

Application No: 17/2220N

Location: GREENBANK FARM, CREWE ROAD, SHAVINGTON, CW2 5AD

Proposal: Outline application for demolition of existing buildings and erection of up to 8 dwellings, associated parking & landscaping (with all matters reserved except access)

Applicant: Directors, RJC Regeneration Ltd

Expiry Date: 09-Aug-2017

SUMMARY

On 27th July the Council adopted the Cheshire East Local Plan Strategy therefore the Council have demonstrated that they have a 5 year supply of deliverable housing sites.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.” The National Planning Policy Framework, which is the Secretary of State’s guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means “approving development proposals that accord with the development plan without delay”

In this instance the proposed development would be contrary to Policies PG6 of the Adopted Cheshire East Local Plan and saved policy RES.5 of the Crewe and Nantwich Local Plan given that the development would result in a loss of open countryside.

However material considerations exist, mainly that the development meet one of the core planning principles as contained within the NPPF which states that planning should ‘encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value’.

Therefore the benefits of the proposal would be the use of brownfield land, housing provision and delivery of the usual economic benefits during construction and through the spending of future occupiers.

The dis-benefits would be the loss of open countryside and existing employment use.

The development would have a neutral impact upon protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

Applying the tests within paragraph 14 it is considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development constitutes sustainable development and should therefore be approved.

RECOMMENDATION

APPROVE

REFERRAL

The application has been referred to Southern Planning Committee because it is a departure from the development plan as it is situated outside of the settlement zone line for Crewe and Nantwich.

PROPOSAL

Outline application for demolition of existing buildings and erection of up to 8 dwellings, associated parking & landscaping. All matters are reserved except access.
Illustrative plans have been provided showing x3 detached properties including a bungalow and x5 detached properties.

Access, both vehicular and pedestrian would be taken from a single point off Crewe Road.

Trees are shown as being retained on the site boundaries.

SITE DESCRIPTION

The application site comprises an rectangular parcel of brownfield land which currently houses an office/workshop buildings and an open yard area. It measures 0.48 hectares in size, situated off Crewe Road in between existing development to the east and west and consent has been granted to the south for a large residential development. The land is designated as being within the open countryside in the adopted local plan.

The land level rises slightly from the road to the rear of the site and the site is predominantly enclosed by trees/planting spanning the site.

RELEVANT HISTORY

7/11305 – Conversion of outbuildings into 2 detached dwellings (refused)

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes
56-68. Requiring good design
Development Plan

Cheshire East Local Plan Strategy – Adopted Version (CELP)

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

PG2 – Settlement Hierarchy
PG6 - Open Countryside
PG7 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There are however policies within the legacy Local Plan that still apply and have not yet been replaced. These policies are set out below.

NE.5 (Nature Conservation and Habitats)
NE.8 (Sites of Local Importance for Nature Conservation)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
BE.6 (Development on Potentially Contaminated Land)
RES.5 (Housing in the Open Countryside)

The Shavington Neighbourhood Plan has not yet reached Regulation 14 stage. No weight can be given to this document at this stage

Supplementary Planning Documents:

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land Development on Backland and Gardens

CONSULTATIONS

CEC Highways: No objection subject to condition regarding a Construction Management Plan & informative regarding a 38 Agreement regarding the construction and future adoption of the internal road layout

CEC Flood Risk Manager: No comments received at the time of writing the report

CEC Environmental Health: No objection subject to conditions/informatives offered in all other regards such as piling, construction environmental management, electric vehicle charging points, contaminated land and working hours for construction

United Utilities: No objection subject to conditions regarding foul and surface water drainage

VIEWS OF THE PARISH/TOWN COUNCIL

Shavington Parish Council: No objection however express concern that 344 Crewe Road may be used as a commercial site which would allow access/egress for vehicles

REPRESENTATIONS

1 letter received which supports the proposal

APPRAISAL

Principle of Development

The site lies largely in the Open Countryside as designated by the Adopted Cheshire East Local Plan, where policy PG6 states that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Exceptions may be made where there is the opportunity for limited infilling in villages; the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere, affordable housing or where the dwelling is exceptional in design and sustainable development terms.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Previously Developed Site

In this instance although the proposal would be contrary to Policy PG6 as it is not listed as an appropriate form of development in the open countryside, it would involve the redevelopment of a brownfield site, thus meeting one of the core planning principles as contained within the NPPF which states that planning should;

‘encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value’

The site is also surrounded by residential development to the east, west and south and therefore serves no countryside purpose as it is viewed against the wider built form rather than open countryside.

As a result it is considered that the proposal would comply with this criteria of the NPPF.

Housing Land Supply

Paragraph 49 on the NPPF advises 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.

The Inspector’s Report published on 20 June 2017 signalled the Inspector’s agreement to the plans and policies of the Local Plan Strategy, subject to the modifications consulted on during the spring of 2016 and 2017. On adoption, all of these sites and policies will form part of the Statutory Development plan. In particular sites that were previously within the green belt are removed from that protective designation and will be available for development. Other sites also benefit from the certainty that allocation in the development plan affords.

In the light of these new sources of housing supply, The Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his Report he concludes:

“I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years”

Given this conclusion from the examining Inspector, the Council now takes the position that it can demonstrate a 5 year supply of housing land.

SOCIAL SUSTAINABILITY

Affordable Housing/Open Space/Education

The proposal seeks to provide 8 dwellings and is therefore under the requirement to provide a contribution towards affordable housing, open space or education

Health

Although no consultation response has been received from the NHS there is a medical centre Gresty Brook Surgery within 0.4 mile of the site and according to the NHS choices website this practice is currently accepting patients indicating that they have capacity.

Location of the site

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue.

In this instance no such assessment has been provided with the application. However the supporting statement makes reference to the inspectors comments on the appeal which was allowed for housing on the adjoining site where the inspector considered the site to be sustainable.

The current site adjoins the above site to the east and west. The Inspector's conclusions regarding the sustainability of the location therefore apply equally in relation to the current application. The comments in relation to the urban fringe nature of the site apply more so than at the time of the Appeal as the development has now been completed. As a result the application site is considered to be locally sustainable.

Nevertheless locational sustainability is not the determinative factor in its own right.

ENVIRONMENTAL SUSTAINABILITY

Residential Amenity

The main residential properties affected by this development are properties to the east Nos. 344&346 Crewe Road and the new plots to the north/east (English Oak Avenue), west (Hawthorn Close) and south.

The illustrative plans show that the proposal would achieve in excess of the recommended 21m and 13.5m separation distances as per the Councils SPD in relation to the new properties to the north/east, west and south.

The plans also show that a separation of 9.6m would be achieved to the windowless side elevation of No.344 Crewe Road and a 12m separation to the side elevation of the rear extension containing side facing windows. The ground floor side window serves a kitchen however it was unclear what room the first floor side windows serves. Given that the application is in outline form, issues of overlooking from any proposed side facing windows could be addressed at reserved matters stage and in all likelihood would be conditioned to be fitted with obscure glazing.

It is also considered that residential use of the site for 8 dwellings would likely result in a reduced impact in terms of noise and disturbance over the existing use as a workshop/storage use.

Environmental Protection have also raised no objections subject to conditions regarding piling, construction environmental management, electric vehicle charging points, contaminated land and working hours for construction.

As a result it is not considered that the proposal would cause significant harm to living conditions of neighbouring properties.

Contaminated Land

As the application is for new residential properties which are a sensitive end use and could be affected by any contamination present a contaminated land condition will be attached to the decision notice of any approval.

Highways

The access is proposed to remain in the same location as the existing but is to be widened to accord with adoptable standards.

The existing site was used by a haulage & plant hire firm and consisted of around 180sqm of B1 use and additional outdoor storage. The applicant has confirmed that when fully operational the site employed up to 70 staff, a total of 15 HGVs operated from the site along with a number of JCBs which made regular trips to and from the site on a daily basis.

The number of vehicle trips the proposal would generate has been compared to that of the existing use. During pre-application discussions the TRICS vehicle trip generation calculations associated with the existing use seemed to be overestimated. Whilst this remains the case, there is no doubt that a proposal of only 8 dwellings would not result in a greater number of vehicle trips than the existing use if it were to become fully operational again.

Speed surveys on Crewe Road have been carried out and indicate a design speed of approximately 30mph in either direction. Visibility splays have been provided that and whilst only a few metres short of the design speed are acceptable, especially given the existing use.

The highway engineer has also been consulted who advises that he had no objection subject to condition regarding a Construction Management Plan & informative regarding a 38 Agreement regarding the construction and future adoption of the internal road layout

As a result the proposal will not result in any significant harm to the existing highway network.

Landscape

The application site is identified as Open Countryside in the Crewe and Nantwich Local Plan. There are no landscape designations on the application site.

The site is currently enclosed on all sides by existing trees/planting which prevents direct viewing of the site from the wider setting. New housing development has also been approved and is under construction to the east, west and south of the site.

As a result the site is enclosed by existing built form rather than stand alone development and could therefore be accommodated into the existing landscape without causing significant harm to its character/appearance.

Trees

The site contains a number of mature trees protected as part of the Crewe and Nantwich Borough Council Basford West Wildlife Area, Off Crewe Road, Shavington Cum Gresty Tree Preservation Order 2007; these include those identified as T1, 11, 21, 24, 27 & G20 within the submitted Arboricultural detail.

A number of amendments have been made in respect of the original illustrative layout, these establish a greater degree of certainty in terms of the protected trees surviving the construction period and being defensible post construction should a full application be received and approved.

The Council's Arborist has also considered the application and has raised no objection subject to a revised Arboricultural Impact Assessment being submitted at reserved matters stage.

As a result it is not considered that the proposal would cause significant harm to the existing tree stock.

Design

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

The site is currently occupied by existing workshop/storage buildings and an outdoor work/storage yard.

The locality consists of mixed character and property types with detached bungalows and regular 2 storey properties, therefore it is considered that a mixture of semi-detached, detached and bungalows could be accommodated without causing significant harm to the scale and form of development.

The illustrative plans suggest that property footprints and garden areas would be comparable to others locally which would ensure that the proposal assimilates into the existing environment. The properties are also shown as being set well back from the road frontage which would ensure that the visual prominence of the buildings is reduced.

Design/materials and appearance would be addressed at reserved matters stage however it is considered that use of the local materials/colour palette could be acceptable.

On this basis, it is considered that the proposed dwellings would be accommodated on the site without causing significant harm to the character/appearance of the area.

Ecology

- Great Crested Newts

The application site abuts the Basford West Ecological Mitigation Area. A number of ponds occur in the mitigation area and great crested newts breed at the majority of these.

The application site itself supports very limited habitat for great crested newts being mostly hard standing and disturbed ground, however considering the close proximity of the ecological mitigation area it is likely that great crested newts occur around the boundary features of the site. The submitted concept plan shows the retention of hedgerow and boundary trees thus the most suitable great crested newt habitat on site would be retained.

In order to mitigate the risk posed to great crested newts the applicant is proposing to remove and exclude great crested newts from the footprint of the proposed development using standard best practice methodologies under the terms of a Natural England license.

This has been considered by the Councils Ecologist who considers the mitigation is acceptable and is likely to maintain the conservation status of the local newt population. The precise impacts of the development and the detail of the mitigation required will however be dependant upon the detailed design submitted at the reserved matters stage.

Therefore the ecologist has suggested conditions should the application be approved which require an updated protected species mitigation strategy to be submitted in support of any future reserved matters application along with features to support breeding birds/bats

Habitats Directive

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations which contain two layers of protection:

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities (“lpa”) to have regard to the directive’s requirements.

The Habitat Regulations 2010 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- The proposed development is 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
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Overriding Public Interest

The provision of mitigation would assist with the continued presence of newts.

Alternatives

There is an alternative scenario that needs to be assessed, these are:

No development on the site

Without any development, specialist mitigation for newts would not be provided which would be of benefit to the species. Furthermore, the existing habitat could be lost as the existing buildings are left to fall into disrepair and possibly collapse/disturbance from the use itself.

The Council's Ecologist has advised that if planning consent is granted proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of the species of newts concerned.

Flood Risk

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps.

The United Utilities have been consulted as part of this application and have raised no objection to the proposed development subject to conditions regarding foul and surface water drainage. The Council's Flood Risk team have also been consulted but no response was received at the time of writing the report. Any comments which are received can be provided in the update report or at the committee meeting itself.

Therefore it would appear that any flood risk/drainage issues, could be suitably addressed by planning conditions.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Crewe including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

LOSS OF EXISTING EMPLOYMENT LAND

The site is currently occupied by offices, workshops and a yard associated with the applicant's plant hire and groundworks business. The proposal would see the loss of the existing use.

The applicant advises that the existing use has outgrown the site and if planning permission is granted the existing business will be re-located to another larger site in the borough using the finance from the sale of the proposed site which would allow expansion of the existing business and its employment. However to date no alternate locations have been provided as the applicant suggests that they need to know if the current proposal would be successful or not before enquiring about another site. Therefore no control exists over the potential re-location.

However the existing use is not an allocated employment site as per the Local Plan. The applicant also advises that complaints were received when the site was previously in use by TW Frizell given the nature of the use in a predominantly residential area. This argument would appear to have some merit given the numerous residential developments approved to the east, west and south of the site suggesting that it would be a non confirming use and has the potential to continue to cause noise and disturbance to local residents.

Therefore whilst the loss of the existing employment use weighs against the proposal the siting would appear to be now inappropriate given the proximity to new residential properties approved over the last few years.

OTHER

The Shavington Neighbourhood Plan is not at Regulation 14 Stage therefore can only be given no weight at this time.

PLANNING BALANCE

On 27th July the Council adopted the Cheshire East Local Plan Strategy therefore the Council have demonstrated that they have a 5 year supply of deliverable housing sites.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.” The National Planning Policy Framework, which is the Secretary of State’s guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means “approving development proposals that accord with the development plan without delay”

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The dis-benefits would be the loss of open countryside and existing employment use.

The development would have a neutral impact upon protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

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RECOMMENDATION:

APPROVE SUBJECT TO THE FOLLOWING CONDITIONS

Conditions

- 1. Standard Outline**
- 2. Submission of Reserved Matters Time limit for submission of reserved matters**
- 3. Approved Plans**
- 4. Construction Environmental Management Plan**
- 5. Levels**
- 6. Foul and surface water drainage**
- 7. Piling**
- 8. Electric vehicle charging**
- 9. Contaminated land**
- 10. Landscaping scheme**
- 11. Tree Protection measures**
- 12. Revised Arboricultural Impact Assessment**
- 13. Nesting birds**
- 14. Mitigation as per the submitted Ecological Appraisal**

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in her absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

