. It is deemed that the length of the marketing period did provide suitable opportunity for the public house use to be continued, and 'enable' its retention. Due to viability reasons as well as the presence of the unsuccessful Asset of Community Value application which determined that there was a lack of evidence that the Swan *'furthered the wellbeing or interests of the local community'*, it is deemed that the loss of the public house would not lead to the 'unnecessary' loss of a valued facility and the subsequent ability of the community to meet its day-to-day needs. As such, the loss of the public house in this instance is accepted.

Although the location of the site is some distance from many 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/habitat outside of the curtilages on site and the monitoring and maintenance of the required reed beds in perpetuity, and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space and affordable housing. 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.

The scheme is found to accord with the development plan taken as a whole, and no material considerations would justify a departure from the plan.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping/habitat areas outside of curtilages & monitor and manage the required reed beds in perpetuity, 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.

RECOMMENDATIONS

APPROVE subject to a S106 Agreement to secure:

S106	Amount	Trigger
Affordable Housing – Commuted Sum	£5,314.02	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/habitat & monitor and manage the required on-site reed bed in perpetuity	Prior to occupation of any of the development

And the following conditions:

- 1. Time (3 years)**
- 2. Plans**
- 3. Submission/approval of and new or replacement 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. **Implementation of electric vehicle charging infrastructure details**
9. **Submission/approval an updated Conceptual Model (contaminated land)**
10. **Submission/approval of a verification report (contaminated land)**
11. **Submission/approval of a soil verification report**
12. **Works should stop in the event that contamination is identified**
13. **Obscure Glazing provision**
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 (AMS)**
21. **Submission/approval of a service/drainage layout (trees)**
22. **Ecological Mitigation – Implementation**
23. **Submission/approval of a Construction Environmental Management Plan (CEMP)**
24. **Submission/approval of on-site reed bed details**
25. **Nesting/breeding birds**
26. **Submission/approval of Ecological Enhancement Strategy**
27. **Implementation of Flood Risk Assessment**
28. **Submission/approval of detailed overall drainage strategy**
29. **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

