

Application No: P09/0014

Location: LAND AT 2 & 4 HEATHFIELD AVENUE AND 29, 29A & 31 HIGHTOWN

Proposal: Demolition of Existing Buildings and Erection of New Buildings and Redevelopment of Existing Link House to Provide 35 Apartments and Two Retail Units with Associated Infrastructure

Applicant: R.G. Harris Ltd

Expiry Date: 17-Aug-2009

SUMMARY RECOMMENDATION: Approve subject to planning obligation relating to a commuted sums payment for open space provision and to secure the delivery of 11 affordable units

MAIN ISSUES

- **Principle of Development**
- **Affordable Housing**
- **Public Open Space**
- **Amenity**
- **Protected Species**
- **Design**
- **Highway Safety**
- **Sustainability**
- **Regeneration**

REASON FOR REPORT

The application has been referred to the Southern Planning Committee as the applicant would like to vary the terms of the planning obligation.

DESCRIPTION OF SITE AND CONTEXT

The application site boundary comprises two unallocated brownfield sites within the settlement boundary of Crewe.

The two parcels of land are located at the junction of Hightown and Heathfield Avenue:- the larger site is located on the northern side of Heathfield Avenue. This measures 1846 sq. m and comprises a vacant row of shops with lock up garages to the rear. This is referred to as "site 1". The smaller site measures 360sq. m and is occupied by the Link House and an undeveloped area adjacent to it. This site is located to the south of Heathfield Avenue with its junction with Hightown and is referred to as "site 2".

The surroundings are predominantly residential although there are some small scale retail and other commercial premises nearby.

DETAILS OF PROPOSAL

In July 2009 the Southern Planning Committee resolved to grant planning permission for the demolition of existing buildings and erection of new buildings and redevelopment of link house to provide 35 apartments and two retail units with associated infrastructure on land at 2 & 4 Heathfield Avenue and 29, 29A & 31 Hightown Crewe, subject to the completion of a planning obligation to secure affordable housing and a commuted sums payment in lieu of open space provision (Application 09/1325N)

Since that resolution was made discussions have been on-going with the applicant and their agents in respect of the number of affordable housing units to be provided:- the number of affordable units to be provided as part of the overall scheme was increased from 12 to 14.

It is now proposed to reduce this down to 11 units. The number of open market units would increase from 21 to 24 but the total number of units would remain the same. In all other respects the development would remain the same as approved by the Committee.

The affordable units originally approved and as increased by a variation of the planning obligation were to be provided in the form of 11 on the southern (Link House) side of Heathfield Avenue, and the remaining units were to be situated at the western end of the three storey block located on the opposite side of Heathfield Avenue.

It is proposed that the affordable units are restricted to those on site 2 and that the development on the opposite side of Heathfield Avenue remains as open market units in its entirety.

RELEVANT HISTORY

There was a resolution to approve this application in July 2009:- the application was reconsidered by Southern Planning Committee in May 2010 as the applicant sought to vary the planning obligation in order to increase the amount of affordable housing within the scheme. The planning obligation has yet to be signed and the decision notice has not been issued.

POLICIES

Regional Spatial Strategy

DP 1 (Spatial Principles)
EM18 (Renewable Energy)
L5 (Affordable Housing)
DP2 (Promoting Sustainable Communities)
MCR4 (South Cheshire)

Local Plan Policy

NE.5 (Nature Conservation)

NE.9 (Protected Species)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage Utilities and Resources)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)
TRAN.8 (Existing Car Parks)
TRAN.9 (Car Parking Standards)
TRAN.5 (Provision for Cyclists)
RES.2 (Unallocated Housing Sites)
RES.3 (Housing Densities)
RES.7 (Affordable Housing)
BE.18 (Shop Fronts and Advertisements)
NE.19 (Renewable Energy)
S.8 (Existing District and Local Shopping Centres)

Other Material Considerations

National Planning Policy Framework (The Framework)
SPD Development on Backland and Gardens
Draft Planning Obligations SPD
Interim Planning Statement on Affordable Housing 2011
Interim Planning Policy on the Release of Housing Land 2011
Ministerial Statement – Planning for Growth 2011
Draft Crewe Town Strategy Consultation 2012
Establishment of a New Renewable Energy Policy
Open Spaces Assessment

CONSULTATIONS

Highways: Requires 150% car parking provision, details of retail parking provision and transport assessment

Environmental Health: Requests lighting scheme and noise assessment to be conditioned

Cheshire Fire and Rescue Service: comments:

- access to building regulations standards
- require details of the water main installations
- means of escape in accordance with building regulations
- recommended inclusion of an automatic water suppression system.

United Utilities: No objections.

Cheshire Wildlife Trust: recommends native species are specified for tree and shrub planting throughout the site. Bird nesting boxes could be installed in retained mature trees. This could be conditioned

Natural England: No objections

Environment Agency: No response required

Housing: Would accept reduction to 11 units

OTHER REPRESENTATIONS

Letters of objection from 1, 5, 7, 8, 10, 11, 12, 14, 17, 18, 19, 20, 21, 26, 30 Heathfield Avenue 10, 14 Samuel Street Heathfield Gospel Hall, Crewe.

Petition with 108 signatures on it.

The grounds of objection can be summarised:-

- insufficient car parking spaces and access issues and pedestrian safety issues
- design
- protected species
- trees
- pollution and asbestos during construction works
- impact on foundations
- drainage/ flooding issues
- lack of consultation with neighbours
- impact on existing shops
- concern building will not be finished
- social implications
- insufficient bin storage
- private access rights/ security issues
- amenity issues
- ownership issues

APPLICANT'S SUPPORTING INFORMATION

A Design and Access Statement and Bat Species Survey were submitted with the planning application.

OFFICER APPRAISAL

Development Plan Policies and Other Material Considerations

Since the original application was determined by the Southern Planning Committee in 2009 circumstances have changed. Therefore it is necessary to reconsider the application in light of the current Development Plan.

The Government has since confirmed its intention to abolish Regional Strategies following a review of the sustainability implications of doing so. Once the Strategic Environmental Assessment of this has been completed, the North West of England Plan Regional Spatial Strategy to 2021 will no longer comprise part of the Development Plan. Whilst this is imminent, the policies still form part of the Development Plan for the time being.

There has been a number of emerging Local Plan policy documents since 2009 the most relevant of which are the Interim Planning Statement on Affordable Housing and Interim Planning Policy on the Release of Housing Land.

It should also be noted that the National Planning Policy Framework referred to as 'The Framework' replaced all national planning policy guidance notes and planning policy statements and a number of other policy documents including companion guides, circulars and ministerial statements.

Principle of Development

At the heart of The Framework is a presumption in favour of 'sustainable development', which should be seen as a "thread" running through both plan-making and decision-taking. For decision-taking this means:

- i) approving development proposals that accord with the development plan without delay; and
- ii) 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 or specific policies in The Framework indicate development should be restricted.

Retail

Policy S8 within the Local Plan relates to existing local shopping centres is compliant with chapter 2 within The Framework which also provides guidance on the principle of development in town centres.

The Framework indicates that LPAs should require applications for main town centre uses to be located in town centres. The proposals relate to a combination of A1 retail and residential development in a designated local centre. Para 24 of The Framework promotes retail development in existing centres and para 23 encourages residential development within town centres.

Turning to the appropriateness of the proposals in relation to the character of Hightown local centre, the proposals would result in the creation of two small retail units which are of a size and scale appropriate to the size and nature of the local centre - this would improve competition and choice and enhance its vitality and viability.

Given that the site is within the designated local centre where town centre uses are actively encouraged, and is on a scale appropriate to the character and function of the centre the proposals accord with policy S8 within the Local Plan and guidance within The Framework.

Residential

The site lies within the settlement boundary of Crewe - RES.2 states that development on such sites will be permitted and is therefore acceptable in principle.

As the Council cannot demonstrate a five year land supply, this strengthens the case in favour of residential development. In addition, the current Interim Planning Policy on the Release of Housing Land seeks to steer development towards mixed use redevelopment schemes in Crewe in order to support sustainability objectives.

This is a Brownfield site within a sustainable location within a defined local centre, in short walking distance of Crewe town centre, Crewe bus station and Crewe railway station. In addition there is a

bus stop on the opposite side of Hightown. The site is also within walking distance of a range of goods and services available within the town centre and is accessible by a range of means of transport. This is therefore one of the most appropriate locations for residential development. In addition the redevelopment of the site for a mixed use scheme would support the objectives of the current Interim Planning Policy on the Release of Housing Land.

Whilst the development would exceed the residential densities suggested by policy RES.3 this policy is out of date and is not consistent with The Framework - Para 214 of The Framework indicates that where policies have not been adopted under the Planning and Compulsory Purchase Act 2004 due weight should be given to policies according to their degree of consistency with The Framework. As this policy is not consistent, limited weight is afforded to it.

Affordable Housing

Policy RES.7 as modified states that affordable housing targets on windfall sites will be 35%. The scheme as original considered by committee was providing 12 affordable units equating to 35% provision. The scheme as amended would have 11 affordable units which would represent 31% affordable housing.

However this reduction is considered acceptable in the context of existing policies within the Development Plan. The direction to save policies under the Planning and Compulsory Purchase Act 2004 only applies to those policies adopted within the original version of the Adopted Replacement Local Plan 2011. RES.7 as modified was not part of the original version of the Local Plan and could not be included within the saved policies direction. It therefore carries no weight as a policy consideration.

The Interim Planning Statement on Affordable Housing 2011 states that the affordable housing targets on windfall sites would be 30%. The scheme as amended would result in 11 affordable units which would represent 31% affordable housing. As the Interim Planning Statement on Affordable Housing 2011 represents the most up to date guidance in respect of affordable housing it is a material consideration.

The policy also requires that account is taken of the need to provide social rented and intermediate housing. This scheme is 100% for affordable rent with local people on the current Homechoice waiting list being the likely occupiers.

This is considered acceptable because evidence suggests that intermediate housing is 'out of reach' of many people in housing need living in Crewe due to the rising cost of living, incomes and the recession. The SHMA 2010 indicates that Crewe has the highest preference for social rented and the lowest preference for intermediate housing across the borough which supports the conclusions made in 2009. This has been verified by Housing Officers.

There are 6 two bed and 5 one bed units which provides a mix of different accommodation types which accords with the Housing Needs Survey 2005:- The SHMA 2010 shows that for the sub-area of Crewe, there is a requirement for 256 new affordable units per year, made up of a need for 123 x one bed units, 20x two bed units, 47 x three bed units and 26 x one/two bed older persons units.

The Local Authority would normally encourage a mix of private and social housing i.e. pepper potting rather than in one block as proposed here. Whilst this is not ideal, this was accepted under

the previous application because the applicant wished to 'phase' the development with the affordable units being built first given that the RSL had secured funding. The continued downturn in the economy has affected both house prices and the demand for housing and the construction of the housing at site 1 is dependent on an upturn in the economy. Three years on these considerations are still relevant as the economic climate has not changed.

It is considered that the provision of additional affordable units which would contribute towards meeting housing needs within the locality would accord with the spatial objectives for the area.

Public Open Space

Policy RT.3 requires that where development would be likely to be occupied by less than 50 people, contributions would be required towards the provision of children's play equipment and casual recreational open space. This should be reasonably related to the nature of the development proposed, provided that such contributions would secure provision in an easily accessible location and where it would directly benefit the occupiers of the new development. The emerging SPD – Planning Obligations, reaffirms the requirement for contributions towards recreation and open space facilities.

Both policy RT.3 and the Open Space Assessment indicates that improvements to open space is necessary in Crewe. Major developments would generate demand for such facilities and it is considered that mitigation through either off site provision or a financial contribution towards open space would fairly and reasonably relate in scale and kind to the development.

On site provision is normally preferable to a commuted sum payment. However this cannot be accommodated within the site given the size of the site and the number of units provided. As there are other positive benefits associated with a high density mixed use development, a commuted sums payment would be appropriate.

There are a number of public open spaces within walking distance (2km) of the site, and a commuted sum payment would be used to secure improvements to one of these existing areas. This would be the most appropriate way of improving the quality and provision of open space in an easily accessible location where it would directly benefit the occupiers of the new development.

Such a financial contribution would therefore meet the tests set out in The Framework. Subject to securing a financial contribution, the proposals would accord with policy RT.3 within the Local Plan.

Amenity

The main issue in respect of amenity is overlooking between units – the impact to neighbours would be limited due to a combination of blank walls, facing commercial premises and the location of car parking and amenity space areas.

The proposed buildings on opposite sides of Heathfield Avenue are 13m apart which is below the spacing guidelines within the SPD Development on Backland and Gardens. However this is consistent with the existing terraces along Heathfield Avenue and as these properties co-exist without detriment to the amenities of occupants it is considered unreasonable to impose greater

separation distances in this location given the established tight knit pattern of development within the locality.

The proposed buildings would not result in loss of light to neighbours by virtue of the orientation and location of buildings.

The proposals relate to an apartment scheme in an inner urban location where development densities are high. This development is consistent with the character of the area and would not significantly adversely impact upon existing levels of amenity for neighbours.

It is accepted that the private open space within the site for the future residents of the development is limited. Balconies would provide the only private amenity space. However a development of flats would appeal to individuals and couples rather than families. Although the lack of private amenity space is a shortcoming, it would be obvious to anyone considering living there. To some it may be of little, if any, consequence. In all other respects the units would make attractive properties and the lack of private garden would be off-set by other more positive and attractive aspects of the flats.

Protected Species

The existing buildings are potentially suitable habitats for bats which are listed as a protected species under schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Protected species are considered to be a material consideration in the determination of a planning application, and therefore any impact must be considered and mitigated accordingly.

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 implements the Directive in the Conservation of Habitats & Species Regulations 2010 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.

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."

Para 118 and 119 of the Framework advises LPAs that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directive is being considered. In addition it indicates if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.

The Framework encourages the use of planning conditions or obligations where appropriate. 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 protected species survey indicates that there would be no impact upon Bats, or nesting birds however as this was undertaken in 2008 it is now out of date. The applicant has supplied an addendum to this which has indicated that bats are not currently using the buildings as a roosting place and this scenario would be unlikely given the noisy urban nature of the surroundings which would discourage bat presence. Best practice measures are nevertheless suggested and this would be conditioned accordingly.

As bird nests were present in the buildings it would be necessary to condition that demolition works would only take place outside of the bird breeding season or else the site is checked by an ecologist prior to demolition. This is to ensure that nesting birds are not disturbed during construction.

It is therefore considered that the proposals would accord with policy NE11 and guidance within the Framework.

Design Standards

The area comprises a mix of tight knit Victorian terraces and some run down commercial properties with limited architectural merit. However the Link House at site 2 would constitute an undesignated heritage asset:- it is a Victorian building with architectural features such as bay windows, an articulated porch feature and bargeboard detailing.

The scheme proposed two buildings at the junction of Hightown and Heathfield Avenue forming book ends to the street – as this is a gateway site towards the town centre the scheme provides legibility, a focal point and improves vistas across the townscape.

The scheme would build on existing strengths by incorporating the Link House which is an attractive example of Victorian architecture and in so doing the proposals would preserve local distinctiveness in accordance with para 60 of The Framework.

This is a highly innovative and imaginative design which respects the character of the area, represents a design very much of its time and takes the opportunity to significantly improve the character of the area. This would help to raise the standard of design more generally in the area in accordance with para 63 of The Framework.

Bulk and Massing

The scale, design and detailing for the new buildings on both sites is highly symmetrical to give the appearance of bookends to the street. This creates a sense of entrance into the area and replicates the formulaic symmetry utilized in Victorian architecture which is a prevailing feature of the area.

Given that the south elevation facing Heathfield Avenue is substantially longer than the northern elevation along site 2, the bulk and massing of the building has been reduced by including projecting sections with balconies which give the appearance of bay windows, variation in the eaves heights and variation in render and facing brickwork. This is a modern interpretation of a Victorian terrace.

The proportions and scale of the building also complement Link House due to the contrast in materials and additional gazing provided at the third and fourth floors. The regular arrangement of the balconies also mimics the Victorian bay windows.

Architectural Design

The visual interest within the fenestration of the new build element is reserved to the front elevations. The new build element represents a modern interpretation of Victorian fenestration such as the bay windows and replicating existing features on the Link House. There are some modern features on the building such as the solar panels, the provision of wavy and mono pitched roof forms and the use of stainless steel, glazing and render make for an exciting contrast with the traditional brick and slate buildings within the locality and yet the crunchy and tight knit appearance of the roof respects the compact nature of the surroundings.

Turning to the elevation facing Hightown, it is from these views that the significance of the symmetry and modernity is fully felt. The scheme provides two identical book ends to the junction between Heathfield Avenue and Hightown which sits comfortably with the existing eclectic mix of commercial and residential properties. The recessed entrance which comprises predominantly glazing promotes legibility and the modest shop fronts which are of a similar size and scale to those in the locality ensure that the building remains human in scale.

Spaces

The rear elevations contain communal walkways and stairwells, however as public access to the site is prevented through the provision of secure entrance points, this would remediate some of the social problems associated with such a design. The low boundary wall provided to the gardens also seeks to distinguish between public and private spaces.

In terms of layout, the buildings frame the public realm and the car parking areas are deliberately kept to the rear of the site and facing the existing properties along Heathfield Avenue – the car park would therefore take advantage of the existing landscaping on the site and benefit from natural surveillance.

Highway Safety

The proposals provide 27 parking spaces which is 77% provision. As no spaces would be provided for the affordable units, the 27 spaces will be for the 24 units which would be over 100% provision.

The Highways engineer commented that as on street parking was saturated, 150% parking would be required or a financial contribution towards transport improvements.

In 2009, it was not considered appropriate to require a financial contribution.

Since this time, The Framework has been published which replaces circular 05/05 and CIL has been introduced. Cheshire East has not adopted a CIL charging schedule and until that time, the system of planning obligations will remain in a 'scaled-back' form to make sure the immediate site-specific impacts of new development are adequately catered for.

The Framework states at para 203 that

‘Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.’

Para 204 sets out the three tests that planning obligations should satisfy:-

‘necessary to make the development acceptable in planning terms;
directly related to the development; and
fairly and reasonably related in scale and kind to the development.’

It then goes on to state at para 205 that local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

In this regard, it is noted that an obligation was not sought in 2009. This was because improvements to the bus stops nearby were nearing completion and there was not an alternative highway improvement scheme which would have directly benefited the development where any monies could have been spent.

Since, this time and as noted above, planning obligations have been scaled back. There is no policy within the Development Plan or an adopted SPD/ SPG which indicates that a contribution would be required and the car parking standards within the Development Plan pre-date The Framework.

The Framework indicates that local parking standards should take account of accessibility, type, mix and use of development, public transport, car ownership and reducing emissions. On that basis there is justification for reduced car parking. This is a mixed use development in a highly sustainable location in close proximity to Crewe town centre with good access to the bus network and is walking distance from the train station. Whilst such levels of car parking would certainly not be appropriate in all locations, as there is the opportunity for occupants to travel by alternative means and given the type and level of accommodation proposed, reduced car parking levels are appropriate in this instance. The Highways engineer requested addition cycle parking which can be secured via condition which would also encourage alternative modes of transport.

It is not considered necessary to provide designated parking for the retail units given that the site lies in close proximity to a public car park which could also be used by future occupants and there

are on street parking restrictions within the area which would discourage users from parking on the road.

In addition the access point and visibility splays accord with guidance in Manual for Streets and the access point is wide enough to enable a bin wagon/ servicing and deliveries to enter the site.

Given that a financial contribution was not required in 2009 and given that The Framework does suggest an element of flexibility in deriving car parking levels, it is not considered that the proposed levels of car parking would make this development unacceptable. On that basis a financial contribution would not accord with the tests set out in para 204 of The Framework.

Renewable Energy

Policy EM18 of Regional Spatial Strategy requires that 10% of the developments energy needs are met by renewable energy sources. Six solar panels are provided on the southern elevation at site 2 and 20 at site 1. Whilst there are no calculations to demonstrate that this will provide for the energy needs of the development a condition would be imposed to ensure that either the proposed renewable energy measures would meet 10% of the developments energy need or that any deficit would be offset through a fabric first approach.

The affordable units would be built to Level 3 of the Code for Sustainable Homes which is above the minimum requirements for Building Regulations.

Community Infrastructure Levy (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 commuted sum in lieu of children's play space and casual recreation space is necessary, fair and reasonable, as the proposed development will provide 35 residential units of different sizes, the occupiers of which will use local facilities as there is no open space being provided as part of the scheme, as such, there is a need to upgrade/enhance existing facilities. The contribution is in accordance with relevant policies within the Local Plan and the relevant tests within para 204 of The Framework.

RECOMMENDATION: Approve subject to a Section 106 Agreement

HEADS OF TERMS

- Provision of commuted sum in lieu of on site provision of children's play equipment and casual recreational open space -£17,500.
- Provision of a Cascade for the occupation of the dwellings -
 - 1 Crewe
 - 2 Cheshire East .

and the following conditions

1. A03FP - Commencement of development (3 years)
2. A03AP - Development in accord with approved plans (numbered)
3. A02EX – Details of Proposed Materials
4. No demolition during bird breeding season or site checked by Ecologist
5. 10/% renewable energy provision
6. Access and car parking to be provided
7. Cycle rack details and to be provided
8. Solar panels to be provided and maintained and method statement
9. Landscaping
10. Landscaping implementation
11. Boundary treatment
12. Waste management plan
13. Sustainable urban drainage measures
14. Noise attenuation
15. Lighting scheme
16. Finished floor levels



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