

Application No: 22/4863N
Application Type: Full Planning
Location: Bombardier, Bombardier Transportation West Street, Crewe,
Cheshire East, CW1 3JB
Proposal: The demolition of the existing industrial buildings and structures
(including the boundary wall along West Street) and the construction
of 263 dwellings comprising 24 apartments and 239 houses, together
with other associated works, including the provision of public open
space, the laying out of roads and footways (with two new accesses
from West Street), and hard and soft landscaping. Resubmission of
application 18/0079N.
Applicant: Isla Brady Countryside Partnerships,

Expiry Date: 10 March 2023

Summary

This application has been deferred from Strategic Planning Board on two previous occasions 23rd March 2023 and on 22nd November, 2023. The latest deferral was for the following reasons:

1. To review the Public Open Space (POS) and options for enhancement of use; and
2. To enable further investigation and assessment of the 'clean cover system' material in all gardens and the POS to ensure it is suitable for residential and public use.

It is considered that a landscape led solution to the area of POS is the appropriate way to treat this area following consultations with residents.

With regards to garden areas, it is now considered that we have got to a point where a significant number of the properties have been satisfactorily treated, and Environmental Protection are happy with the works being undertaken, and that we have an agreed approach to dealing with the remaining properties through conditions.

Summary recommendation

Approve subject to conditions and a Section 106 Agreement

Report Format

This application has been deferred on two previous occasions to consider matters of viability, use of the Public Open Space and matters over contaminated land, with particular focus on how this has been addressed through the development of the site.

The report provides the original detailed report from 23 March 2023, an update on the deferral presented to SPB on 22 November, and then the latest updates following outstanding matters from that deferral. A full and updated recommendation including S106 and conditions is provided at the end of the original report.

LATEST DEFERRAL UPDATE

This application was deferred from Strategic Planning Board on 22nd November 2023 for the following reasons:

1. To review the Public Open Space (POS) and options for enhancement of use; and
2. To enable further investigation and assessment of the 'clean cover system' material in all gardens and the POS to ensure it is suitable for residential and public use.

Review the Public Open Space (POS) and options for enhancement

In February 2024, and following consultation during the design phase with ANSA, a proposed scheme 'LEAP site plan' was submitted as a proposal for the enhancement of the POS with play space. A consultation period followed with all the residents of the development invited to give their views on the POS.

Feedback from residents was unfortunately negative, with a total of 20 replies being received, 13 against the proposed POS and 7 either in favour or neutral towards it. Unsurprisingly, the majority of the responders were from dwellings overlooking the POS.

Following the consultation an alternative 'landscape layout was submitted as an alternative landscape-led scheme that does not include a play area but would include seating and footpaths.

Given the consensus from residents that they did not want to see a play area, the landscape led option would seem to be the preferred solution.

To enable further investigation and assessment of the 'clean cover system' material in all gardens and the POS to ensure it is suitable for residential and public use.

Following committee, a methodology was agreed with the Environmental Protection to excavate two hand-dug inspection pits, approximately 300mm-600mm square to a depth of 600mm, within the rear garden area to ensure the suitability of the cover material, alongside a single pit to 300mm in the front garden area. A visual inspection was undertaken and documented through a photographic and written report. Additionally, soil samples were taken and tested for the chemical make-up to supplement the visual inspection. Works commenced pre-Christmas.

The first batch of testing resulted in surveys across 146 plots, about 60% of the site and taking 426 soil samples for lab testing. Throughout 2024 the surveys were then extended, requiring multiple visits, to ensure all plots were surveyed. There has been no evidence of issues regarding chemical contamination of the material at Coppenhall Place. The approach taken has been to assign each property a classification based on National House Building Council (NHBC) Technical Standards for garden areas in conjunction with the contamination test results. Each investigated garden has been placed into one of four categories, defined as follows:

RED Either laboratory test results indicate chemical contamination in topsoil or subsoil, and/or site observations show large quantities of anthropogenic materials, including large cobbles or sharp objects, beneath a nominal topsoil cover (150mm thick or less). Remedial action recommended.

AMBER Soils present within uppermost 300mm deviate from NHBC standards (typically due to unsatisfactory topsoil or cobbles of anthropogenic material). However, laboratory test results do not indicate a risk to human health from contamination.

YELLOW Clean cover not compliant with the E3P remediation strategy, containing either obstructions at 300mm-600mm depth or greater proportions of anthropogenic materials at shallower depths than would normally be expected (>5% in either topsoil or subsoil). However, remediation is not considered necessary to protect human health taking account of the laboratory test results.

GREEN 600mm of clean cover is present, compliant with E3P remediation strategy and contains not more than 5% anthropogenic material.

Remediation of the plots categorised as 'red' and 'amber' were completed between May and July 2024.

In early 2025, at the request of Environmental Protection, the plots categorised as 'yellow' were re-surveyed in joint site visits with the Contaminated Land team, to increase the sample size within each garden. Subsequently, every garden has been re-classified as either 'green' or 'red' plots, with the red plots requiring remediation. This marked the end of the site surveys.

At the time of writing this report, there are 58 gardens to be remediated, with remediation works ongoing. There are 2 plots where surveys have not been undertaken, both fully hard landscaped, which the applicants are hoping to survey prior to committee.

Environmental Protection (EP) comment that further to their previous correspondence with respect to the Strategic Planning Board meeting of November 2023, they have received the further following documents in support of the application and to address SPB first reason for deferral:

- A series of Ground Investigation and Contamination Assessments (Summary Report, including Laboratory Test Data), Travis Baker, Dated March & May 2024;
- A series of Records of Inspection of Soils Beneath Gardens, Travis Baker, December 2024;

- A series of Verification of Remediation of Clean Cover System in Rear and a few Front Gardens September to June 2024;
- Remediation and Verification Strategy, Travis Baker, March 2025; and
- Garden Remediation Plan, Countryside, March 2025.

Residential Properties

Countryside engaged Travis Baker (an environmental consultancy) to undertake further works within every plot on the development. This work comprised the excavation of a minimum of two hand pits within each rear garden, chemical analysis of soil samples from the topsoil and subsoil of each pit and a report detailing the findings. Reports were produced and provided to both Cheshire East Council and the individual residents.

During the process of their review, EP had contact from the residents' group to state that some were unhappy with their garden classification, some residents also wished a further third party check to confirm the Council's agreement with their classification. As a result of this, EP attended site in July 2024 and undertook inspections of 21 plots. They were able to clarify the consultant's classification for some of these plots, however for others they found different soil conditions to that of the environmental consultant. This was due to the heterogeneity of the soils within the gardens, in particular the subsoil – the initial findings were constrained to small pits within gardens, where other conditions were evident elsewhere.

Due to the findings, it was agreed that for the green and yellow plots (those plots for which no remediation was considered necessary), Countryside would undertake additional investigations to demonstrate that these plots were in fact suitable for retention. These further investigations were undertaken over the winter of 2024, into 2025. EP attended site during these works.

Countryside also agreed to undertake investigations of plots which had been modified by the residents to provide some sort of hard/impermeable cover (for example paving or artificial turf). EP's concerns were that the gardens should be suitable for all residential use, now and in the future. If properties were sold and bought, with gardens remodelled again, the underlying soils must be suitable for use. These plots were accessed in early 2025 and assessed.

A finalised plan for plots requiring remedial works was produced and agreed with EP in early March 2025.

A remedial and verification strategy was also agreed with EP in March 2025.

It should be noted that Countryside started undertaking remedial works within some plots from April 2024. This was prior to the agreement of a remedial and verification strategy. There were some plots where the remedial works undertaken was insufficient, these are proposed to be re-done.

Public Open Space

Further investigations were undertaken on the area of POS (Public Open Space). One area of the POS was found to have insufficient topsoil with the turf being laid directly onto

subsoil. At this time, the POS is being used as a storage area for incoming and outgoing soils, equipment and material storage etc. As such is likely that any previous assessments of this area will no longer be relevant. The developer will need to undertake a reassessment of this area when the main works have been completed, and any necessary remedial works shall be carried out. This has been included for within the approved remedial strategy and verification plan.

Conclusions and Recommendations

Environmental Protection are now satisfied that sufficient investigation and assessment of the garden soils has been undertaken and have agreed a remediation and verification strategy with Countryside. The plots requiring remedial works have also been agreed, as has the extent/nature of these works. As such, and in accordance with paragraphs 187, 196 and 197 of the NPPF 2024, they recommend that the following conditions and notes be attached should planning permission be granted.

Condition 1 - The replacement of the garden soils as detailed in the approved remedial strategy shall be carried out at the agreed plots presented within the approved remediation strategy. Verification should be issued to plot owners.

Condition 2 - An assessment and any necessary remediation of the area of Public Open Space as detailed in the approved remedial strategy shall be carried out. Verification should be confirmed to the LPA.

Condition 3 - Once verification reports for every agreed plot and the Public Open Space have been approved in writing, the LPA shall confirm in writing that the 14 plots shown [shaded red] may be occupied and that Condition 1 and Condition 2 are discharged.

Condition 4 – The developer shall arrange access to all remaining properties in accordance with specific timings/details sequenced by letters, site visits and phone calls. If plot owners refuse access then any plots will remain on the Local Authority's list of potentially contaminated sites (kept under the Authority's obligations with respect to Part 2A of the Environmental Protection Act 1990) and the relevant information for this plot kept on the land charges register.

Condition 5 – Unexpected contamination found shall be reported – standard condition.

Other matters

West St Wall – The Council's Design Officer has inspected the wall and has suggested a final clean to remove evidence of weathering. This will be undertaken prior to committee, and Members will be updated accordingly.

DEFERRAL UPDATE 22 November 2023

The application was deferred at the Strategic Planning Board meeting on 23rd March for the following reasons;

(1) To undertake an updated open book viability assessment.

(2) To enable a peer review to be undertaken of the assessments made by Environmental Protection in relation to contaminated land.

Any future decision notice to include an informative to ensure that as part of the Section 38 agreement, all roads within the application site be subject to a 20 mph speed limit. The reasons for deferral are discussed below.

Open book viability assessment

In accordance with the Council's normal practice a number of independent consultants, all of whom have a track record of undertaking such work on our behalf, were asked to tender for the viability assessment work. The work was duly awarded to Sanderson Weatherall (SW) who were required to declare any conflicts of interest with the applicant. None were declared. The consultants full report is available on the application file but in summary:

- The site had consent for 263 units – all of which could have potentially been for private sale.
 - Countryside built out 132 units for private sale, with the remainder being constructed for PRS REIT under a collaboration/framework agreement.
 - The initial (Dec 2017) viability assessment prepared on behalf of Countryside and subsequent Viability Report (Mar 2018) prepared for the Council concluded that the site (even without any affordable housing requirement) could not sustain any S106 contributions.
- Despite this, contributions totalling £100,000 were agreed and incorporated into the S106 agreement.
- Countryside and PRS REIT jointly purchased the overall site in separate parcels and in tranches.
 - PRS REIT entered into a Design & Build contract with Countryside for them to build the 131 PRS units for a (seemingly) fixed price. Ordinarily, this would have enabled Countryside (as developers) to generate a commercial level of profit.
 - The construction of this development fell within the period affected by the Covid-19 related lockdowns and associated supply chain issues. As a result, actual development costs escalated. Ordinarily, this would have not been an issue, since capital values also escalated over the development period by a not dissimilar amount. The problem in the subject instance, however, seems to be that the price agreed with PRS REIT for the PRS units was fixed and did not allow for cost inflation. Therefore, with average construction costs the arrangement effectively reflects zero profit to Countryside and would actually show quite a substantial loss to them, if professional fees and other costs are factored into the equation.
 - As such, when analysing the performance of the scheme from Countryside's point of view against measures that are usually associated with viability appraisals (ie assessing a reasonable developer return and/or comparing against the 'Benchmark Land Value'), the overall position (from the developers point of view) does not look strong and actually could suggest 'viability concerns'.
 - However, this does not mean that the scheme as a whole has not been successful.
 - Collectively, the 'profits' actually made to date from this scheme by Countryside and PRS REIT are substantial (i.e. £10M plus). To date, the local authority has received just £100,000 of s106 contributions. For viability assessment purposes, it is SW's firm view that the development should be considered as a 'whole', not just from the point of view of one of the parties to the development.
 - The primary reason the commercial returns to Countryside may be lower than they would have perhaps anticipated is because of the use of the fixed price construction contract with PRS REIT. The reality is that, for as much that Countryside may have suffered, their joint development partner has gained. This is purely a contractual position between the parties,

and it does not mean that the site (when taken or viewed as a whole) demonstrates viability concerns.

The applicant however has a different view on the matter as reflected in their updated viability assessment submitted following the March SPB. Roger Hannah (the applicant's consultant) strongly dispute that the site is capable of bearing the requested 106 costs.

Countryside's current position is that, having regard to the sales achieved in respect of the site to date and the actual costs of development experienced, there is not sufficient commercial margin within the scheme to fund additional contributions.

It is evident that this is an unusual and complex situation, particularly in respect of the relationship of Countryside with PRS REIT and whether that does mean the site is sufficiently viable to enable a s106 contribution to be made. In an attempt to move things forward, both parties have sought Legal Advice, but unfortunately the Council's formal advice has not been received at the time of writing the report, however it is anticipated that it will suggest that a contribution to Education provision can be reasonably requested.

Discussions are being held with the applicant to see if a compromise position can be reached to avoid further lengthy delays. Members will need to be updated on this matter in an update report at Committee.

Peer review to be undertaken of the assessments made by Environmental Protection in relation to contaminated land

As with the viability assessment, in conjunction with colleagues in Environmental Protection, a number of independent consultants, all of whom have a track record of undertaking such work, were asked to tender for the Peer Review. The work was duly awarded to EPG the Environmental Protection Group. The consultants full initial report (dated 29 June 2023) is available on the application file but in summary

"5 Conclusions & recommendations

EPG has highlighted a number of shortcomings in the investigation, remediation, assessment and installation of [Volatile Organic Compounds] VOC membranes at the Site. E3P concluded from their soil vapour sampling and risk assessment modelling that no significant vapour intrusion risks were posed by the site in its current condition to any residential property on site. EPG disagrees with the way they reached that conclusion and therefore undertook separate modelling and assessment of site data.

The Site has undergone excavation of VOC hotspots across all development phases and some of this material has been placed (re-used) on site beneath garden areas and in an area of public open space. The site has also undergone significant cut & fill works of the Made Ground. Whilst the more significant VOC contaminated soils were removed from site the above operations have redistributed VOC contaminants around the site and often in a manner that is not fully transparent. That said, the concentrations of VOC moved around the site appear to be relatively low. There are also concerns that residual VOC may be present beyond the limits of hotspot and tank excavations.

To take account of the uncertainties in VOC distribution across the site EPG has completed appropriately conservative modelling and assessment to establish if any realistic vapour

intrusion risks may be posed to residential properties across the Site. EPG modelling is conservative for the following reasons:

- Maximum identified concentrations of soil vapour VOC (including increased concentrations to account for laboratory analytical uncertainty) are assumed to be present across the entire building footprint for the full duration of chronic indoor inhalation exposure timescales.
- VOC are assumed to be present at shallow depth (0.1 m) below buildings.
- Limited biodegradation of petroleum hydrocarbon VOC is assumed.
- No VOC intrusion attenuation is assumed to be caused by the presence of the Jetfloor polystyrene block or top sheet closed cell foam insulation.
- No VOC membrane is assumed to be present.

Whilst EPG has stated a number of limitations in the soil vapour sampling completed on Site, it is the opinion of EPG based on a multiple-lines-of evidence approach that despite these limitations there is no credibly realistic vapour intrusion risk posed by site conditions to properties at the site, regardless of whether or not VOC membranes were installed. The key factor in this conclusion is the degree of vapour intrusion attenuation afforded by the passive vented void constructed in all properties. As such, EPG recommends that Cheshire East Council obtains confirmation from EP3/Countryside Properties that the telescopic vents were installed in each plot on site (regardless of whether or not VOC membranes were installed) in accordance with the specification detailed in Figure 7: 'Telescopic ventilators to provide 1500sq.mm clear per meter run of wall. Generally 1 vent to provide 3000sq.mm clear at 2m max. centres'.

The poor installation and verification of VOC membranes, apparent for some properties, and the failure to incorporate VOC membranes in Plots 229-236 is not of significant concern to vapour intrusion risk and a low VOC risk is considered likely for these properties."

With regards to the installation of telescopic vents in each plot on site, in discussion with Environmental Protection and the applicant, EPG have more recently submitted a Venting Addendum Report – Updated (dated 11 October 2023) which concludes:

"EPG has completed additional modelling for all property types in Plots 241-256 based information previously reviewed by EPG and on updated information on sub-floor void venting provided by the Client and based on a site visit by EPG on 13 September 2023. The vapour intrusion modelling predicted low indoor concentrations of key VOC (trichloroethylene, naphthalene and trimethylbenzenes) for all properties, with the exception of Dee Plots 245, 246 and 249. For these properties the combination of sub-walls in the void space coupled with either missing or blocked vents resulted in conservatively predicted indoor concentrations of VOC that exceeded screening criteria.

A missing vent to each of these Dee properties was retrofitted on the 6th and 9th October, as well as to all other Dee properties (Plots 177-183) with the same configuration and similarly missing vents. During the retrofitting of vents the inclusion of party wall venting for the Dee semi-detached properties was confirmed. Re-modelling of Plots 245, 246 and 249 based on revised venting information and assuming that all external vents were fully unblocked resulted in predicted indoor concentrations of VOC of low concern.

The detailed vapour intrusion modelling undertaken on Plots 241-256 taking account of all existing and retrofitted vents indicated a low vapour intrusion risk to these properties from

ground conditions likely to be present on site. By extension, vapour intrusion risks posed to other properties on the estate, including Plots 20-27 which were reviewed specifically during the 14 September site visit, are considered to be low.”

Further to this they make following recommendation:

“It was evident from the site visit that many of the vents located on front elevations of properties were blocked with gravel due to the construction of level access to front doors. Vents should be fit for purpose and should allow adequate ventilation to the sub-floor voids in accordance with NHBC guidelines. Furthermore, vapour intrusion modelling indicated that reduced ventilation caused by either fully or partially blocked vents resulted in insufficient air flow in the void space of some properties thereby increasing predicted indoor concentration of VOC. It is therefore recommended that all partially or fully blocked vents are unblocked and with suitable measures put in place to prevent future blocking. The most appropriate way to do this is to build a small wall one brick high around the vent, bedded into mortar.”

Subsequently EPG have agreed that proposed boxed enclosures around the vents are appropriate, on condition residents are advised to keep the vent enclosures free of excess gravel and leaves etc and that wooden enclosures are replaced should they rot and become unfit for purpose.

Environmental Protection have commented on the revised submission of information since the last meeting in March as follows:

A total of 135 reports have been submitted and reviewed by Environmental Protection (EP) for this application.

The development was undertaken and substantially completed without the benefit of an approved Remedial Strategy. This remains the case. EP have, however, worked with Countryside and their consultants to address outstanding potential contaminant linkages at the site. At this time EP’s remaining concerns are with respect to two potential contaminant linkages by which identified contamination could impact residents. The first contaminant linkage is the inhalation pathway, the second contaminant linkage is that of direct contact with contaminated material by residents.

With respect to the potential inhalation pathway linkage, it was determined that the most appropriate course of action was to have an independent expert in the field of gas and vapour risk assessment review all the available site information, conduct their own assessment, and provide recommendations if necessary. With respect to the potential direct contact linkage, a fully verified clean cover system within garden areas would negate the risk of direct contact.

Inhalation Linkage

The Environmental Protection Group (EPG) was commissioned to undertake the vapour risk assessment.

The EPG modelling showed a low risk with respect to all properties with the exception of 3 properties of the Dee-style construction that required retrofitting of vents to ensure sufficient air flow to the sub-floor void. This work has been undertaken to the satisfaction of EPG. Site visits identified that a number of vents over the general site had been blocked, either partially or fully, by gravel associated with landscaping. The EPG report made a

recommendation that, to allow sufficient air flow to the void space, these vents should be unblocked and suitable measures put in place to prevent future blocking. This work has been undertaken and verified via a photographic record to our satisfaction.

Direct Contact Linkage

A 600mm rear garden and 300mm front garden cover system has been installed and verified at all properties at the development. In addition, sufficient cover has been installed within the POS area.

A potential cross-contamination issue was, however, identified at 10 plots. Topsoil from a stockpile had been placed directly onto made ground. This made ground was subsequently scraped up alongside the topsoil and potentially placed in the garden areas of 10 plots. Further chemical testing at these plots identified that 4 required topsoil replacement and 5 plots required no further action. The owner of 1 plot had refused access.

The works to replace the topsoil at four properties has now been undertaken and verified. A further validation report was submitted in support of the application.

Access was granted to the plot where it was previously refused. The owner in this case has independently removed the potentially impacted soils from the plot.

The required clean cover system at the site has therefore now been installed and verified at all plots.

Conclusion

Following the above works and submissions, Environmental Protection are now satisfied that the site is suitable for a residential end-use.

Remedial measures including provision of venting and a clean cover system are in place at all plots within the development and it is imperative that these are maintained. We therefore request that permitted development rights are removed that pertain to any potential works that would involve breaking ground or further construction.

Other matters

EV Charging

This matter was raised at Committee in March as the applicant was concerned about the practicalities of retrofitting EV charging to properties, writing:

“As set out prior to the last committee meeting, we do not consider the retrospective fitting of EV charging points is appropriate, proportionate or reasonable when reviewing in line with the condition tests as set out at Paragraph 56 of the National Planning Policy Framework. I appreciate you set this position out to planning committee but the committee sought to overturn and requested this be added as a planning condition on any approval.

To enable us to fit EV charging points within all the units on this scheme we would require third party agreement to enter all homes to undertake works. If any residents refused, we would be in breach of the condition as we would be unable to satisfy the condition requirement. The matter of landownership and the reasonableness of a condition is one explored within Circular 11/95: Use of conditions in planning permission.”

Discussions have continued with the applicant as to how this matter can be resolved or an alternative option presented. It is understood that this is now part of the overall viability issue referred to above and as such an update will be provided to members in due course.

Public Open Space

The design of this space has been changed from the original approval, both to address remediation issues raised by Environmental Protection, and to allow it to function better as a SUDS drainage feature. The latter has resulted in a slight depression at one end of the site, and a slighter steeper slope at one end. Whilst not ideal, this is considered acceptable and still allows the whole space to operate as open space for residents.

West Street Wall

This has been discussed on site with the applicant, and following an experimental sample area being undertaken, a programme of works was agreed which will improve the appearance of the wall. At the time of writing this report these works are at an advanced stage, with all the repointing having been completed to an acceptable standard. The Council's Design Officer has requested that the western area of the wall has a light clean so that it has a more even appearance, as currently it is somewhat patchy. The applicant's feedback on that is awaited, but generally the wall is now a big improvement.

Since the application was reported to Committee in March additional consultee comments have been received. The majority have been incorporated above, however the Flood Risk Team have asked for clarification/confirmation of a number of points. The applicant has suggested that many of the requirements are not appropriate as the measures introduced were agreed at the time of the original application and it would not be possible to retrofit additional measures. This matter is being discussed with the LLFA, but the applicant's position is acknowledged.

Finally, as this report was being finalised a detailed letter has been received from an agent acting on behalf of residents raising a number of points which can be summarised as:

- Flood Risk
- Building regulation requirements on this revised application
- A section 106 requirement needs clarification
- Verification of Clean Cover System in Gardens
- Concerns Over the Validity of the Last Soil Sample
- Enhanced Scrutiny of Public Open Space (POS) Usability
- Concerns Over Imposition of Restrictions on Permitted Development Rights Without Consultation
- Request for Postponement

It was not possible to address all these points in any detail at this late stage, and also give the applicant the opportunity to respond. This will now need to be done as an update report to Members.

It is however important to point out that none of these points are new (except the building regulations point) and are considered to some degree in this update report.

Building Regulations are dealt with separately to planning and there is no link between the two. It should also be noted that the new Building Regulations would not apply in any event

as the relevant applications for Building Regulation approval were deposited before the applicable date of June 2022.

ORIGINAL REPORT from 23 March 2023

SITE DESCRIPTION

This retrospective application relates to a sizable (6.92 hectare) site, formerly part of the Bombardier train works to the west of Crewe Town Centre.

The site adjoins the remaining areas of the Bombardier works to the east which are still operational.

The site adjoins the Chester railway line to the south and West Street to the north, and west. Whilst most of West Street is residential in character, there is a church and associated buildings along the norther site boundary (including St Barnabas Church & Vicarage which are Grade II Listed), and the site is close to a range of retail/food and drink uses off Dunwoody Way.

The site is now a completed housing development approved in 2018, and at the time of a recent site visit only the works to the open space and finishing of the final surfacing of the highways needing to be completed. Many of the dwellings appeared to be occupied.

PROPOSAL

The application seeks the demolition of the existing industrial buildings and structures (including the boundary wall along West Street) and the construction of 263 dwellings comprising 24 apartments and 239 houses, together with other associated works, including the provision of public open space, the laying out of roads and footways (with two new accesses from West Street), and hard and soft landscaping.

As stated above the site is all but finished, with it's mix of apartments and houses fronting West Street and creating new streets to the rear. The site has the one central area of open space, which has yet to be finished – currently being the site compound. Vehicle access to the site is from two points off West Street, with a number of additional pedestrian links also to West Street.

The application has been submitted as the applicant failed to discharge one significant pre commencement condition, namely contaminated land. Despite extensive discussions with the applicant, this matter was not resolved and as such the discharge of the contaminated land condition was subsequently refused and the planning permission became incapable of being implemented.

This application has been submitted to regularise this situation.

RELEVANT HISTORY

18/0079N The demolition of the existing industrial buildings and structures (including the boundary wall along West Street) and the construction of 263 dwellings comprising 24 apartments and 239 houses, together with other associated works, including the provision of public open space, the laying out of roads and footways (with two new accesses from

West Street), and hard and soft landscaping BOMBARDIER TRANSPORTATIONS,
WEST STREET, CREWE Approved 12-Dec-2018

18/6395D Discharge of conditions 3, 4, 9, 10, 11 a & b, 14, 15, 16, 18, 19, 21, 23, 27 & 28
on approval 18/0079N BOMBARDIER TRANSPORTATIONS, WEST STREET,
CREWE,CW1 3JB Part approved/Part refused

The refused condition related to Condition 11 (a & b) Phase II Ground Investigation.
19/2241N Non Material amendment to planning approval 18/0079N BOMBARDIER
TRANSPORTATIONS, WEST STREET, CREWE
Approved

19/4454N Non Material amendment to planning approval 18/0079N BOMBARDIER
TRANSPORTATIONS, WEST STREET, CREWE
Approved

20/5161D Discharge of conditions 12 (in part) & 26 on approved application 18/0079N
BOMBARDIER TRANSPORTATIONS, WEST STREET, CREWE, REFUSED

21/5279D Discharge of Condition 24 on approval 18/0079N BOMBARDIER
TRANSPORTATIONS, WEST STREET, CREWE Approved

22/1559D Discharge of Condition 11a & 11b on approval 18/0079N. BOMBARDIER
TRANSPORTATIONS, WEST STREET, CREWE UNDETERMINED

NATIONAL & LOCAL POLICY

Cheshire East Local Plan Strategy

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

MP1 Presumption in favour of sustainable development
PG1 Overall Development Strategy
PG2 Settlement Hierarchy
PG7 Spatial Distribution of Development
SD1 Sustainable Development in Cheshire East
SD2 Sustainable Development Principles
SE1 Design
SE2 Efficient use of land
SE 3 Biodiversity and Geodiversity
SE 4 The Landscape
SE 5 Trees, Hedgerows and Woodland
SE 6 Green Infrastructure
SE12 Pollution, Land Contamination and Land Stability
SE 13 Flood Risk and Water Management
CO 1 Sustainable Travel and Transport
CO 4 Travel Plans and Transport Assessments
SC 2 Outdoor Sports Facilities
SC 3 Health and Well Being
SC 4 Residential Mix
SC 5 Affordable Homes

IN 1 Infrastructure

IN 2 Developer Contributions

EG3 Existing and Allocated Employment Sites

The site is unallocated in the LPS and lies to the west to the Central Crewe allocation LPS1.

SADPD

GEN 1 Design principles

ENV 2 Ecological implementation

ENV 3 Landscape character

ENV 5 Landscaping

ENV 6 Trees, hedgerows and woodland implementation

ENV 7 Climate change

ENV 16 Surface water management and flood risk

HOU 1 Housing mix

HOU 8 Space, accessibility and wheelchair housing standards

HOU 12 Amenity

HOU 13 Residential standards

INF 1 Cycleways, bridleways and footpaths

INF 3 Highway safety and access

INF 9 Utilities

REC 3 Open space implementation

Other Material Considerations:

The National Planning Policy Framework

National Planning Practice Guidance (NPPG)

CONSULTATIONS

Environment Agency – The Environment Agency have no objection in principle to the proposed development but note that this development site appears to have been the subject of past industrial activity which poses a high risk of pollution to controlled waters.

They however refer to standing advice, and recommend Environmental Protection provide comments on contaminated land.

United Utilities – No objections subject to conditions

Network Rail – No objections are raised, and a range of detailed comments have been made, however these are aimed to ensuring the applicant liaises with Network Rail during the construction works and ensure that there is no impact to the safe operation and integrity of the railway.

Archaeology - The Cheshire Archaeology Planning Advisory Service (APAS) comment that a programme of archaeological mitigation was undertaken by Lanpro in 2018 and was successfully completed. Subsequently there are no archaeological recommendations for this current application.

NHS – A range of comments has been received setting out the need for a financial contribution to health care in the area amounting to £ 324,179. Without the contribution they object to the application.

Environmental Health – Comments awaited.

Highways – No objections

Housing Strategy – Comments awaited.

Flood Risk – No comments received.

Education – No objection subject to developer contribution of £600,968.21. Without the contribution they would raise an objection to this application.

ANSA (Open Space) – No comments received.

VIEWS OF CREWE TOWN COUNCIL

No comments received.

OTHER REPRESENTATIONS

No comments received.

OFFICER APPRAISAL

Principle of Development

As noted above, planning permission was approved in 2018 for the development of the site for housing, and as such the principle of the development has already been established. There has been no change in policy since that date which would indicate that the principle needs to be re-visited.

Loss Of Employment Land

This was an issue with the previous application, but as it was accepted that the loss was acceptable it is not re-visited with this application.

Highways

Safe and suitable access

The accesses have been designed to adoptable standards and include standard footways from West St into the site. Speed surveys have been carried out showing West St to have a design speed of approximately 30mph, and the associated visibility splays have been provided. The accesses will be located away from where on-street parking on West St takes place and West St has a width of approximately 7m.

The footway along the site frontage on West St will have a width of 2m. Acceptable footway access is available to the wider Crewe area including bus stops on West St. The bus stop on West St on the same side of the development at the western side should be upgraded to include a shelter. The developer will need to liaise with TSS regarding this. An accident analysis of those on West St has been carried out and concluded that they were as a result of driver error rather than the road layout.

Network Capacity

To determine the net vehicular impact of the site a trip generation exercise has been carried out for the existing site and for the proposal. The proposal will result in a net increase in vehicle trips of approximately 70 in the AM peak and 100 in the PM peak.

The access onto Dunwoody Way will no longer be used and the vehicle trips from the site will come off West St. A proportion of the vehicle trips to/from the existing site will already use West St. Using existing traffic distribution data, the net increase in vehicles using West St during the AM and PM peak hours in the design year, as result of the development, is forecast to be 30 and 50 respectively, or a little less than 1 per minute over the hour.

The new site accesses, Pyms Ln/Minshull New Road, West Street/Dunwoody Way, and West St/Victoria Ave junctions were all assessed. Committed developments including those in Leighton, Flowers Ln, and the Bentley applications were included in the assessments.

Whilst there would be a cumulative impact on these junctions, it is considered acceptable due to the traffic generation associated with the existing lawful land use.

Layout

The access carriageways will have a width of 5.5m and further into the site these will be reduced to manage design speeds, in accordance with CEC standards and national guidelines. Further in again the shared space concept is introduced and although not strictly to the CEC Design Guide, there is no Highways reason to object to it.

The houses will provide off-road parking in line with CEC standards. The apartments to the west of the site will not provide a standard level of provision, at just over 1 space per apartment. Car ownership data for apartments in this part of Crewe show that this level of provision will be sufficient to cater for residents, and will not lead to on-street parking, assuming they remain unallocated which will increase the efficiency of the provision.

Conclusion

Given the existing lawful land use and the net highways impact of the proposal is reduced and is acceptable. No objection is raised with conditions and informative:

Condition: the vehicle parking spaces for the apartments should remain unallocated.

Previously there was a condition for a bus shelter, but this is no longer required as the applicant has paid the Highway Authority to do this, and this is progressing.

Contaminated Land

This is the main issue with this application, and why it has been necessary to re-submit the application. Environmental Protection comments are therefore presented in some detail below.

Following a recent meeting with the applicant and their environmental consultant Environmental Protection (EP) agreed to review the submissions that pertain to the potential risk posed by volatile contamination at the site only. Due to time constraints EP have not reviewed any information pertaining to contact, ingestion and inhalation of dust pathways. EP consider these pathways capable of being resolved, albeit with some potential disruption post any application approval.

EP remain unsatisfied with the latest revision of the Remediation Strategy (Rev 8), however the issues pertaining to the vapour risk at the development may be assessed notwithstanding our concerns with respect to this document. As such the Remediation Strategy remains unapproved.

The following aspects were therefore reviewed on the basis of potential ground gas/volatile risk:

- Importation of bulk fill containing anthropogenic constituents;
- Polychlorinated Biphenyls (PCBs);
- Volatile Organic Compound (VOC) Monitoring Assessment;
- Potential volatile contaminants recorded within Made Ground left in-situ, including areas where contaminant hotspots were not suitably delineated and excavated;
- Tank Removal; and,
- Mixture of potentially volatile material with Ordinary Portland Cement before burial.

Importation of Bulk Fill

Further commentary was requested as bulk fill containing anthropogenic constituents was recorded as being imported to site in October and December 2019, which is contrary to the requirements of Section RE-21 of the Remediation Strategy. This section states that material imported to site to achieve proposed ground levels must comprise natural inert soils and aggregate as per the engineering requirements. Concerns were raised as to whether or not importation of soils containing anthropogenic material would require a reassessment of the site's ground gas risk assessment.

Further to the above, although no commentary was provided by the consultant pertaining to potential ground gas risk, information pertaining to the donor site has been provided alongside previously unsubmitted import tickets that confirm the provenance of the material. EP are satisfied that the recorded anthropogenic materials are representative of poor segregation at the donor site and that, following an assessment of the site records (exploration hole logs), the materials would not present a significant ground gas risk to the Bombardier site.

Polychlorinated Biphenyls (PCBs)

To date, EP have not received a suitable response from the consultant with respect to this matter. As such, we have undertaken a review of the available information for the site.

A previous site assessment undertaken by Aecom (2013) assessed the potential for PCBs to be present at the site. Aecom's study site was significantly larger than the current site and incorporates the works to the east. Aecom noted the presence of two electrical transformers on its site and an internal electrical substation. According to the site's environmental aspects register, the electrical equipment at the site contained no PCBs, although Aecom was not provided with any documentation to confirm this. All buildings historically associated with electrical repair are/were not located on the current subject site, but in the area further east.

The applicant's consultant has undertaken PCB testing in the current assessment and were informed of the areas to sample. No PCBs were identified in the testing undertaken (10 No. samples).

It is considered by EP that the concrete bases of any substations/electrical infrastructure would provide a measure of protection to the underlying soils with respect to PCBs. Subsequent soil turnover and mixing would dilute any residual impact and decrease the volatile risk to the current development.

In light of the above, it is considered that PCBs are unlikely to constitute a vapour risk to the development.

Volatile Organic Compound (VOC) Monitoring Assessment

A series of boreholes were drilled across the final development platform and adsorption tubes installed to obtain VOC samples for laboratory analysis. The results of this analysis were modelled by the environmental consultant to determine whether or not a post-remediation residual risk was present at the site from the volatile contaminants analysed.

Some errors have been identified within the submitted models pertaining to compound values, model parameters and equation application, however EP's review and subsequent reassessment has determined that these errors do not impact the overall conclusion of the submitted assessment. EP are therefore satisfied that the volatile organic compounds modelled do not pose a significant risk to the development.

Potential Volatile Contaminants Recorded Within Made Ground Left In-Situ, Including Areas Where Contaminant Hotspots Were Not Suitably Delineated And Excavated.

Potentially volatile contaminants of concern, which were recorded above the laboratory limits of detection but which do not have remedial targets (within E3P report Ref: 10-880-R3-Rev8), have also been assessed. In addition to the material within the development platform, EP have also considered material left in situ following hotspot remediation.

EP are satisfied with the consultant's assessment for contaminants of concern where authoritative generic assessment criteria have been provided. For the contaminants (2-methylnaphthalene, dibenzofuran, carbazole and anthraquinone) we have reviewed the consultant's risk assessment in detail as no authoritative generic assessment criteria are available for these compounds.

Some contradictory information was submitted in the report compared with authoritative UK based guidance. As such, EP have undertaken Detailed Quantitative Risk Assessments (DQRAs) for these substances in order to assess their volatility and, if necessary, whether their concentrations would be capable of causing significant harm to residents. The DQRAs have either concluded that these compounds are not sufficiently volatile within UK ground conditions to pose a significant risk or that on balance the concentrations identified are not sufficient to pose a risk when volatilised into indoor air. EP caveat that these assessments have been undertaken by an officer of the Section and have not been peer reviewed as per standard assessment procedure.

Tank Removal

Queries were raised with regard to a tank recorded by the remedial contractor in plots 259-263. Following further correspondence with the environmental consultant EP are now satisfied that there is no significant residual risk posed to properties in this area.

A tank was excavated in the west of the site (Tank Excavation 2). The subsequent delineation of impacted surrounding soils was not sufficiently robust and elevated

concentrations of trichloroethene (TCE) were left in situ. The consultant's report places reliance upon vapour membranes within plots in proximity to this location to protect residents from this residual contamination. The membrane validation information provided for plots in this area is either absent or not in accordance with agreed validation criteria. As reliance could not be placed upon this information, EP undertook a DQRA to determine whether identified concentrations of TCE could potentially pose a significant risk to indoor air at the development.

A modelling exercise was undertaken and concentrations of TCE were found to be in excess of site-specific assessment criteria. Further modelling was therefore undertaken to quantify the risk to indoor air utilising site-specific parameters. This concluded that a significant risk to indoor air is unlikely to be present at the recorded contaminant concentrations'.

EP caveat that this assessment has been undertaken by an officer of this Section and have not been peer reviewed as per standard assessment procedure.

Mixture Of Potentially Volatile Material With Ordinary Portland Cement Before Burial

Material was mixed with Ordinary Portland Cement for geotechnical purposes and buried in the north of the site. The material was chemically tested prior to placement but the material was moved before the receipt of the laboratory results. This material was shown to contain potentially volatile hydrocarbon fractions. As a subsequent exercise to locate this material proved unsuccessful, a modelling exercise was undertaken to ascertain whether or not this material posed an ongoing or future risk to the development via volatilisation and subsequent inhalation. EP still await the final model from the applicant's consultant, however upon their review of the latest submitted model, the errors identified do not adversely impact the presented conclusion that the material does not represent a risk to the development.

Two conditions are recommended:

- Within 3 months of the approval of this development, a Remediation Strategy shall be submitted to, and approved in writing, by the LPA.
- Within 6 months of the approval of the development, a Verification Report for the entirety of the development, prepared in accordance with the approved Remediation Strategy, shall be submitted and approved in writing by the LPA.

Affordable Housing

No affordable housing was required on the original application as the applicant set out in the Planning Statement that no Affordable housing needed be provided due to the Vacant Building Credit. The Application form stated that all the housing on site is to be Market Housing. The Vacant Building Credit calculation showed, via calculations, that no Affordable Housing needed to be provided on the site.

Vacant building credit was introduced to promote development on brownfield sites. It allows the floorspace of existing buildings that are to be redeveloped to be offset against the calculations for section 106 affordable housing requirements (whether financial contribution or provision). It applies to any building that has not been abandoned and is brought back into any lawful use or is demolished to be replaced by a new building.

The PPG explains that existing gross floorspace (assuming it has not been abandoned) should be credited against that of the new development.

In this case there is no overall increase in floorspace and as such no affordable housing was required.

Vacant Building Credit is still applicable today, and as such no affordable housing needs to be provided as part of the development.

It is however to point out that although not technically affordable, the housing is at the more affordable end of the market, with a rented element.

Education Provision

Under the original approval an education contribution of £67,000 was required via a 106 payment. It is understood this payment has been made. Whilst Education would like a much larger contribution, a viability argument was accepted with the original application and the contribution agreed was considered reasonable in the circumstances. This was the decision taken at the time and it is not considered that this matter can now be revisited for a development that is all but complete.

Health Care

As above with Education, the NHS have requested a financial contribution to local health care. No request was made in the original application. Again, a decision was made on viability grounds with the original application and it is not considered appropriate to re-visit this again for this re-submission.

Public Open Space And Recreation

Again, this matter was considered in detail with the previous application, and an area of public open space was approved in the centre of the site as described above. This as yet needs to be completed, although some planting has been carried out to the site frontages.

In addition, a contribution of £33,000 was made towards playing field provision in the area, which has been paid. Finally, there was a requirement for the area of POS to be maintained in perpetuity and this will need to be picked up in a Section 106 Agreement should this application be approved.

Heritage Considerations

There were two issues with the original application, firstly the significance of the factory wall on West Street, and the impact of the proposed development on the Heritage assets on West Street, namely St Barnabus Church and St Barnabus Vicarage both Grade II. The Webb Orphanage now Webb House on Victoria Avenue (again Grade II), is close to the site, but being on the far side of the railway line to the south, and well screening by trees it is not considered that the development will impact on its setting.

The loss of the railway building was regrettable given its local historic interest, but a more

substantive effort was made to retain the base and pillars of the building to create an enclosing wall for the north western frontage of the site, as a reference to the substantial building that presently occupies the site. Whilst the building has some historical significance to Crewe, attempts to have it listed proved unsuccessful, and it is difficult to see how it could have been incorporated into any development.

The loss of the trees in the north eastern corner of the site were considered to adversely affect the Sylvan setting of the listed church and vicarage. There was a concern as to whether planting of more substantial trees in gardens of properties to the south will either compensate for the impact upon the setting of the listed buildings or indeed affect living conditions for occupants. There were also concerns about enforceability. Whilst dealt with in the tree section, the end result was planting of replacement trees in the grounds of the listed buildings, not in private gardens which was considered a better solution.

Considering Condition 28 on the original approval relating to the West Street Wall:

28. Prior to the demolition of the factory wall fronting West Street, full details of the boundary wall, including which sections are to be retained and the proposed coping stones and railing shall be submitted to and approved in writing with the Local Planning Authority. where possible coping stones from the existing structure shall be used. Works shall only be carried out in accordance with the approved details

This condition sought to retain the base and piers of the wall of the iconic railway building adjoining West Street, which was a non-designated heritage asset. It aimed to secure the submission of the detail for those works. Negotiation took place as part of discharge of condition application 18/6395D to secure an acceptable approach. Details were agreed for the extent of demolition and retention and the reinstatement and detailing of the wall base, piers, copings and railings to satisfy this condition.

It subsequently transpired that the wall was demolished to the ground and therefore, disappointingly, Officers were confronted by an enforcement situation in trying to secure a rebuild of the wall in accordance with those accepted details. This entailed using salvaged materials from the site and in a manner that reflected the initial conservation objective of retaining the base of the wall, but in a modified form that reflected approved plans.

Issues encountered during the wall's construction entailed a shortfall in site reclaimed facing bricks and copings, and so these have had to be supplemented with sympathetic new bricks/copings; poor workmanship, excessive paint residue on parts and inappropriate pointing along certain parts of the wall (the eastern, earliest constructed section, without the benefit of an agreed sample area/methodology). As a consequence, there have been numerous site meetings and email exchanges reiterating what is necessary to get the wall to a form that is acceptable (not as originally approved as a partly conserved asset, but acceptable in terms of the original intent and approved design).

In a meeting before Christmas, including representatives of the developer and a contractor, again, an approach was discussed and agreed to address these outstanding issues, however officers are unsure as to the programming of these works, once the sample area has been inspected and agreed.

The Design & Conservation Officer met the applicant again in February following the works being undertaken and confirmed that in principle he was happy with the section of the wall which the contractor had worked on, but he was keen to have a meeting with the contractor to discuss these works before any more work was undertaken on the remaining sections of the wall. A date for this follow-up meeting is in the process of being organised.

Given the issues faced, discussed in summary above, the Design & Conservation Officer would like to see the wall completed to the appropriate standard before any decision is made on this application, negating any necessity for further planning condition and to ensure the enforcement case can be closed, however given the need to make a decision on the application, this matter will need to be conditioned.

Design and Layout

Whilst this has not been checked in detail, the houses and layout appear to have been completed in accordance with the approved plans, which in the original officer's report were considered acceptable. Conditions relating to use of materials and levels have been discharged and no objections are raised with regards to the design and layout of the development.

Landscape

Whilst the details have not been checked in detail, the majority of, if not all the landscaping (finished surfacing of roads excepted) appears to have been carried out, and to a good standard. Condition 4 on the original approval required submission and approval of a landscaping scheme, this was approved and as such no objections are raised to the proposals.

Ecology

Replacement Planting

The loss of trees along the site's northern boundary was conceded as part of the determination of application 18/0079n, with details of replacement planting being required under condition 26.

The landscape plan submitted with this current application refers to details submitted under condition 26 of the previous consent.

Features for hedgehog and swifts and Wych Elm planting

The incorporation of these features was required under conditions 16 and 18 of consented application 18/0079n.

The current application is supported by proposals for the incorporation of swift boxes and hedgehog gaps and was accepted as a discharge of these conditions on the original approval.

It is however noted that the submitted landscape plan for the open space area, does not include the planting of Wych Elm which was required by the condition. This matter is the subject of further discussion to see if there is scope to include Wych Elm planting in the

proposals (trees having already been planted) and would need to be subject to a further condition if feasible.

Impact On Trees

At the time of the original application submission in 2018 there was tree cover on and adjacent to the site, on the boundaries. None of the trees were subject to TPO protection.

The tree cover originally comprised of:

- An avenue of mature broadleaved trees along the northern boundary of the site comprising a row of Lombardy poplars, Ash and some Sycamore.
- To the north west there is a self set group approximately 7 metres in width comprising young Birch, Poplar and Sycamore.
- To the south in the railway corridor there is a linear strip of early mature/mature Birch, Sycamore, Goat Willow and Oak.

The majority of the boundary trees regrettably had to be removed either due to their poor condition or because it was not possible to retain them in close proximity to the proposed development due to their rooting zones, or because of the need to disturb the ground during decontamination of the site. This was excepted on the basis of replacement planting both on the site boundaries and within the site.

Due to concerns about replacement trees being planted in private gardens, it was agreed that replacement planting should be carried out in the grounds of adjacent sites on the northern site boundary including St Barnabas Church & Vicarage.

This planting has been carried out, and as noted in the landscape section above, the majority if not all the proposed planting appears to have been carried out.

Noise

The original applicant has submitted with an acoustic report by Bureau Veritas UK Ltd. The impact of the noise from West Street, the railway and the adjacent industrial use on the proposed development was assessed in accordance with BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound. This is an agreed methodology for assessing noise of this nature.

The report recommended mitigation designed to ensure that occupants of the properties were not adversely affected by noise from the adjacent road, railway and industrial process. The conclusions of the report and methodology used were considered acceptable.

As such, and in accordance with the acoustic report, a condition is considered to be necessary, which essentially means ensuring the report recommendations, which includes boundary treatment, glazing and ventilation measures are carried out in full.

Air Quality

Commenting on the original application Environmental Protection wrote:

Policy SE12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 124 of the NPPF and the Government's Air Quality Strategy.

When assessing the impact of a development on Local Air Quality, regard has been had to (amongst other things) the Council's Air Quality Strategy, the Air Quality Action Plan, Local Monitoring Data and the EPUK Guidance "Land Use Planning & Development Control: Planning for Air Quality May 2015).

This is a proposal for the residential development of 269 dwellings comprising 24 apartments and 245 dwellings. Air quality impacts have been considered within the air quality assessment submitted in support of the application by Redmore Environmental. The report considers whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. The assessment uses ADMS Roads to model NO₂ and PM₁₀ impacts from additional traffic associated with this development and the cumulative impact of committed development within the area.

A number of modelled scenarios were considered within the assessment. These were:

- 2016 - Verification
- Opening year Do-Minimum (DM) (predicted traffic flows in 2018 should the proposals not proceed)
- Opening year Do-Something (DS) (predicted traffic flows in 2018 should the proposals be completed)

The assessment concluded that the impact of the future development on the chosen receptors will be negligible with regards to NO₂ and PM₁₀ concentrations, with none of the receptors experiencing greater than a 1% increase relative to the AQAL. That being said there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality. Considering the uncertainties with modelling, the impacts of the development could be significantly worse than predicted. Crewe has three Air Quality Management Areas, and as such the cumulative impact of developments in the town is likely to make the situation worse, unless managed. Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact.

The developer has already submitted an Interim Travel Plan which Environmental Protection deems sufficient to prevent a condition being raised to request one. However, Environmental Protection also believes that further robust mitigation measures are required to reduce the impact on sensitive receptors in the area. Therefore, conditions were recommended regarding Electric Vehicle Infrastructure, dust control and ultra-low emission boilers.

It is not considered that Environmental Protection are likely to change their original views, but Members will be updated if additional comments are received.

Flood Risk

No comments have been received from the Flood Risk Team, however condition 21 on the original approval required submission and approval of surface water drainage. This condition has been discharged.

Archaeology

Condition 19 on the original approval required Level II recording of the site. This condition has been discharged.

Viability/Section 106

The applicant submitted a viability report in support of the original application which in short stated that because of the significant costs in redeveloping this contaminated brownfield site it was unable to sustain any of the requested financial obligations requested towards education and public open space. Affordable housing provision as set out above was not required because of the Vacant Building Credit.

In brief the abnormal costs of developing this site amounted to some £2.8m, a substantial amount of which comprises demolition and site remediation, site clearance and preparation, abnormal foundations, storm water attenuation and a capping layer.

This viability report was independently assessed and although initially it was considered that the “Scheme is capable of providing S106 financial contributions whilst remaining financially viable”, after further discussions on abnormal costs and other matters the Consultants confirmed the applicant’s position that no obligations can be afforded by the proposed development. The consultants acting for the Council wrote:

“We therefore do not consider that the sales values achieved will be at the level required for the Scheme to become financially viable and therefore is not currently capable of providing S106 contributions whilst remaining financially viable.”

Lack of any contributions to mitigate the impact of development was always going to be difficult to support – no matter what the viability states or whether it is independently agreed. As discussed in the earlier report, the applicants were able to offer a contribution of £100,000 split as follows:

- Education contribution – £67,000
- Playing fields contribution - £33,000

It is understood that both payments have been made.

Under the original application, in addition to the two payments above there was a requirement to maintain the area of public open space within the centre of the site – as set out above. That requirement remains here.

The Heads of Terms for a S106 therefore would be:

- To maintain the open space in accordance with the Management Scheme approved by the Council at all times to the satisfaction of the Council

- To amend the Management Scheme only with the Council's written consent
- To keep the open space open, unbuilt upon and available for public recreational use in perpetuity.

*Please note this has been updated in the Conclusion section below, with additional contributions now being recommended.

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; a) Directly related to the development; and b) Fair and reasonably related in scale and kind to the development. It is considered that the contributions required as part of the application are justified meet the Council's requirement for policy compliance. All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development. The non-financial requirements ensure that the development will be delivered in full. On this basis the S106 the scheme is compliant with the CIL Regulations 2010.

UPDATED FINAL CONCLUSION

Conclusion:

This is a retrospective application for residential development west of Crewe Town Centre. Planning permission was previously granted consent in 2018 and the development outwardly has been built in accordance with that approval. However, conditions in respect of contaminated land have not been satisfied which renders that original consent void – hence the submission of this application to seek regularisation of the development.

As background, the original application raised a number of important issues that influenced the planning balance.

The application proposed to re-develop a brownfield site in Crewe, in a sustainable location within walking distance of Crewe Town Centre with its range of facilities such as schools, healthcare and POS. The development also provided housing which contributed towards the Council's 5 year housing supply and whilst not affordable in terms of the technical definition will provide a range of homes at the more affordable end of the housing market which was welcomed.

The proposals were neutral with regards to ecology with appropriate mitigation measures and issues of air quality, noise, highways and flood risk were all considered to be capable of being addressed by condition.

Although there were concerns about the loss of the existing factory wall and its historical links, it was considered that recording the "asset" and retaining the lower part of the wall as a frontage wall for the development goes some way to address this issue. Following lengthy discussions with the Council's Urban Design & Conservation officer the wall has been improved with more suitable pointing and cleaned to give it a more even appearance. The latest clean is to be undertaken before committee.

Working against the application, the proposals do not provide any affordable housing (due to the Vacant Building Credit) and the viability of the site causes a number of negatives with limited prospect of resolution and only very limited contributions to mitigate associated impacts. The POS provision on site still falls short of that normally required. Education contributions also fall short of what is required. No contribution was made to the NHS. Collectively there are additional pressures put on existing facilities in the area. The proposals also raised questions of urban design in that it fell short of the now expected levels of compliance with the CEC Design Guide. There were also concerns about the loss of trees and the overall landscape provision on site.

The main issue for the application was the additional information to regularise the issue of contaminated land. Environmental Protection were concerned about certain aspects of the assessments undertaken, and whilst initially having concerns were prepared to accept that the main issue, that of Human Health, was being addressed. As noted in the report at the time however they would have preferred that their technical findings (which are different from those of the applicant's consultants), should be peer reviewed by another professional as would be standard practice.

As a result of the above the application is considered to be finely balanced in March 2023. Tipping that balance for regeneration, providing a good range of housing, and recognising the viability of building on a brownfield site favoured supporting the proposal.

The application was deferred at the Strategic Planning Board meeting on 23rd March for the following reasons;

- (1) To undertake an updated open book viability assessment.
- (2) To enable a peer review to be undertaken of the assessments made by Environmental Protection in relation to contaminated land.

As set out in the November 2023 report, the viability issue was an unusual and complex matter resulting in two differing legal opinions over the reasonableness in 're-opening' the s106 and viability issue from the previous permission.

The legal advice to the Council was that the development is viable and can make a further contribution to Section 106 requirements (in addition to the £100,000 already secured). The reasonableness of the ask in the light the legal advice does however have to be noted, so the scope of the contribution has to be tempered to a compromise position and one that also meets the necessary CIL Regulations.

In this case it was considered reasonable to seek for the development to meet the most pressing Educational need, that of Special Educational Need (SEN) and for a contribution towards Electric Vehicle Charging either on site if that proves to be feasible, or within the local area of some £25,000 the equivalent of some 2 or 3 installations. If that money is not spent within a 3 year period, it should be allocated to Primary Education.

The peer review concluded that the measures introduced are satisfactory, and Environmental Protection were satisfied that the site is suitable for a residential end-use.

The application was again deferred from Strategic Planning Board on 22nd November, 2023 for the following reasons:

1. To review the Public Open Space (POS) and options for enhancement of use; and
2. To enable further investigation and assessment of the 'clean cover system' material in all gardens and the POS to ensure it is suitable for residential and public use.

As set out in the main report it is considered that a landscape led solution to the area of POS is the appropriate way to treat this area following consultations with residents.

With regards to garden areas, it is now considered that we have got to a point where a significant number of the properties have been satisfactorily treated, and Environmental Protection are happy with the works being undertaken, and that we have an agreed approach to dealing with the remaining properties through conditions.

The general wording for the contaminated land conditions is set out in this report below (Conditions 12 – 16) but Members will be updated before the meeting with the recommended wording which is being refined at the time of writing this report.

RECOMMENDATION

Approve subject to a legal agreement to secure:

- Contribution towards Special Educational needs of £136,500.00
- Contribution towards EV charging on site or in the local area to be made available for 3 years, but if not spent to go to Primary Education £25,000
- To maintain the open space in accordance with the Management Scheme approved by the Council at all times to the satisfaction of the Council.
- To amend the Management Scheme only with the Council's written consent
- To keep the open space open, unbuilt upon and available for public recreational use in perpetuity.

And the following conditions:

1. Approved Plans
2. Implementation of landscaping
3. Tree Protection Measures
4. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
5. Implementation of the noise mitigation measures
6. Implementation of Travel Plan
7. Electric Vehicle Infrastructure
8. Implementation of Construction and Environmental Management Plan
9. Separate drainage systems
10. Implementation of design/management of surface water drainage
11. No allocation of parking spaces for the apartment blocks
12. The replacement of the garden soils as detailed in the approved remedial strategy shall be carried out at the agreed plots presented within the approved remediation strategy. Verification should be issued to plot owners.

13. An assessment and any necessary remediation of the area of Public Open Space as detailed in the approved remedial strategy shall be carried out. Verification should be confirmed to the LPA.

14. Once verification reports for every agreed plot and the Public Open Space have been approved in writing, the LPA shall confirm in writing that the 14 plots shown [shaded red] may be occupied and that Condition 1 and Condition 2 are discharged.

15. The developer shall arrange access to all remaining properties in accordance with specific timings/details sequenced by letters, site visits and phone calls. If plot owners refuse access, then any plots will remain on the Local Authority's list of potentially contaminated sites (kept under the Authority's obligations with respect to Part 2A of the Environmental Protection Act 1990) and the relevant information for this plot kept on the land charges register.

16. Unexpected contamination found shall be reported – standard condition.

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

