

Application No: 22/4863N

Location: Bombardier Transportation, WEST STREET, CREWE, 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-Mar-2023

## **SUMMARY**

This is a retrospective application for residential development in the centre of Crewe. Planning permission was previously granted consent in 2018 and the scheme 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. However as noted in the report it is taking some time to achieve a satisfactory standard of finish for these works which is still on going.

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 this scheme is the additional information to regularise the issue of contaminated land. Whilst Environmental Protection are still concerned about certain aspects of the assessments undertaken, they are now satisfied that the main issue, that of Human Health, has now been addressed. As noted in the report however they would prefer 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 this application is considered to be finely balanced. Tipping that balance for regeneration, providing a good range of housing, and recognising the viability of building on a brownfield site favour supporting the proposal.

**RECOMMENDATION: Approve subject to Section 106 Agreement and conditions.**

## **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:**

## **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 not withstanding 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 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 it's 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 sites 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 NO<sub>2</sub> and PM<sub>10</sub> 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 NO<sub>2</sub> and PM<sub>10</sub> 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.

## **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.

## **CONCLUSION**

This is a retrospective application for residential development tin the centre of Crewe. Planning permission was previously granted consent in 2018 and the scheme 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. However as noted above it is taking some time to achieve a satisfactory standard of finish for these works which is still on going.

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 this scheme is the additional information to regularise the issue of contaminated land. Whilst Environmental Protection are still concerned about certain aspects of the assessments undertaken, they are now satisfied that the main issue, that of Human Health, has now been addressed. As noted in the report however they would prefer 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 this application is considered to be finely balanced. Tipping that balance for regeneration, providing a good range of housing, and recognising the viability of building on a brownfield site favour supporting the proposal.

## **RECOMMENDATION**

**Approve** subject to a legal agreement to secure

- 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. **Materials – as approved**
3. **Landscaping – as approved**
4. **Implementation of landscaping**
5. **Tree Protection Measures**
6. **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**
7. **Implementation of the noise mitigation measures**
8. **Implementation of Travel Plan**
9. **Electric Vehicle Infrastructure**
10. **Within 3 months of the approval of this development, a Remediation Strategy shall be submitted to, and approved in writing, by the LPA.**
11. **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.**
12. **Implementation of Construction and Environmental Management Plan**
13. **Archaeological programme of works**
14. **Separate drainage systems**
15. **Implementation of design/management of surface water drainage**
16. **No allocation of parking spaces for the apartment blocks**
17. **Set a deadline for works to be complete on the boundary wall on west street to an agreed standard.**

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 Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.



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