

Application No: 13/3884N

Location: Land to Rear of 55, SUNNYBANK ROAD, CREWE, CW2 8SY

Proposal: Construction of Two Pairs of Semi-Detached 2 Bedroom 4 Person Affordable Dwellings and Associated Access and Parking Arrangements

Applicant: Adele Sumner, Wulvern Housing Ltd

Expiry Date: 11-Nov-2013

#### **SUMMARY RECOMMENDATION**

**APPROVE with conditions - subject to the submission and approval of a noise survey and mitigation scheme to the Environmental Health department and the favorable outcome of all other outstanding consultation responses**

#### **MAIN ISSUES**

- Principle of Development
- 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 contaminated land
- Ecology
- Affordable Housing
- Other Matters

#### **1. REASON FOR REFERRAL**

This type of application would normally be considered under delegated powers however, Councillor Sherratt has called the application into Committee for the following reasons,

*'My constituent at number 65 would like this calling in please.*

*This is due to the development being at the rear of his house and will adversely impact his privacy by encroaching on his boundaries and will create overlooking, also the entrance to the site is extremely narrow with several accidents to my constituents fence already.'*

*'I have just visited with Mr Tew at number 55 who also objects to the development, he has showed me detailed plans showing a 10 meter non build clause next to the railway line which is part of the development, this is due to heavy cabling underneath, there is also issues with*

*Mr Tew's drains, Mr Tew built his house and also paid for the drains to be installed, which exclusively serve his property, the development would use his drains and he objects to this. '*

## **2. DESCRIPTION OF SITE AND CONTEXT**

The proposal site is situated within the Crewe town settlement boundary to the rear of No.55 Sunnybank Road and 10-18 Christleton Avenue, Crewe. The application site is an area previously used for garages associated with the Local Authority housing previously owned by the former Crewe and Nantwich Borough Council, now owned by Wulvern Housing. The area of land is approximately 0.14 ha and is covered in hardstanding with a number of garage building and a container. The site adjoins the boundaries of 10-18 Christleton Avenue to the south western boundary, with the Crewe to Chester railway line to the north. The eastern boundary of the site abuts the rear garden of dwelling at 55 Sunnybank Road, with access to the site between No.55 and No.53 Sunnybank Road.

## **3. DETAILS OF PROPOSAL**

This application seeks permission for four affordable dwellings, in the form of two pairs of semi-detached properties. Each property has two associated parking spaces and the existing access will be utilised between No.55 and No.53 Sunnybank Road.

## **4. RELEVANT HISTORY**

No site history

## **5. POLICIES**

The development plan includes the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

### **Local Plan Policy**

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)  
RES.2 (Unallocated Housing Sites)  
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)

### **Supplementary Planning Documents**

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

## Other Material Considerations

National Planning Policy Framework 2012

### 6. CONSULTATIONS (External to Planning)

**Strategic Highways Manager** – None received at time of writing this report.

**Environmental Health** – Recommend refusal on the ground of insufficient information relating to noise mitigation. In order to adequately assess the impact on the proposed properties, having regard to noise from the adjacent industrial process and locomotive noise from the railway line. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with material planning considerations.

No further objections subject to conditions for hours of operation, pile foundations, external lighting, dust and a phase II contaminated land report.

**United Utilities:** No Objections

**Network Rail:** [Full consultation response available to view on the website]

The proposal document states that there is existing palisade fencing and that the developer is to erect a 2.1m high close boarded fence adjacent to the railway boundary.

- Acoustic fencing / close boarded fencing that is proposed to be installed along the boundary with Network Rail is a cause for concern. Therefore the acoustic fence and its foundation design would be subject to the Network Rail Asset Protection Engineer approval. Any acoustic fencing should be set back from the boundary with Network Rail by 1m. Condition requested:

*Prior to the commencement of the development, acoustic fencing mitigation measures shall be approved in writing by the Local Planning Authority and Network Rail.*

*Reason: To protect the adjacent railway boundary.*

- All developments within 10m of the operational railway line and Network Rail land should be flagged up to Network Rail by the applicant. Request condition:

*A method statement and risk assessment must be submitted to Network Rail's Asset Protection Engineer for approval prior to works starting on site.*

*Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.*

- The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- Any scaffold which is to be constructed within 10 metres of the Network Rail / railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.
- All surface water is to be directed away from the railway.
- Network Rail requests that the developer ensures there is a minimum 2 metres gap between the buildings and structures on site and our boundary fencing.
- NR remind the council and the applicant of the potential for any noise/ vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should then use conditions as necessary.

**7. VIEWS OF THE TOWN COUNCIL** – The Council accepts the principle of the application providing that the views of Network Rail are taken into account.

## **8. OTHER REPRESENTATIONS**

Letters of representation have been received from the occupiers of 10 Christleton Avenue and 294 West Street, Crewe. The main issues raised are;

- Retention of hedge requested between No.10 Christleton Avenue and the development site,
- Concerns of the safety of the access as it is only a single access car width with no opportunity to widen it,
- Concerns raised that Wulvern did not consult neighbours who rent garages on the site,
- Proposal will have a negative impact on wildlife
- Concerns raised over the safety of boundary fence with railway

## **9. APPLICANT'S SUPPORTING INFORMATION**

- Protected Species Report by Rob Smith Ecology Consultant
- Arboricultural Impact Assessment by Goodwin Tree Consultants
- Phase 1 Land Quality Report by ESI

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The application site is situated within the Crewe town settlement boundary where the general principle of residential development on this site is acceptable, subject to compliance with Policy RES.2 (Unallocated Housing Sites) of the Local Plan and the Crewe and Nantwich Council Supplementary Planning Document on Development in Backland and Gardens which is also relevant and provides more detailed advice. In order to fully accord with Policy RES.2 the development must also be in keeping with the requirements of policies BE.1 – BE.5.

*National Planning Policy Framework*

Significant weight is attached to the guidance contained in the National Planning Policy Framework. Paragraph 47 of the National Planning Policy Framework requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The current SHLAA has put forward a figure of 7.1 years housing land supply. This is currently in the process of being adopted.

The National Planning Policy Framework 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.”*

However as the site is within the settlement boundary of Crewe where there is a presumption in favour of development the main issues of this application are impact on amenity, design and access and parking.

### **Design - Impact on the Character and Appearance of the Streetscene**

The application site is largely vacant with some outbuildings on the hardstanding. The application site is a triangular shape with residential development on two sides and a railway line on the other.

The application proposes two pairs of semi-detached dwellings on the land. The dwellings will be sited at a right angle to the rear elevation of the existing dwelling on Sunnybank Road and fronting towards the rear garden areas of No. 10-18 Christleton Avenue. The proposed dwellings will be of a design which replicates those in the surrounding area and appears to be of size and design which relates well with the streetscene. The dwellings will have a hipped roof and is proposed to be constructed in materials to match the surrounding dwellings. It is therefore considered that the design is acceptable and will not have a detrimental impact on the surrounding area. Whilst backland development is not a prominent feature in the area, the application site compromises a small area of land which surrounded by other development and the railway line and therefore forms a suitable site for residential development given its current ancillary to residential use status.

The details for boundary treatment, surfacing materials and landscaping plan have been submitted with the application. The site plans also shows the position of garden sheds, wheelie bin storage areas and drying areas for washing. All these elements appear to be acceptable. However network rail have required that the boundary treatment adjacent to the existing palisade fencing be set back 1m, and that a reduction in the height is sought. This can be dealt with by condition.

It is therefore considered that the proposed development is acceptable and in accordance with Policy BE.2 of the Crewe and Nantwich Replacement Local Plan.

### **Impact on the Amenity of adjacent properties and future occupants**

#### **Loss of Privacy/Overlooking/Overshadowing**

As noted above the application site is a triangular plot of land surrounded by neighbours on two sides and the railway line on the other. This area has previously housed garages associated with the former Council Housing in the area. The four dwellings are proposed to be positioned at a right angle to the rear elevation of No.55 Sunnybank Road. No 55 has several principal windows on the rear elevation of the property. There is a separation distance of 19m proposed between the side elevation of Plot 4 and the rear elevation of No.55. The side elevation of Plot 4 will have two windows which will serve a landing at first floor level and a kitchen dinner at ground floor level, a separation distance of 13.5m is required by the Councils SPD for Development on Backland and Gardens between elevations with principal windows and flank elevations or elevations with secondary windows. Neither of the windows on the side elevation of Plot 4 are principal windows serving habitable rooms and therefore it is considered that with the addition of a condition which requires these side windows to be obscure glazed the proposed dwelling will not have a significantly detrimental impact on neighbouring amenity by means of overlooking. Similarly, although the dwelling on plot 4 will be clearly more visible to the neighbours at No.55 it will be situated a suitable distance away that it will not have an overshadowing impact on the neighbours dwelling.

The proposed dwelling will face towards the rear elevations of No.10 – 18 Christleton Avenue, however none will be directly overlooked by the proposed dwellings due to the orientation of the units. There will be a minimum distance of 26m between the rear elevation of the dwelling on Christleton Avenue and the proposed dwellings. The Councils SPD for Development on Backland and Gardens required a separation distance of at least 21m between principal elevations and principal elevations and therefore in this instance the development will exceed this requirement and therefore will not have a significantly detrimental impact on neighbouring amenity by means of overlooking or overshadowing.

The Environmental Health department have requested condition restricting the times of development and pile driving the external lighting, dust management to safe guard the amenity of the existing neighbours. It is considered that given the close proximity of the neighbours to the development site these conditions are reasonable in this instance.

#### 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 all cases. However with the reduced rear garden space of 1m, as required by Network Rail, units 3 and 4 will only just meet the 50m<sup>2</sup> requirement.

#### Noise Impact

The site is bounded by a railway line to the rear of the site and therefore to allow residential development in such close proximity noise mitigation is required. At this time the Environmental Health Department are recommending refusal on the basis of insufficient information as a noise survey and mitigation package has not been submitted. The applicant has commissioned a survey to be carried out; however at the time of the writing the officers report the survey is still outstanding. It is therefore considered that provided an adequate survey and mitigation is submitted and accepted the application could be acceptable and an update will be given to the Councillors on this matter. However should a survey not be received in sufficient time the

application will be unacceptable on the basis of insufficient information and would therefore be contrary to policy BE.1 (Amenity) of the Crewe and Nantwich Replacement Local Plan.

### **Impact on Highway Safety and Parking**

The application site will be accessed from the existing access off Sunnybank Road. This area was previously used for access to garages and therefore the access has been used for vehicle movements previously. Furthermore each dwelling will have two offsite parking spaces which is in line with the requirements of the Highways Authority, with the addition of two additional visitor spaces. It is therefore considered in the Planning Officers opinion that the proposal will be acceptable and not have a significantly detrimental impact on highway safety.

However, at this time the Highway Authority's comments are still outstanding and therefore will form an update to the planning committee.

### **Contaminated Land**

The application area has a history of brick works and lock-up garage use and therefore the land may be contaminated. This site is within 250m of an area of ground that has the potential to create gas. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The applicant has submitted a Phase I Preliminary Risk Assessment for contaminated land which recommends further works be undertaken in order to investigate identified potential contaminant linkages. It is therefore considered reasonable to condition that a Phase II investigation is carried out and approved by the Local Planning Authority.

### **Ecology**

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

(a) 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

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.5- Nature Conservation and Habitats states

*The local planning authority will protect, conserve and enhance the natural conservation resource. Proposals for development will only be permitted:*

*Where they ensure that any wildlife habitat unavoidably damaged by development is compensated for by the provision of a similar or equivalent feature nearby, or by mitigation works to safeguard protected species; and*

*Where natural features such as trees, woodland, hedgerows, heathland, ponds, wetlands and watercourses are, wherever possible, integrated into landscaping schemes on development sites.*

*Where appropriate, the borough council will enter into management agreements under section 33 of the wildlife and countryside act in order to safeguard sites.*

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."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a license: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case a protected species survey has been submitted with the application which outlines that there is no evidence of any protected species on the land, garage or in the hedgerow. The survey concludes that the development of this site would have a negligible impact on any protected species but could improve the area for wildlife if sympathetic planting and conservation measure in the new builds were included in the plans.

At the time of writing this report the Council's Ecologist has yet to comment on the survey, this will form part of an update report to the committee. However, given the loss of hedgerow and trees it is considered that any works carried out between the bird breeding seasons will require a further survey to be submitted and approved and details of bird nesting facilities shall be incorporated within the house designs, also to be approved in writing by condition.

## **Affordable Housing**

The application has been submitted on behalf of Wulvern Housing Ltd, who is a registered Social Landlord. The proposed dwellings will therefore be affordable housing units, although given the development is for less than 15 units the Local Plan does not require a certain percentage of the affordable units to be required as part of the development. Therefore in this instance it is not necessary to condition or secure the affordable housing by legal agreement.



## **Other Matters**

Network rail have proposed a conditions which requires that the applicant to submit method statement and risk assessment to Network Rail's Asset Protection Engineer for approval prior to works starting on site, this has been requested as a condition to be attached to any permission. It is not considered that this is a material planning matter and therefore would not be reasonable to attach a condition to require it. All other matters raised on the consultation response for network rail are aimed at the applicant.

## **11. CONCLUSIONS**

The application site is situated within the Crewe settlement boundary and therefore the principle of development is acceptable.

Subject to consultation responses to the contrary from the Highway Authority and the councils Ecologist it is considered unlikely that the proposal would have a detrimental impact on highways safety or protected species.

The proposal will not have a significantly detrimental impact on neighbouring amenity as conditioned, and subject to a suitable level of noise mitigation being submitted to ensure that the future occupier of the dwelling are not negatively impacted upon from the adjacent railway it is considered that the development site will be suitable for the development proposed.

## **12. RECOMMENDATIONS**

**APPROVE with conditions - subject to the submission and approval of a noise survey and mitigation scheme to the Environmental Health department and the favorable outcome all other outstanding consultation responses**

### **Conditions;**

- 1. Standard time – 3 years**
- 2. Approved plans**
- 3. External Materials, including surfacing materials, as stated in the application**
- 4. Boundary treatment to be set back 1m from railway boundary and details to be submitted and approved by LPA and Network Rail**
- 5. Landscaping scheme to be implemented in accordance with scheme submitted**
- 6. Remove PD Rights for extensions and alterations to the approved dwellings**
- 7. Hours of construction**
- 8. Piling works**
- 9. Dust Control**
- 10. External lighting to be submitted and approved**
- 11. Contaminated land Phase II report to be submitted and approved**
- 12. Side elevation windows of Plot 4 to be obscure glazed**
- 13. No works during 1<sup>st</sup> March – 31<sup>st</sup> August, unless breeding bird survey is carried out and approved in writing**
- 14. Bird breeding mitigation to be included in development**

**INFORMATIVE – Applicant to be aware of details within the Network Rail Letter which lie outside material planning considerations**

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