

Application No: 12/1989N

Location: Land off ST ANNES LANE, NANTWICH

Proposal: Residential Development Comprising 24 Dwellings Including Access, Parking, Landscaping and Associated Works

Applicant: P E Jones (Contractors) Limited

Expiry Date: 17-Aug-2012

SUMMARY RECOMMENDATION

Approve with Conditions and subject to the completion of a section 106

MAIN ISSUES

- Principle of Development
- Development Viability
- Design, Impact on the Character and Appearance of the Locality/Streetscene
- Impact on Amenity of adjacent properties
- Impact on Highway Safety and parking
- Impact on Protected Species
- Impact on trees and landscaping
- Provision of Affordable Housing
- Provision of Open Space
- Impact on contaminated land
- Impact on Drainage and Flooding
- Impact on the area of archaeological potential
- Education Provision
- CIL Regulations

1. REASON FOR REFERRAL

This application is for 24 dwellings and is therefore a small scale major which is delegated to the Southern Planning Committee to make the decision.

2. DESCRIPTION OF SITE AND CONTEXT

The application site forms an area of land to the rear of Welsh Row, Nantwich on St. Annes Lane. The site was formerly occupied by Burgess (Agricultural Engineers) Ltd. The site has an extant permission for residential with an element of commercial use (P07/1355). The site is a square piece of land sited on the edge of the Nantwich Conservation Area with a small area to the north west falling within the Conservation Area. In the recent past the buildings on the site were demolished and the site is currently vacant. There is substantial tree coverage to the south of the plot with a mix of trees and buildings to the west. To the north of the plot is Whitehall Court where

several buildings are accessed to the rear off Welsh Row. To the east of the site is an area currently used as a public car park. Beyond the car park is The Weaver Valley Riverside Park.

3. DETAILS OF PROPOSAL

This is a full planning application for the provision of 24 dwellings including Access, Parking, Landscaping and Associated Works. The scheme comprises two separate 'L' shaped blocks which create an internal courtyard which contains the majority of the parking. The two buildings comprise 5no 2 bedroom units, 3no 3 bedroom units and 16no 4 bedroom units. The properties are a mix of 2 and 3 storey properties of differing elevational designs and heights.

The development site will be accessed off St Anne's Lane, with access into the courtyard parking areas through an under pass in the east elevation. The amended site plan shows a provision of 200% parking on the site. Of the 24 dwellings, 19 have private amenity areas and there is a small element of landscaping proposed throughout the site.

4. RELEVANT HISTORY

P07/1355 - Erection of 62 Sheltered Housing Apartments, Managers Apartment and Guest Apartment, Communal Facilities, One Retail Unit, 452.7sqm of Offices, Car Parking, Conservatory, Landscaping and Construction of a New Vehicular Access – Approved subject to a 106 Agreement 14th July 2011

P06/1480 - Erection of 3 1/2 Storey Buildings Containing 55 Apartments and 1 A1 Units and Offices – Refused 9th March 2007

P05/0903 - Demolition of Existing Buildings and Erection of 44 Residential Properties. One A1 (Retail) Unit and B1 Offices Together with Car Parking and Access to Site. (Re-Submission of P04/1463) – Approved with conditions 16th August 2006

P04/1463 - Demolition of Existing Buildings and Erection of 46 Apartments, 1 A1 (Retail), A2 (Financial and Professional Services) or A3 (Food and Drink) Unit and B1 (Offices) with Parking, Landscaping and New Vehicular Accesses – Refused 8th February 2005

5. POLICIES

The development plan includes the Regional Spatial Strategy for the North West (RSS) Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

Regional Spatial Strategy

DP4 Make best use of resources and infrastructure

DP5 Managing travel demand

DP7 Promote environmental quality

DP9 Reduce emissions and adapt to climate change

RDF1 Spatial Priorities

L4 Regional Housing Provision

EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

EM3 Green Infrastructure

Local Plan Policy

NE.5 (Nature Conservation and Habitats)
NE.9 (Protected Species)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Accessing and Parking)
BE.4 (Drainage, Utilities and Resources)
BE.5 (Infrastructure)
BE.6 (Development on potentially contaminated land)
BE.7 (Conservation Area)
BE.16 (Development and archaeology)
RES.1 (Housing Allocations)
RES.7 (Affordable Housing within the Settlement Boundaries of Crewe, Nantwich and the Villages Listed in RES.4)
TRAN.3 (Pedestrians)
TRAN.5 (Provision for Cyclists)
TRAN.9 (Car Parking Standards)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)

Supplementary Planning Documents

Local Development Framework - Development on Backland and Gardens Supplementary Planning Document (2008)

Cheshire East – Interim Planning Statement on Affordable Housing (2011)

Other Material Considerations

National Planning Policy Framework 2012

6. CONSULTATIONS (External to Planning)

Strategic Highways Manager [18.06.2012]

This latest proposal (planning application 12/1989N) is for a residential development and will therefore generate higher volumes of vehicular and pedestrian movements at peak times. Access from St Anne's Lane onto Welsh Row is poor with reduced visibility especially in the critical direction. Welsh Row has a system of traffic management in place which in turn has reduced average speeds along part of its length. The existing footpath along St Anne's Lane linking to the footbridge over the river, is in a poor state of repair as is the access road running parallel.

Cheshire East Council operates minimum parking standards for residential developments which would require a 200% (48 spaces) parking provision for this proposal. The developer is only providing 42 off street parking spaces site wide, which falls short of CEC parking standards by 6 spaces. There is a free car park adjacent to this site, but it is heavily used with vehicles mounting the surrounding footpaths to park on a regular basis. The future of this car park is unknown and therefore the requirement for the developer to provide the correct parking should be met.

Welsh Row has relatively low speeds and could facilitate reduced visibility splays for any development served off it. However the traffic generated from this development would add to peak time issues and increase queuing at both ends. For the strategic highways and transportation manager to support this application the applicant will need to construct the development to an adoptable standard. A section 278 agreement shall be required with the development remaining unadopted and privately maintained.

- The proposed off street parking provision will need to be increased to fall in line with CEC parking standards and a plan must be provided for approval by the LPA prior to any planning consent.
- The footpath along St Anne's Lane must be improved to link the foot bridge to this proposal. The unmade track adjacent this footpath will require resurfacing to aid easier access to this development.
- A developer contribution of 50k shall be required for CEC environmental traffic management measures along Welsh Row.
- A section 106 agreement will be required to facilitate all off the above.
- The existing highways conditions (see above) should form part of any future consent.

Subject to all of the above being met by the developer, the strategic highways and transportation manager has no objections to this proposal.

[06.08.2012] – Having read the viability report, conclude that contribution requirement of £50,000 is unjustifiable given the viability issues and the existing extant permission. Improvements to the footway to be conditioned.

Environment Agency: The Environment Agency has no objection in principle to the proposed development but would like to make the following comments. A relatively small part of the site, towards the south-eastern boundary, is shown on our Flood Maps as being within Flood Zone 2, which is medium probability of river/tidal flooding. The Flood Maps are however indicative only and are not of sufficient accuracy to determine the risk of flooding at a specific location. The submitted Drainage Strategy and Flood Risk Assessment Report explains that the proposed buildings should be constructed 150mm above ground level. This is acceptable in principle.

Environmental Health [11.06.2012] – Recommend refusal. There is insufficient information contained within the application to determine whether there will be a loss of amenity caused by noise from licensed premises in the area and road traffic noise.

Other issues can be conditioned. Recommend conditions relating to construction hours, hours for pile driving.

[23.07.2012] No objections – subject to further condition for noise mitigation to be carried out in accordance with the proposed scheme.

Development is for a sensitive end use and could be affected by contamination. It is recommended that a phase II contaminated land study to be carried out.

SUSTRANS – The design of any smaller properties should include storage access for residents' buggies, bicycles. St Annes Lane provides the pedestrian/cycle access on to the riverside from Welsh Row via the footbridge. The road is pot-holed and vehicles park on the footway when the car park is full. We would like to see this development make a contribution to sorting this issue out so that pedestrians/cyclists have a properly designed route to the riverside avoiding wading through water or skirting around poorly parked vehicles.

Natural England: No comments

United Utilities: No Objections

Cheshire Wildlife Trust: Note that the NPPF requires the planning system to contribute to and enhance the natural and local environment. Notes the Extended Phase 1 Habitat Survey Report indicates common swifts nest in Welsh Row, Swifts are an amber listed bird of Conservation Concern. Therefore swift boxes should be incorporated into the three storey properties. Furthermore, the site is in close proximity to the Nantwich Riverside which provides optimal foraging habitats for bats, and suggests that the provision of bat roosting sites (tubes, slates, access to cavity walls) could be beneficial. Note that the planting proposals for this scheme specify mostly ornamental species and would recommend that a greater proportion of native species is specified, also for potential biodiversity gain.

English Heritage: The application should be determined in accordance with national and local policy guidance, and on the basis of the Council's own specialist conservation advice.

7. VIEWS OF THE TOWN COUNCIL

The Town Council welcomed the proposed development of this brownfield site.

Council noted the lower density compared to previous applications and considered that the design was a considerable improvement on the last scheme proposed for this site. Council considered that there will be no demonstrable harm to the adjoining conservation area or to the amenities enjoyed by the occupiers of nearby properties.

Council also noted the developer's intention to surface St Anne's Lane and consider that this should extend along the frontage of the proposed dwellings fronting the lane and not just to the archway access.

8. OTHER REPRESENTATIONS

Letters of representation have been received from the occupants of, 6 Residence. The main issues raised are;

- Generally consider the proposal is acceptable,
- Insufficient parking for the site,
- Least sympathetically designed elevation facing Whitehall Court,
- Tall buildings will impact on views of trees from Whitehall Court,
- Impact on visual amenity from principal windows on rear elevation of dwelling on Whitehall Court/Welsh Row,
- The three storey building are not in keeping with the two storey buildings surrounding the site,
- Suggest moving the three storey building facing Whitehall Court to the St. Annes Lane elevation or to the rear of the site,
- Three storey buildings should be reduced in height to two and half storey,
- Improve materials to be used on Whitehall Court elevation,
- Improvements to the surface of St. Annes Lane should be conditioned to be complete prior to first occupation of the site,
- Issues with the density of the development and the amount of car movements which the site will create, and the impact this will have on Welsh Row
- Loss of privacy to gardens on Welsh Row/Whitehall Court,
- The site is in Nantwich Conservation Area therefore the detail of the materials and construction method will be very important,
- Planning permission was refused in 2007 for three and half storey properties *'unacceptable overlooking of private rear garden and parking overdevelopment'*
- Concerns regarding the position of the garages between plots 1 & 24 and Plots 22 & 21 and the impact these will have on the adjoin neighbours trees.

A letter of representation has also been received from the Asset Management Team at Cheshire East Borough Council. The main issues raised are;

- Economic Development & Regeneration are investigating the viability of any development on CEC's own asset off St. Annes Lane
- Assets & ED&R Team are principally supportive of bringing Emerson's vacant parcel of land into use. However, it is felt that consideration should be given, along with other sites in the immediate area, for any development to be in line with Local Plan objectives
- Affordable housing should be provided on site or on an alternative site, and not presumed to be used towards the CEC's asset – as this would create a site with a disproportionate amount of affordable housing on one site,
- Concerns raised with regards to separation distances to the CEC land and the impact it would have on future development,

Further to additional consultations carried out on amended plans. A further letter of representation has been received from the occupier of No.57 Welsh Row. The main issues raised are,

- Still insufficient parking,
- Height of buildings and overlooking windows - 14 windows overlooking at first and second floor,
- An application was previously refused for overlooking of private rear gardens on the site in 2007

9. APPLICANT'S SUPPORTING INFORMATION

Geo-Environmental Assessment Report (carried out by Joynes Pike & Associates Ltd – October 2004)

Drainage Strategy and Flood Risk Assessment Report (carried out by ARJ Associates Ltd – May 2012)

Extended Phase 1 Survey (carried out by Penny Anderson Associates Ltd – May 2012)

Post-Excavation Assessment Report (carried out by Gifford – December 2006)

Report on an Archaeological desk based assessment (carried out by Gifford – October 2004)

Transport Statement (carried out by Sanderson – May 2012)

Design and Access Statement Rev B (carried out by Barrie Newcombe Associates)

Planning Statement (carried out by The Emerson Group)

Draft Heads of Terms (carried out by The Emerson Group)

Affordable Housing Statement (carried out by The Emerson Group)

Arboricultural Statement (carried out by Cheshire Woodlands – July 2012)

Noise Assessment (carried out by RSK July 2012)

Updated Noise Assessment (carried out by RSK July 2012)

Viability Assessment (carried out by Gerald Eve – July 2012)

Updated Viability Assessment (carried out by Gerald Eve August 2012)

10. OFFICER APPRAISAL

Principle of Development

The application site is situated within the Nantwich Town settlement boundary and as a brownfield site the general principle of development on this site is acceptable. Notwithstanding, the fact that the site was previously an employment site, the principle of residential development on the site has already been accepted by a previous application on the site P07/1355 which permitted 62 sheltered housing apartments, a managers flat and an element of retail/commercial at ground floor level. This permission is still extant.

The proposed development of this site is solely for residential development, and the loss of the commercial element is regrettable. However, Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The SHLAA has put forward a figure of 3.94 years housing land supply and once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The NPPF clearly states at paragraph 49 that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

*“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
specific policies in the Framework indicate development should be restricted.”*

Consequently, it is considered that the contribution to housing land supply, and the above provisions of the NPPF outweigh any conflict with Local Plan Policy in terms of loss of commercial floorspace. The proposal is therefore considered to be acceptable in principle and the application turns on whether the development is sustainable and whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in terms of additional housing land supply.

The main issues in this instance are therefore whether the proposed scheme is of an acceptable design, impact on the Nantwich Conservation Area, does not result in any demonstrable harm on the amenity of nearby properties or future occupants, whether the site can be satisfactorily access with an appropriate level of parking provision, whether there would be an adverse impact on Protected Species and Landscape features, and whether there are any other issues relating to affordable housing provision, open space provision, drainage, and contaminated land.

Design - Impact on the Character and Appearance of the Conservation Area and Streetscene

The application site is currently empty. The site had previously been occupied by two large warehouse sheds in relation to the previous commercial use of the site. The surrounding area is predominantly a mix of two and three storey properties of varying age, size, height and architectural design. The surrounding land use is a mix of residential and commercial. The land to the east of the proposal site is currently a vacant plot used as an informal car park owned by Cheshire East Borough Council. The site is surrounded by residential properties on the three sides with substantial tree coverage to the south and west of the site.

The application proposes two 'L' shape blocks with a mixture of two storey dwellings (some with dormers in the roofspace) and three storey properties. The dwellings have been designed to reflect the varied house types seen within the Welsh Row conservation area, with varying elevational treatment and heights. Underpass features creating court yard parking and the position of buildings close to the highway also reflect the general, pattern and nature of the development within the surrounding area.

The external materials will be a key issue in ensuring the development does not detract from the adjacent conservation area and therefore a condition will be attached for these details to be submitted to and approved in writing by the Local Planning Authority. It is noted that the development is proposing to use a higher level of building material than on their standard builds to ensure the development does not detract from the adjacent conservation area.

The variety of house types and variations in the building line provides interesting elevations in the streetscene. A feature dwelling is proposed at the entrance to the site which is an appropriate form of development at the head of the St Annes Lane and will be visible from the Welsh Row Conservation Area.

The proposed scheme has a mix of housing which addresses the road frontage, and a mix which addresses the internal courtyard into the site creating an inclusive design, which promotes self surveillance of the area.

The application site is largely backland development with links to the nearby Weaver Valley Riverside Park. Notwithstanding this, it is considered that the proposed dwellings and layout is of acceptable design which would not cause any detrimental harm on the character and appearance of the streetscene or wider Nantwich Conservation Area.

Impact on the Amenity of adjacent properties and future occupants

Loss of Privacy/Overlooking/Overshadowing

The proposed plots 10 – 17 overlook the opposing informal car park off St Annes Lane. Therefore the proposed development will have no impact on neighbouring amenity to the front. There is proposed to be a spacing standard of 35m between the rear elevation of these plots and the proposed front elevations of plots 22 – 24 this would exceed the Development on Backland and Gardens SPD spacing standard of 21m between principal elevations. It is therefore considered that the amenity of the future occupiers of these plots will be sufficient.

Plots 18 – 21 will face towards the existing properties know as School House and Davelynn House to the south of St. Annes Lane. The proposed dwellings will have several principal windows facing towards the boundary. A spacing standard of 13.5m is required between principal elevations and flank elevations. In this case 16m will be achieved between these windows and the side elevations of the two existing dwellings. The proposed dwellings will be of two storey nature at this point and there is currently a very tall hedge of around 4m between the proposal site and the existing dwellings to the south of St. Annes Lane. It is therefore considered that there is sufficient distance between the proposed dwellings and the existing properties on St. Annes Lane. The front elevations of these properties will be sited over 40m from the front elevations of Plots 1 – 8 which are sited directly opposite.

Plots 21 – 24 and Plot 1 all have elevations facing west towards the rear gardens of No.55, 57, 61, 63, 67 and 69 Marsh Lane and the rear elevations of No's 1 – 15 Queens Drive beyond. There is over 50m between the proposed rear elevation of Plots 21 – 24 and Plot 1 and the rear elevations of No's 1 – 15 Queens Drive, (some of which appear to be two storey flats where an increased spacing standard of 30m is required). Therefore there is sufficient distance to ensure the proposed three storey properties will not overlook the dwellings on Queens Drive.

Plots 22 – 24 are three storey dwellings and Plot 21 is a two storey dwelling. These properties will be sited at a 90 degree right angle to the dwellings on Marsh Lane and therefore will overlook the gardens of No.57, 61 and 69 due to the unusual distribution of garden land to the dwellings on Welsh Row. The most affected is the rear garden area of No. 57. The proposal will see 14 windows facing towards the rear gardens at first and second floor level. There is proposed to be a 1.8m wall constructed to the rear of the proposed dwellings which will mitigate for overlooking a ground floor level. According to the floor plans for plots 21 – 24, 8 of the windows overlooking the gardens are to be en-suite/bathroom windows and therefore secondary windows which can be conditioned to be obscure glazed. However, 6 of the windows in plots 22 – 24 will serve bedroom windows and are therefore are principal windows. There will be a separation distance of 12m between the proposed rear elevations with principal windows and the boundary with the garden area of No.57. There are no standards required for lengths of rear gardens and all the current spacing standards relate to distances between windows and not boundaries to gardens. Furthermore, the extant permission on the site involved a three storey residential home which had a full three storey elevation facing the garden area of No.57. The floor plans to the approved scheme show a total of 34 windows serving bedrooms and living rooms facing towards the garden area of No.57 Welsh Row and sited at a similar distance from the boundary. Therefore whilst there may be some overlooking from the rear elevations of Plots 22 – 24, the current proposal is a significant improvement on the extant permission on the site. It is considered that the proposal will therefore not have a significantly greater impact on neighbouring amenity at this point than the currently extant permission.

Plots 1 – 8 have elevations facing towards the rear elevations of No.39 – 47 Welsh Row and 1-4 Whitehall Court. The proposed dwellings facing Whitehall Court are of a three storey nature with rear elevations facing towards the rear elevations of the existing dwellings. There is a minimum separation distance of 22m proposed between the rear elevations of Plots 1 – 7 and rear elevations of the dwellings No.41 – 47 Welsh Row and 1-4 Whitehall Court. At ground floor level there will be 1.8m wall constructed around the rear gardens and therefore this will mitigate for any overlooking at ground floor level. At first and second floor level plots 1 – 6 will have a total of 24 windows facing towards the properties Whitehall Court and No.47 Welsh Row. According the floor plans for Plots 1 – 6, 12 of the windows will serve bathrooms/en suites and therefore are secondary windows. However, 12 of the windows will serve bedrooms. However, as noted above a minimum separation distance of 22m will be maintained, this exceeds the 21m separation distance required between principal windows. Plot 7 will have two bedroom windows and a lounge window facing the rear elevation of No. 41 – 45 Welsh Row. There separation distance between the principal windows exceeds 21m and it is therefore considered to be acceptable.

Plots 8 and 9 are sited at a 45 degree angle to St Annes Lane and create the focal feature element to the street frontage. Both plots face towards No.39 and 35 Welsh Row. The proposed three storey properties will have a total of 8 principal windows facing towards the existing dwellings. No. 35 Welsh Row has no windows on the side elevation, and therefore the proposal will have no amenity impact. No.39 St. Annes Lane appears to have several windows on the rear

elevation, the closest of which is 12m away from the corner of Plot 8. Given the orientation of the proposed building there will be no direct overlooking of the windows on the rear of No.39 and that No.39 is currently been used as a commercial premises, it is therefore considered that the separation distance is acceptable.

Private Amenity Space

The SPD for Development on Backland and Gardens identifies that all new dwellings should have a minimum of 50sqm of private amenity space. In this scheme the proposed private amenity spaces provided would exceed this level in most cases. However, the proposal only includes rear gardens, for 19 out of the 24 dwellings. Of the 19 dwellings with rear gardens 4 fall short of the 50sqm by around 8sqm. However the dwellings do have front garden areas which would take the private amenity space to above 50sqm. The 5 dwellings without any private amenity space include the focal dwellings to the front of the site which create the access into the court yard. These properties are to be two bedroom dwellings and are unlikely to be used as family dwellings requiring garden area. Furthermore, there is some communal greenspace to the front of this corner feature which will go some way to address the lack of private amenity space. The other dwelling without any private amenity space is to the rear of the site. The dwelling is an apartment above a garage block, which is the type of property which is less likely to be occupied by a family and an area of communal landscape is proposed to the rear of the dwelling to make up for the short fall in private amenity space. Therefore, it is considered that although the development does not meet the guidance set out in the SPD it is considered that there will be sufficient private amenity space for the future occupiers of the site, and given the close proximity of the site to the Weaver Valley Riverside Park this will not have an unduly negative impact on the future occupiers of the site.

Noise

The application site is sited immediately adjacent to Welsh Row where there are several late licensed premises and therefore there is the potential for there to be an amenity issue to future occupants of the proposed dwellings through noise disturbance. On this basis there was an initial objection from Environmental Health. An acoustic report has been submitted to support the application and address the Environmental Health concerns. This impact assessment identified a number of mitigation measures to reduce the impact on these proposed properties through noise. Environmental Health are satisfied with the report and its conclusion and the proposed mitigation can be secured by condition.

With regard to the impact of the proposed development on neighbouring properties during construction a series of conditions relating to construction hours, and pile driving are suggested.

Impact on Protected Species

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- a licensing system administered by Natural England.
- Local Plan Policy NE.5 (Nature Conservation and Habitats) and NE.9 (Protected Species)

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

The application is supported by an acceptable ecological assessment. The Council's Ecologist does not anticipate there being any significant ecological issues associated with the proposed development. He recommends that the landscape scheme includes native species and conditions are attached to any approval for a breeding bird survey to be carried out prior to commencement. Plans should be submitted to include the incorporation of features for sparrows, swifts and bats. It is therefore considered that the proposal should not have a detrimental impact on protected species.

Impact on Trees and Landscaping

There is significant tree coverage on the south and west of the site. The application is supported by an arboricultural statement. The Council's Landscape Architect notes that some significant tree works on the western boundary will be required in order to accommodate the development. The trees are mainly off site and are not protected but their crowns extend up to 5 metres over the site. Furthermore, it is noted that if this development or the extant development went ahead the trees would not be so visible and therefore a Tree Preservation Order would not be appropriate.

It is therefore considered that given that part of the site is situated within the Nantwich Conservation Area a condition should be attached to the permission to ensure that all tree and hedge pruning works are implemented in accordance with the report, and tree protection measures are also implemented in accordance with the report.

Furthermore, a landscaping scheme has been submitted with the application as illustrated on Michael Vinsun plan 267-01. The scheme is complex and does not include any native species (a recommendation made in the ecological report). The Landscape Architect has some concerns regarding the selection of species, some of which it is considered are unsuitable for the location. Therefore it is considered that an amended scheme should be sought by condition.

Provision of Affordable Housing

The Councils Interim Planning Statement for Affordable Housing states that the Council will seek affordable housing on all sites with 15 units or more, and the general minimum proportion of affordable housing for any site will be 30% of the total units.

As part of this application, a development viability report has been produced by Gerald Eve LLP. This identifies that the abnormal costs associated with this development include enhanced specification foundations due to the site being within an area of archaeological potential, improvements required to road surface of St. Anne's Lane and increased elevational specification cost due to the sites position within the Nantwich Conservation Area.

The applicant states in the report that the total cost of these abnormal cost equates to £303,893. Further to this, to address short falls in onsite provision, and the impact the development would have on the surrounding infrastructure the Council required contributions of £43,385 for education, £20,000 open space provision and £50,000 for highways improvements. Furthermore, the applicant states that to ensure the dwellings met the Code 3 for Sustainable Homes standard in comparison to current building regulations this would equate to an addition £1,500 per dwelling. The council also required a provision of 7 affordable homes on the site which equates to a 30% provision of affordable housing.

The applicant originally proposed an offsite contribution of £213,000 in lieu of onsite affordable housing, and a £20,000 contribution towards the improvement of the Weaver Valley Riverside Park area of open space (in line with the provision within the Section 106 agreement provided in the extant permission P07/1355).

The report reached the conclusion that a viable scheme would provide 0% onsite affordable housing with a total contribution of £223,000. In support of their case the viability appraisal identified that the overall developers profit on cost for the development is 20%. This figure is within the accepted industry standard of 17.5% - 20%, a figure used within the majority of

viability models and which is supported by the guidance published by the Homes and Community Agency.

The offer of 0% affordable housing was considered to be unacceptable and as a result the applicant has reassessed the viability of the proposed development and has now offered 12.5% affordable housing (3 units) and contributions of £63,385. The proposal would achieve a profit on cost of 19.52%.

The tenure split is proposed as 2 x 2 bed apartments provided as an intermediate tenure sold at 70% of the open market value and 1 x 2 bed apartment provided as affordable rent. Previously the applicant was proposing no on site affordable housing with a contribution of £213,650 proposed for off site provision.

The Council's Affordable Housing Officer has been consulted on the proposal and has accepted the details submitted within the financial viability report, noting that the application is unable to provide the full affordable housing required as per the Interim Planning Statement: Affordable Housing. The Council's Affordable Housing Officer notes that provision of on-site affordable housing is preferable to a financial contribution. This viability report, with an offer of 12.5% on-site affordable housing and a contribution of £63,385 is considered to be robust and is accepted.

The SHMA 2010 identified a preferred tenure split requirement for affordable housing as 65% social rent and 35% intermediate housing across Cheshire East. The Council's preference for the affordable housing provision would be for 2 apartments to be provided as affordable or social rent and 1 apartment provided as an intermediate unit. However it is recognised that the applicant has submitted a viability report showing it is not viable to provide the preferred mix of tenure. Therefore the offer of 3 x 2 bed apartments will go towards meeting some of the identified affordable housing need in Nantwich.

The Affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

The Affordable Housing Interim Planning Statement requires that all the affordable housing should achieve at least Level 3 of the Code for Sustainable Homes (2007). However, it has been accepted as part of the viability report that the additional affordable housing unit is more important than the requirement for the dwellings to achieve Level 3 of the Code of Sustainable Homes given it is not significantly more than the current Building Regulation standards.

Whilst it is clearly unfortunate that a higher level of affordable housing cannot be provided in accordance with the requirements of the Interim Planning Statement on Affordable Housing Policy. The policy does advise that the Council will consider the economics of provision when assessing affordable housing provision. Furthermore, the guidance contained within National Planning Policy Framework makes it clear that Councils will be expected to consider the impact of planning obligations on the viability of development and that such issues amount to important considerations.

The affordable housing provision and the mix and type of affordable housing units is therefore considered to be acceptable and can be secured through the completion of a Legal Agreement.

Impact on Highway Safety and Parking

The site would be accessed from St Annes Lane which is an unadopted road and is currently in a poor state of repair. The applicant has stated that they will be bringing the road up to an adoptable standard to improve the frontage to the dwellings proposed on St Annes Lane itself. The viability report states a figure for this and therefore it is considered suitable to condition that these works are carried out prior to the first occupation of the site.

The proposal involves two accesses into the site through underpasses into the central courtyard parking areas. This approach was previously accepted as part of the extant permission and it is considered to be acceptable in this instance also.

The revised scheme proposes a provision of 200% off street parking for each property. However this does include the garages on the site, which are largely integral garages. The Strategic Highways Manager has agreed that this is an acceptable provision. It is therefore considered that given the sustainable location of the site this is acceptable.

As it can be seen from the Strategic Highways Managers comments, a contribution of £50,000 was required for Environmental Traffic Management measure along Welsh Row. However after considering the viability report it was considered that the requirement was unjustifiable, and furthermore as there was an extant permission on the site for significantly more dwellings the proposal was unreasonable and therefore this required contribution was removed.

Provision of Open Space

The proposed development includes no on site public open space provision although does include some small pockets of landscaped amenity land throughout the site. However, this would not meet the requirement of Policy RT.3 which requires a minimum 15 square metres of shared recreational open space per dwelling and a further 20 square meters of shared children's play space per family dwelling. There are clearly viability issues with the site as highlighted previously and there is limited opportunity on the site to provide suitable on site open space. The site is situated within the town centre where several area of protected open space and children's play space already exists.

The applicant has proposed a contribution of £20,000 to improve the path between the development site and the nearby Weaver Valley River Park in lieu of onsite provision on the site, this is in line with Policy RT.3. The contribution is considered to be appropriate in this instance and can be secured by Legal Agreement.

Contaminated Land

A Phase I Contaminated Land Study has been submitted to support the application. The Spatial Planning Team have noted that the Phase I report does not relate to the current proposal but to the previous extant proposal. However, the Environmental Health Contaminated Land Officer

has considered the supporting documentation and considered that the report is suitable, although a Phase II report will be required. As the proposal is for a sensitive end use a Phase II investigation is considered to be a reasonable requirement. This can be secured by condition.

Impact on Drainage and Flooding

The application was accompanied by a drainage strategy and flood risk assessment report. The report states that the site is within Flood Risk Zone 1 having a less than 1 in 1000 chance of flooding. However the applicant is proposing to construct dwellings 150mm above ground level. The Environment Agency (EA) has made no objection to the proposal although note that an area in the south-eastern boundary is within Flood Zone 2. However, note that the Flood Maps are indicative and not of sufficient accurate to determine the risk of flooding at a specific location. The EA note that the proposed buildings are to be constructed 150mm above ground level and this is acceptable.

Furthermore, United Utilities have raised no objection to the proposed drainage system and therefore it is considered to be acceptable.

Impact on the Area of Archaeological Potential

The proposal site is situated within an area of archaeological potential. The application area has been the subject of a programme of pre-determination work, which was largely carried out in connection with earlier proposals for the re-development of the site, and the results are summarised below.

Briefly, the whole of the application area was subject to a programme of pre-determination desk-based assessment and field evaluation in 2006 by Gifford and Partners. The field evaluation demonstrated that archaeological deposits were present across much of the site, although in the central area and southern area at depths where there was the potential to preserve the remains *in situ* through careful consideration of the foundation design. In view of these results, the owners commissioned Gifford and partners to excavate the Roman and medieval deposits in the most threatened northern area and this work was completed in 2006. An opportunity subsequently arose to incorporate the findings in a report on work elsewhere in the town and this has now been published. Therefore, in this northern area (extending south for c 20m from the northern limits of the application area) no further archaeological mitigation will be required.

The central and southern areas, however, still contain significant archaeological strata, which require further consideration. In particular, the southern and central areas contain deep deposits (1m to 1.8m) of organic and partially waterlogged material which has accumulated in the Weaver's floodplain over the last 1000 years. Crucially, there are archaeological deposits under this material, including Roman and medieval pottery, wattle fences, planks, and ditches, which are sensitive to damage during any development, either by generalised ground reduction or foundation excavation.

The Council's Archeologist has had the opportunity to discuss the archaeological issues with the applicants and it has been agreed that, whilst there may be a need for a limited watching brief during unavoidably deep excavations for major services, across the bulk of the area it should be possible to preserve the vast majority of archaeological deposits *in situ* through limiting any generalised ground reduction to the upper levels of the non-sensitive strata and using piles for

the foundations of the structures. The successful implementation of such a programme will, however, require the preparation and agreement of a detailed groundworks method statement by an experienced archaeological contractor and close liaison with the main contractor in the field. The Council's Archeologist notes that the applicants are likely to develop the site in a phased manner so it will be important to ensure that the preservation *in situ* strategy is agreed and implemented with regard to all those parts of the site which are archaeologically sensitive.

It is therefore considered that the above programme of mitigation may be secured by condition. The use of such a condition is in line with the guidance set out in Paragraph 141, Section 12 (Conserving and Enhancing the Historic Environment) of the new National Planning Policy Framework.

Education Provision

As stated above, the applicant has offered to contribute £43,385 towards education provision. This is the requested contribution from the Education Department which is based on the number of dwellings on the site which is considered will generate 4 primary aged pupils and 3 secondary aged pupils. The Education Department noted that there is no need for contributions towards secondary provision. It is considered that the education contribution of £43,385 is acceptable.

CIL Regulations

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

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

The development would result in increased pressures on local schools which are already at capacity. The education contribution is therefore required to increase the capacity of local schools which would serve this development. This is considered to be necessary and fair and reasonable in relation to the development.

The proposed improvements to the Weaver Valley Riverside Park footpaths/bridges would provide upgrades to the adjacent POS in lieu of provision on site as required by policy. It is considered to be necessary and fair and reasonable in relation to the development.

As explained within above, affordable housing is a requirement of the Interim Planning Policy; it is directly related to the development and is fair and reasonable.

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

11. CONCLUSIONS

The application site is situated within the Nantwich settlement boundary and therefore the principle of development is acceptable. The site has an extant permission for sheltered housing apartments, a retail unit and offices. The proposal is of an improved design and lower density and

it is considered to be an improvement and will enhance the character and appearance of the Nantwich Conservation Area. It is considered that there are no amenity or highway safety issues arising. As conditioned the proposed development would not have a significantly adverse impact on Protected Species or trees in the Conservation Area. It is also considered that the proposed development, as conditioned, is acceptable in all other respects. The proposed development is therefore considered to be in compliance with Policies NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Accessing and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), BE.6 (Development on potentially contaminated land), BE.7 (Conservation Area), BE.16 (Development and Archaeology), RES.1 (Housing Allocations), RES.7 (Affordable Housing within the Settlement Boundaries of Crewe, Nantwich and the Villages Listed in RES.4), TRAN.3 (Pedestrians), TRAN.5 (Provision for Cyclists), TRAN.9 (Car Parking Standards) and RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

12. RECOMMENDATIONS

APPROVE subject to the following conditions and the satisfactory completion of a S106 Agreement comprising;

Heads of terms

- **A provision of 12.5% affordable housing (3 units) to be provided with a tenure mix of affordable social rent and intermediate tenure of 2 x 2 bed apartments provided as an intermediate tenure sold at 70% of the open market value and 1 x 2 bed apartment provided as affordable rent.**
- **A contribution towards local education provision of £43, 385**
- **A commuted sum in lieu of onsite open space for footpath improvements to Weaver Valley Riverside Park (£20,000)**

Conditions;

- 1. Standard time – 3 years**
- 2. Materials (including lime based mortar) to be submitted to the LPA and approved in writing**
- 3. Submission of an amended landscaping scheme to be approved in writing by the LPA**
- 4. Implementation of the approved landscaping scheme**
- 5. Any tree/hedge removal/pruning to be implemented in accordance with the tree survey schedule CE/6624-SS1**
- 6. Boundary treatment details to be submitted to the LPA and approved in writing**
- 7. Remove PD Rights for extensions and alterations to the approved dwellings**
- 8. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds.**
- 9. Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds.**
- 10. Drainage scheme to be submitted and approved in writing**
- 11. Development to be carried out in accordance with noise mitigation report**

- 12. The hours of construction shall be limited to 08:00 – 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays or Bank Holidays**
- 13. Any piling works shall be limited to 08:30 – 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays or Bank Holidays**
- 14. Phase II Contaminated land report to be submitted to and approved in writing by the LPA**
- 15. Completion of the proposed off-site highway works**
- 16. Windows and doors to be timber and set in 100mm reveals**
- 17. All bathroom and en-suite windows to be obscure glazed and non opening**
- 18. Programme of archaeological mitigation in accordance with a written scheme of investigation submitted to and approved in writing prior to works commencing on archeologically sensitive areas of the site.**

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 and Housing in consultation with the Chair of the Strategic Planning Board is delegated authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.

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