

Application No: 18/6313N

Location: Car Park, ST ANNES LANE, NANTWICH

Proposal: Proposed mixed development of 31no. apartments, hotel, restaurants, retail units and associated car parking, including the demolition of No 17 Welsh Row

Applicant: Vision for Nantwich Limited

Expiry Date: 27-Nov-2019

## SUMMARY

The site is within in the settlement boundary where development is acceptable provided that it is compatible with surrounding uses and accords with other relevant local plan policies.

The site also has site specific designations under Policy LPS47 of the Cheshire East Local Plan and saved Policy S12.3 of the Crewe and Nantwich Local Plan. These policies in essence seek to encourage the regeneration of the site by providing a mixed use scheme.

The current proposal seeks a mixed use scheme for housing, commercial and hotel. As a result the proposal appears acceptable in principle from a pure land use perspective.

The benefits of the proposal would be the regeneration of this current derelict/brownfield site and assisting to meet the Councils objectives for the site under Policy LPS47, the remediation of a highly contaminated site, the boost to the economy and job creation through both construction and the operation of the retail and hotel elements, the boost to the vitality/viability of Nantwich Town Centre through increase in trade and footfall, the provision of open market housing and the limited economic benefits during construction.

The development would have a neutral impact upon design, flooding, living conditions, trees, PROW and air quality.

The dis-benefits of the proposal would be the absence of providing of any the required contributions towards affordable housing, open space, education or medical provision; however this has been justified by an open book viability report which has been independently verified. Further dis-benefit would be loss of an existing informal car parking area however this could be lost at any point and the usability of the car park is limited given the varied land levels. The loss of existing trees to the eastern boundary is a further dis-benefit though replacement planting is proposed.

The proposal is considered to be very finely balanced. However the overall benefits of the

scheme with the remediation of the site and the regeneration benefits are given significant weight and thus on balance are considered to outweigh the harm caused by the dis-benefits.

As such it is considered that the proposal constitutes sustainable development and should therefore be approved.

## **RECOMMENDATION**

**APPROVE subject to S111 Agreement**

## **PROPOSAL**

Proposed mixed use development consisting of residential apartments, commercial uses and hotel.

A decked car park is also proposed that provides 100 car parking spaces to serve the development.

Vehicular access is taken to the north off Welsh Row via Wyche House Bank and St Anne's Lane. Pedestrian access would also exist to the south via the footbridge.

Buildings would be sited to the middle and east of the site with a new car park to the west.

## **SITE DESCRIPTION**

The site is located on the edge of Nantwich Town Centre and areas measures 0.72 hectares and currently serves as an informal public car park.

The site is currently in Council ownership but the applicant has agreed to purchase the site following a tendering process in 2016.

The site was historically the location of a former gas works which has current contamination issues despite some previous remediation attempts and a gas main runs through the site.

The area is mixed commercial and residential with retail shops to the north and residential to the west. The River Weaver runs to the east and south of the site.

The site is allocated as within the Settlement Boundary. Part of the site is in Flood Zones 2 & 3, an Area of Archaeological, and a Hazardous Installation Consultation Zone and has a site specific designation under Policy LPS 47 (Snow Hill Nantwich) Saved Policy S.12.3 (Wyche House Bank, Nantwich) of the Crewe and Nantwich Local Plan.

## **RELEVANT HISTORY**

Various applications for signage and change of use of No.17 however none relevant to the current proposal. Most relevant are:

P05/1110 – Construction of a Pay & Display Car Park (resubmission P05/0316) – withdrawn 07-Nov-2006

P05/0316 – Pay & Display Car Park – withdrawn 19-May-2005

7/19544 – Erection of 90 bed hotel with ancillary car parking – finally disposed of 10-Dec-1992

7/11127 – Removal of toxic waste, blinding over of site with stone and construction of access road – approved 19-Jul-1984

7/08629 – Re-clamation of derelict site by both the removal and the burial of contaminated waste – approved 14-Jan-1982

## **NATIONAL & LOCAL POLICY**

### **National Policy**

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

Of particular relevance are paragraphs:

11 Presumption in favour of sustainable development

124-132 Achieving well-designed places

59-72 Delivering a sufficient supply of homes

80-82 Building a strong, competitive economy

85-90 Ensuring the vitality of town centres

117-121 Making effective use of land

### **Cheshire East Local Plan Strategy – Adopted Version (CELPS)**

MP1 – Presumption in Favour of Sustainable Development

PG1 – Overall Development Strategy

PG2 – Settlement Hierarchy

PG7 – Spatial Distribution of Development

SC4 – Residential Mix

SC5 – Affordable Homes

SD1 – Sustainable Development in Cheshire East

SD2 – Sustainable Development Principles

SE5 – Trees, Hedgerows and Woodland

SE 1 – Design

SE 2 – Efficient Use of Land

SE3 – Biodiversity and Geodiversity

SE 5 – Trees, Hedgerows and Woodland

SE12 – Pollution, Land Contamination and Land Instability

SE 13 – Flood Risk and Water Management

SE 6 – Green Infrastructure

SE7 – The Historic Environment

IN1 – Infrastructure

IN2 – Developer Contributions

EG1 Economic Prosperity

EG5 – Promoting a Town Centre First Approach to Retail and Commerce

LPS 47 – Snow Hill Nantwich

CO1 – Sustainable Travel and Transport  
CO4 – Travel Plans and Transport Assessments

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.

### **Crewe and Nantwich Local Plan**

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)  
S1 (New Retail Development in Town Centres)  
S12.3 (Wyche House Bank, Nantwich)

### **Supplementary Planning Documents:**

Interim Planning Statement Affordable Housing  
Interim Planning Statement Release of Housing Land  
Development on Backland and Gardens  
The Cheshire East Design Guide SPD

## **CONSULTATIONS**

**CEC Highways:** No objection

**CEC Flood Risk Manager:** No objection subject to conditions requiring compliance with the submitted Flood Risk Assessment and submission of a drainage strategy

**CEC Environmental Health:** No objection subject to conditions/informatives requiring compliance with noise report, working hours for construction sites, travel information pack, low emission boilers, electric vehicle charging points and contamination

**CEC Education:** Contribution of £65,370 towards secondary education

**CEC Housing:** 9 affordable units required

**CEC Public Rights of Way:** No objection but advisory notes offered to the applicant regarding the proposal to revise the siting of the existing PROW

**CEC Open Space:** The financial contribution required towards enhancements to open space in Nantwich is at a rate of £3,000 per family (2+ bed) dwelling and £1,500 per 2+ bed space. Contribution of £5460 sought towards Nantwich Pool & Fitness Centre

**Cheshire Archaeology:** No objection subject to condition requiring the implementation of a programme of archaeological work

**NHS:** Contribution of £27,936 required towards development of Kiltarn Medical Centre, Tudor Surgery and Nantwich Health Centre.

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

**Environment Agency:** No objection subject to condition requiring compliance with the Flood Risk Assessment, a remediation strategy, verification report and piling. A number of advisory notes are also offered to the applicant

**Historic England:** Do not wish to comment

**HSE:** Does not cross consultation zone

**Cadent Gas:** No objection but advisory notes offered to the applicant

**Nantwich Civic Society:** Support the proposal subject to material appropriate to the area, maintenance of the proposed green wall, use of quality material for the road and pathway surfaces, further trees would be welcomed, loss of parking spaces should be considered

**Butterfly Conservation:** The southern part of this proposed development area coincides with the northern part of a UK Butterfly Monitoring Scheme recording transect

## **VIEWS OF THE PARISH/TOWN COUNCIL**

Nantwich Town Council – Support the proposal given enhancement of the site and boost to the local economy

## **REPRESENTATIONS**

9 letters of objection received regarding the following:

- Access and traffic issues
- Loss of existing parking and lack of adequate parking for new use
- Replacement building on Welsh Row not in keeping
- What planting will be provided to prevent noise/disturbance to local residents
- Changes to the PROW should be inside the applicants site
- Can a small, narrow, garden be indented along the rear car park wall thereby making a feature. Also, can the Black Lion, Ferenza be opened up from the back?
- Should not disrupt the PROW and additional signs should be proposed
- Welcome regeneration of the site
- Applicant should pay for neighbouring windows to be cleaned after construction works
- Wish for tree to the South West of the site to be felled
- No need for more apartments
- Loss of light to neighbouring properties

## **APPRAISAL**

### **Principle of Development**

The site is within in the settlement boundary where development is acceptable provided that it is compatible with surrounding uses and accords with other relevant local plan policies.

The site also has site specific designations under Policy LPS47 of the Cheshire East Local Plan and saved Policy S12.3 of the Crewe and Nantwich Local Plan. These policies in essence seek to encourage the regeneration of the site by providing a mixed use scheme.

The current proposal seeks a mixed use scheme for housing, commercial and hotel. As a result the proposal appears acceptable in principle from a pure land use perspective.

Further site specific details of design, amenity and highway safety etc. are explored below.

### **Housing Land Supply**

The Cheshire East Local Plan Strategy was adopted on the 27th July 2017 and forms part of the statutory development plan. The plan sets out the overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing (36,000 new dwellings over the plan period, equating to 1,800 dwellings per annum) in order to meet the objectively assessed needs of the area.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.

The National Planning Policy Framework (NPPF) identifies the circumstances in which relevant development plan policies should be considered out-of-date. These are:

- Where a local planning authority cannot demonstrate a five year supply of deliverable housing sites (with appropriate buffer) or:
- Under transitional arrangements, where the Housing Delivery Test Measurement 2018 indicates that the delivery of housing was substantially below 25% of housing required over the previous three years (note: this will change to 45% once the Housing Delivery Test Measurement 2019 is published later this year).

In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council's most recent Housing Monitoring Update (base date 31 March 2019) was published on the 7th November 2019. The report confirms:

- A five year housing requirement of 11,802 net additional dwellings. This includes an adjustment to address historic shortfalls in delivery and the application of a 5% buffer.
- A deliverable five year housing land supply of 7.5 years (17,333 dwellings).

The 2018 Housing Delivery Test Result was published by the Ministry of Housing Communities and Local Government on the 19th February 2019 and this confirms a Cheshire East Housing Delivery Test

Result of 183%. Housing delivery over the past three years (5,610 dwellings) has exceeded the number of homes required (3,067). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%.

Relevant policies concerning the supply of housing should therefore be considered up-to-date and consequently the 'tilted balance' at paragraph 11 of the NPPF is not engaged.

## **Affordable Housing**

As per Policy SC5 the desired target percentage for affordable housing for all allocated sites will be a minimum of 30%. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 31 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 9 dwellings to be provided as affordable dwellings. 6 of these units should be provided as Affordable Rent and 3 units as Intermediate Tenure.

The CELPS states in Policy SC5 justification paragraph 12.44, 'The Housing Development Study shows that there is the objectively-assessed need for affordable housing for a minimum of 7,100 dwellings over the plan period, which equates to an average of 355 dwellings per year.' This is for the whole borough of Cheshire East.

The current number of those on the Cheshire Homechoice waiting list with Nantwich as their first choice is 726. This can be broken down to 373 x one bedroom, 201 x two bedroom, 96 x three bedroom and 56 x four+ bedroom dwellings for General Needs.

The SHMA 2013 shows the majority of the demand in Nantwich per annum up to and including 2018 is for 40 x one bedroom, 15 x three bedroom and 35 x four+ bedroom dwellings for general needs accommodation. The SHMA 2013 is also showing an annual need for 16 x one bedroom dwellings for older persons. These can be via flats, cottage style flats, bungalows and lifetime home standard dwellings.

With the need data shown above a mix of 1, 2, 3, and 4 bedroom dwellings on this site would be acceptable. The application form is showing a mix of 1 and 2 bedroom flats on this site and so this would be meeting the 1 and 2 bedroom requirement and also the older person accommodation on the ground floor.

The suggested affordable housing request is considered within the viability section below.

## **Open Space**

### Local Plan Policy SE6 – Green Infrastructure

Policy SE6 requires all major developments of 10 or more to provide (65m<sup>2</sup>) sufficient green infrastructure in line with Table 13.1 of CELP.

The statement within CELPS for this strategic site LPS 47 (k) 'On site provision, or where appropriate, relevant contributions towards highways and transport, education, health, green infrastructure, open space and community facilities'.

It continues 15.536 'The provision of new green infrastructure and the improvement of existing green infrastructure are of paramount importance'.

Furthermore, priorities identified within the GSS relating to green space are; improvements to town centre public realm, cycle/footpaths, provision for all age play, sports facilities and increased provision and quality of open spaces. The strategy specifies new green infrastructure as part of the strategic sites including extension to the Riverside Park, river corridor and enhancements and the provision of more formal open space.

As this application forms part of a larger site, has demands commercially with design restrictions the Councils Open Space Officer does not expect the full requirement of POS to be provided on site in line with both SE6 and the GSS, however as it stands no open space is being offered which is not acceptable in terms of policy. Therefore the Open Space Officer considers that the eastern terrace of Restaurant 3 should be omitted to provide open space plus off site contributions towards enhancements to open space in Nantwich, preferably within 1000m radius. The financial contribution required is at a rate of £3,000 per family (2+ bed) dwelling and £1,500 per 2+ bed space. If the terrace is converted into open space then a calculation to reduce the offsite contributions can be made.

#### Local Plan Policy SC2 - Indoor and Outdoor Sport Facilities

A contribution for indoor sports of £5,460 sought towards Nantwich Pool & Fitness Centre is also required.

However ANSA have advised that a commuted sum for Recreation and Outdoor Sport will be waived as the benefits of improvements on Westminster Street from the commuted sum for POS outlined above are considered sufficient to cater for the increase in demand created by this development.

The suggested contributions are considered within the viability section below.

### **Education**

An application of up to 31 dwellings is expected to generate 6 primary aged children & 4 secondary aged children.

The development is expected to impact on secondary school places in the locality. Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased capacity at secondary schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that a shortfall of secondary school places still remains. The development is not expected to impact on primary provision.

To alleviate forecast pressures, the following contributions would be required:

$$4 \times £17,959 \times 0.91 = £65,370 \text{ (secondary)}$$

Total education contribution: £65,370



The suggested contribution is considered within the viability section below.

## **Health**

The South Cheshire Commissioning Group (SCCG) has devolved powers to act on behalf of the NHS. In this instance they have requested a contribution of £27,936 to support the development of Kiltarn Medical Centre, Tudor Surgery and Nantwich Health Centre.

Having considered the contents of the response from the SCCG, officers are satisfied that the requested contribution of £27,936 is CIL compliant. This is because the NHS plan is at an advanced stage. The comments from the SCCG also provides calculations of how the requested contribution was derived and a specific scheme has been noted as to where the money will be spent which is to support the existing medical practice.

The suggested contribution is considered within the viability section below.

## **Viability case**

As noted above contributions are required towards affordable housing (9 affordable units), education (£65,370), ecological mitigation (£27,787.32) and open space (£3,000 per family dwelling and £1,500 per 2+ bed space for POS & £5460 for indoor sport) and medical provision (£27,936).

In this instance no contributions are to be provided on site and the applicant has provided a viability study which suggests that the proposal is not able to deliver its policy required contributions due to the abnormal costs associated with the site including remediation costs associated with historic contamination of the site (£801,267), diversion of a gas pipeline which runs through the site (£150,134) and connection to the electricity network (£3,345,000) so total costs £4.269m.

Policies SC5 & SE6 advise that in exceptional circumstances, where scheme viability may be affected, developers will be expected to provide viability assessments. The developer will be required to submit an open book viability assessment and the council will commission an independent review of the viability study, for which the developer will bear the cost.

In this instance the Council has employed the services of Keppie Massey to carry out the independent review. The report concludes that after independent assessment the associated abnormal costs as noted above, would result in a loss of -£928,184 and hence even adopting the applicants own constructions costs (which are lower than that of Keppie Massey's own Quantity Surveyors assessment) the development is not viable and would not be able to support any of the policy required contributions.

They have however advised that they have undertaken some sensitivity testing to model the impact of reductions in the abnormal costs. In doing so they have modelled the impact of reducing the costs of the electrical supply/substation (down from £3.3m to £0.5m) and the remediation costs (down from £854,760 to £250,000).

This indicates that the development would just start to break even and may be able to support 1 or 2 affordable dwellings or a small contribution towards other planning requirements. However the report also crucially highlights that with the sensitivity testing there is a degree of uncertainty about the abnormal costs and it is possible that with further work the costs could reduce or increase. They also accept that

the remediation costs associated with the site are likely to be high and any reduction in costs may not be sufficient to bring about the delivery of the policy required contributions.

The report also advises that given the uncertainty regarding the remediation costs that if the Council decide to waive the costs, they may wish to consider inclusion of a re-appraisal mechanism at an appropriate point in the development programme to verify the actual abnormal costs and ensure that if there are sufficient savings this would be captured and enable payment by the applicant of a contribution towards the required contributions.

As a result of the independent viability assessment it is clear that the scheme as presented would not be able to deliver its required policy contributions. There does appear to be some uncertainty regarding the costs associated with the remediation of the site. Therefore further advice has been sought from the Council's contaminated land officer, who advises that given that gas works sites can be one of the most costly contaminated land sites to remediate the figure quoted by Keppie Massey in the sensitivity testing at £0.5m is incredibly low.

She also advises that a guidance document by central government was published in 2015 titled "Remediation Cost Guidance 2015" to help estimate land-value. The costs contained within it are based on 2014 prices from remediation contractors such as Vertase. Figure 2 in section 6 sets out remediation costs. Gas works sites are viewed within the highest potential for contamination and the proposed development is classed as a moderate sensitivity (as there are no private gardens). The site would also be a moderate to high water risk given the adjacent river. Using this approach a price of £540,000 - £1,230,000 per hectare is estimated (the site is ~0.75ha). However she advises that she is not aware what the costs would be in 2019 but highly likely to have increased.

She has also advised that the applicant's quote for the remediation works at £854,760 appears valid and is from a reputable remediation contractor, which in her professional view is a realistic remediation cost.

As a result it appears that the remediation costs as noted in the applicant's viability report are a true reflection of the costs to remediate the site and thus highlights the case that the proposal is not viable and as it stands is not able to provide any of its contributions.

In this instance the site's inability to provide any of its policy required contributions would therefore need to be balanced against the overall benefits of the proposal to remediate and regenerate this heavily contaminated site along with any other benefits.

Given the potential uncertainty regarding remediation costs should the application be approved an overage clause would be required to capture any uplift in value with any additional sums paid to the Council to invest back into education and medical provision within the borough and this would be dealt with via a s106 agreement or s111 agreement where land is owned by the Council as in this case.

## **Retail Impact**

The site has site specific designations under Policy LPS 47 (Snow Hill Nantwich) of the Cheshire East Local Plan and Saved Policy S.12.3 (Wyche House Bank, Nantwich) of the Crewe and Nantwich Local Plan which are aimed at the regeneration of the area by providing retail, including opportunities for small, independent retailers, leisure and sports facilities, offices; hotel including a conference venue, parking, housing and bars and cafés.

Given that the site has been deemed an appropriate location for retail development; neither a sequential nor impact test is required for the proposal.

### **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 site is located right on the edge of the town centre where the full town centre services/facilities could be assessed within a 1 minute walk.

As a result the application site is considered to be locally sustainable

### **Residential Amenity**

The main residential properties affected by this development are properties 4-18 St Anne’s Lane (even numbers only), Davelyn House, Weaver Cottage and the commercial premise to the north off Welsh Row.

The nearest proposed building to the western boundary would be sited 25m away to Davelyn House & Weaver Cottage and 42m away to nearest properties on St Anne’s Lane.

The distance to properties on St Anne’s Lane would be well in excess of the interface as recommended in the SPD for a 4 storey property (27m) to prevent significant harm through overlooking/oppressive impact or overshadowing. The proposal also involves the erection of a decked car park that provides 100 car parking spaces to serve the development. The car park would be 4.4m high when viewed from properties on St Annes Lane and would be sited 9.6m to the nearest property. The side wall of the car park would therefore clearly be visible from main facing windows of these properties, however it is not considered that this would pose significant concerns through overbearing impact as the side of the wall would be a green wall which would help to soften the visual impact and reduce any negative visual impact when viewed from the neighbouring properties.

There are 2 windows proposed at 1<sup>st</sup> and 2<sup>nd</sup> floor level on the nearest side elevation facing Davelyn House & Weaver Cottage. These rooms would serve kitchen/living/dining room windows but would be secondary windows with the main windows serving these rooms sited in the southern elevation. Therefore to prevent overlooking of Davelyn House & Weaver Cottage it would be necessary to ensure that these windows are fitted with obscure glazing. With this condition the proposed interface would be acceptable to prevent significant harm through overlooking/oppressive impact or overshadowing.

Properties to the north off Welsh Row appear to serve predominantly commercial units. It is possible that these may have some residential flats above. However it is expected that levels of outlook and privacy would be more limited in such a built up urban area. The unit facing these properties would also be a hotel so potential for overlooking would be more limited in any case as the rooms are unlikely to be occupied all year round.

### Noise/disturbance/contamination

The proposed opening hours are follows:-

Shops 9am – 5pm

Restaurants 12.00 noon – 12.00 midnight

Café's 8am – 6pm

All 7 days/week

These have been reviewed by the Councils Environmental Protection Officer who has advised that he considers the proposed opening hours for the shops/café to be reasonable, however, the submitted noise report suggested that ground floor restaurants should not open later than 23.00. The Environmental Protection Officer also recommends no outdoor dining/drinking after 22.00 given the proximity to existing business/residential properties. These hours could be secured by condition to prevent significant noise/disturbance to local residents.

However it is accepted that an element of noise and disturbance is inevitable given the allocation of the site for commercial use in the Local Plan.

Environmental Protection have also raised no objections subject to conditions regarding acoustic mitigation, construction environmental management plan, working hours for construction sites, electric vehicle charging points, dust and contamination.

At present the site is heavily contaminated owing to the former gas works use. The proposal would remediate the site which is considered to be a significant environment benefit.

### Future occupants

Council SPD does not stipulate a specific size of amenity area for flats/apartments however it advises that where it is not appropriate to provide private open space for each dwelling, it will be necessary to provide communal areas of open space; these should be located so they can be used by all the residents equally. Some outdoor space would also be provided in the form of a small balcony for some of the units.

There is also an area of open space immediately to the south of the site which could be used by future occupants and Nantwich Town Centre is just a 1 minute walk from the site. Both of these options would provide access to outdoor amenity space.

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

### **Contaminated Land**

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**

This is an application on land that is in use as an informal car park off St Anne's Lane, Nantwich. It is proposed to construct 31 No. apartments, hotel, restaurants and retail units on the site.

A decked car park is proposed that provides 100 car parking spaces to serve the development. There is no car parking provided in the boulevard although service vehicle access is required to service the hotel and restaurants. It is considered that the parking provision is acceptable to serve the development and also the site is well located in regards to the accessibility of other town centre car parks. The existing vehicular link on Wyche House Bank will be removed and this will be replaced by a pedestrian/cycle route.

The traffic generation as a car park and the proposed development generation are not at a level that would cause capacity problems on the local road network.

It is noted that the development of the site would remove the existing informal car parking area. However this is just an informal car parking area and as such could be removed/use continued at any point. The parking area is also extremely uneven which makes its actual usability as a car park somewhat limited. It is also accepted that loss of the parking area is inevitable given the allocation of the site for development in the Local Plan.

A car parking report has also been provided by the applicant who concludes that the site is popular for parking as it is currently not chargeable. It also highlights that the site is an informal parking area and could be removed at any point. It also advises that there would be high costs associated with formalising the car park given the remediation and levelling works that would be required would be at a significant cost.

The proposals are considered acceptable in highway terms and no objections are raised from the Councils Highways Engineer.

## **Trees**

Two Arboricultural Reports have been submitted in support of this application; an Arboricultural Constraints Report and Tree Survey and Arboricultural Impact Assessment (AIA).

Trees within the site are not currently protected by a Tree Preservation Order; the Nantwich Conservation Area boundary lies to the north, east and south of the site.

The woodland located to the east and south east of the site adjacent to the River Weaver has been identified on the national inventory of priority woodland and is a material consideration in this planning application.

The AIA does not identify the woodland; categorising trees as individuals or groups with the majority categorised as low (C) category.

The AIA provides only a very basic assessment identifying that all the trees will require removal apart from one mature high category Poplar (T22) to the south of the site.

Initially concerns were raised from the Councils Arborist that no detailed assessment of the impact of development on retained trees T1-T5 to the east of the site had been provided, in particular below ground constraints (root protection areas) and issues of shading, daylight to rooms and private amenity

space. However he has since advised whilst the proposals would impact on existing root protection areas it is accepted that the trees are not necessarily suitable for retention. It was therefore suggested that trees in the waterbank could be retained in the short term to allow the replacements to grow over time to mitigate impact in the short term, after which replacements will be more established.

Revised plans have since been provided to this affect and details provided for their replacements.

It is clear that the current proposal will result in the loss of woodland habitat and trees which need to be adequately compensated within the site or elsewhere and this can be secured by condition.

The Councils Arborist also required the applicant to provide evidence showing existing and proposed ground and floor slab levels taking into account the possible contamination of soils on the site. This has since been provided but revised comments were not available at the time of writing the report some updated comments on this will be provided in the update report.

## **Design/Heritage Impact**

The importance of securing high quality design is specified within the NPPF and paragraph 124 states that:

*“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.”*

### Introduction and context

The application site is located off St Anne’s Lane, situated to the rear of the historic townscape of Welsh Row and contained by the sylvan setting of the River Weaver. The River Weaver lies to the east of the site, with an arm to the south of the site, enclosing the area called Mill Island linked to the site by a bridge situated at the south western corner of the site.

The site was previously used as the town’s gas works, where a large gas holder occupied the western part of the site. The site became disused in the 1980s and has since been remediated and has been in use as a surface car park for a number of years. Comparison of modern and historic maps/war time photographs also illustrates that the south eastern corner of the site has been made up and reclaimed from the river, which historically was wider at this point.

The Nantwich Conservation Area adjoins the northern boundary of the main body of the site, with properties on Welsh Row backing onto the site and a cluster of buildings off Weaver Bank adjoining the North East corner of the site. The conservation area boundary continues to the immediate east of the site boundary and then envelopes the area immediately to the south following the embankment of the arm to the river Weaver, encompassing Mill Island. A proportion of the application site is situated within the conservation area comprising Wychehouse Bank, 17 Welsh Row and associated outbuildings.

### The proposals

The proposals are for a mixed use scheme, comprising a hotel and restaurants, shops with residential above. A 2 tier, decked car park is also proposed with a green wall on the St Anne's Lane frontage. Podium tree planting is also proposed on parts of the upper deck of the car park.

It is proposed that there would be three blocks of development. The two main blocks would be separated by a central boulevard that follows the alignment of Wychehouse Bank to the edge of the river. The third block would include demolition of 17 Welsh Row, with the construction of a new 3 storey timber frame and glass building at the corner of Wychouse Lane/Welsh Row, with new single storey units aligning Wychouse Lane. The remainder of the development is a mix of 3 and 4 storeys, with the upper storey partly included in roof spaces and Mansard roofs.

At the southern end of the boulevard the space would widen contained by stepped terraces provided for the restaurant in the western block of development and leading to a more extensive space to the front of the hotel foyer and restaurant in the eastern development block. The route over the footbridge into the site would terminate in front of the raised terrace to restaurant 3, leading to quite a pinched and constrained space. The existing footpath route through the western part of the site would be diverted around the south western corner of the site, connecting onto the pavement of St Anne's Lane.

### Heritage considerations

#### Consideration of the impact upon the Nantwich Conservation Area

As the bulk of the site lies immediately adjacent to the conservation area and part is actually within it, there is a statutory requirement to consider the impacts of the proposals upon the character and appearance of the designated conservation area; this relates to both the impacts upon the river and its environs as a key natural attribute of the conservation area and also the historic townscape of this part of the conservation area, particularly the area centred upon Welsh Row.

The current condition of the site does detract from the character of the conservation area but its effects are largely screened from the riverscape to the south by the existing maturing vegetation on the southern and eastern edges of the site, and also by other landscape within the Mill Island area of the Weaver corridor. The site is a little more visible in views out from the conservation area, across the River Weaver from Waterlode.

The proposals would lead to loss of much of the landscape on the southern edge of the application site, and as noted above this contributes to the sylvan and tranquil qualities of this part of the conservation area. However, longer views from the south would still benefit from the landscape foreground of Mill Island and replacement planting is also proposed to mitigate for those lost. Views of the site from the main public realm within Welsh Row are restricted to the view from Wychehouse Bank and to a lesser extent at Anne's Lane and Weaver Bank

One of the two main considerations in terms of townscape impact is the scale, massing and urban grain of the proposals compared to the relatively intimate scale and finer grain townscape of Welsh Row. Of particular importance is ensuring that the scale of development does not overwhelm that of the existing townscape. Since pre-application discussions certain attempts have been made to reduce the comparative scale, whilst the setting behind Welsh Row with an expansive southern edge adjacent to the riverside will help the development to assimilate into this sensitive setting. The breaking down of elevations, varied rooflines and reduced scale of the northern edge of the development will help the transition between existing and new townscape. What will be crucial however is that the finished floor

levels are not significantly higher than current levels else this could lead to a development that is too strident in the context of this part of the conservation area. This is discussed further below in relation to design. On balance therefore, in respect to the main body of the development and subject to satisfactory finished levels, the scale and massing of the proposed development are not considered to adversely impact upon the character and appearance of the conservation area, having regard to the present condition of the site.

The other matter of significance is the proposed demolition of 17 Welsh Row and its replacement and the impact this would have upon the character and appearance of the conservation area, having regard to Welsh Row being an important and characterful part of the area. This was a particular point of concern at the pre-application stage. Part of that consideration where loss of historic townscape is proposed, is the quality of what is intended to replace it and whether that preserves or enhances the special interest of the area. Having seen several amendments to the design of this replacement building it is now considered that the scale and design of the replacement building is in keeping with the intimate scale of this part of Welsh row.

#### Consideration of the impact upon listed buildings

There are several listed buildings in relatively close proximity to the application site, including Nantwich Bridge and 33/35 and 39 Welsh Row, which are located at the entrance to St Anne's Close. The site is visible from Nantwich Bridge and forms part of its waterside backdrop but the site is largely obscured by the scale and proximity of existing buildings. The plans also show considerable landscaping being retained between it and the site. Therefore it is unlikely that there will be any detrimental impact to the bridge's setting.

In regard to 33/35 and 39, arguably there will be increased traffic which could impact upon their setting but they already experience considerable traffic movement because of the present car park use and St Anne's Close serving a number of residential properties. Consequently, it is considered that there will be a nominal impact upon these listed buildings and their settings.

#### Design considerations

The general concept of what is proposed in terms of creating a mixed use development, waterside public realm and strong linkage to Welsh Row is supported in principle. The mix of uses presents an exciting opportunity to further diversify and enrich Nantwich town centre and make better use of a brownfield site right at the heart of the town. Whilst the approach in architectural terms could be deemed a little contrived, with a mix of quite traditional and contemporary, the variety in the building forms, roofscape and detailing does create a level of design interest and helps break the scale and massing of the larger buildings down. The detailed elements of the scheme will be crucial to ensure that the development relates positively to its surroundings and establishes a strong sense of quality and distinctiveness.

#### Other matters

The site is previously developed and has been partially re-claimed. It is important that any remediation or flood risk response does not lead to a material change in the ground level/finished floor level to prevent an increase in height that could be harmful to the setting of the conservation area.

#### Conclusions



In respect to the general principle for the two main areas of development, on balance this part of the proposals is considered to be acceptable.

### **Public Rights of Way (PROW)**

The proposal involves diverting the existing PROW which runs to the south of the site so that it runs immediately to the western boundary of the site.

The Councils PROW officer has confirmed that they have received an application for the diversion of the unrecorded footpath and are in the middle of the legal process. She confirms that they are happy with the proposals which include a 3 metre wide footpath with permissive cycle use, the addition of a bollard and railings along the western edge.

### **Ecology**

#### Woodland Habitats

The woodland on site, located between the existing car park and the river, appears on national inventory of priority woodland. Priority Habitats are a material consideration for planning and receive protection through Local Plan Core Strategy Policy SE 3.

The habitat survey was undertaken in the summer, a poor time for surveying woodland habitats, but despite this a number of woodland plant species were recorded.

The Councils Ecologist advises that the current proposals would result in the loss of priority woodland habitats with a corresponding significant loss of biodiversity.

The site specific policy for this site in the local plan (LPS47 Snow Hill) requires compensatory habitat to be provided for any loss of priority habitat or species. No proposals to provide compensatory habitat for the loss of the woodland have been submitted with this application. The proposals are therefore not in accordance with this policy.

In order to avoid the loss of biodiversity associated with the loss of woodland habitats the Councils Ecologist advises that the existing woodland should be retained as part of the proposed development.

#### Hedgehog

The submitted ecological assessment states that hedgehog a priority species has previously been recorded on site. The Councils Ecologist advises that this species is likely to occur on site on at least a transitory basis. The loss of woodland habitats on site is likely to have an adverse effect on hedgehogs in the local context.

#### Reptile, Breeding Birds and Bat Activity Surveys

The submitted Preliminary Ecological Appraisal recommends that further detailed surveys are undertaken to assess the importance of the habitats on site for grass snake, breeding birds and bats. Further surveys for these species have now been undertaken.

No evidence of grass snake or other reptiles was recorded during the surveys. To enable an assessment to be made on the acceptability of the submitted survey the applicant's consultant should however be requested to confirm the number of survey tiles used on site.

A number of breeding birds were recorded on site. Only a single priority species, Dunnock (which is a material consideration for planning) was recorded as breeding on site. Dunnock is a very widespread bird in Cheshire. The Councils Ecologist advises that the application site is not of sufficient importance to be considered for selection as a Local Wildlife Site.

The submitted survey report advises that the loss of habitat for breeding birds as a result of this development would have a high magnitude effect on nesting birds and a Moderate effect on foraging and commuting habitat for birds in the local landscape.

In the event that planning permission is granted the Councils Ecologist suggests that conditions should be attached as mitigation which prevent removal of any vegetation or the demolition or conversion of buildings taking place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds and features be provided for use by breeding birds.

Three bat activity surveys have been undertaken on site. These covered the spring and summer season, but no surveys work has been undertaken in the autumn season. Considering the relatively small size of the site The Councils Ecologist advises that this is not a significant constraint on the reliability of the submitted results.

Four species of bats were recorded on site and the level of activity is as would be expected of a site of this type and size. Most bat activity is concentrated adjacent to the southern boundary of the application site. The Councils Ecologist advises that roosting bats are unlikely to be affected by the proposed development. The loss of bat foraging habitat resulting from the development of this site is likely to have a localised effect on the species of bats present, but is not likely to be sufficient to amount to an offence under the Habitat Regulations.

Any additional lighting provided as part of the development is likely to have a localised affect on foraging bats, therefore in the event that planning permission is granted a condition would be required to secure the submission of a bat friendly lighting strategy.

The Councils Ecologist advises that if the proposed development was limited to the existing areas of car parking the potential impacts on birds and bats would be greatly reduced.

#### Water Vole and Otter

These protected species is known to occur on the River Weaver.

The bank sides adjacent to the proposed development have the potential to support water vole and otter.

No evidence of water vole recorded during submitted Phase One Habitat Survey. However the Councils Ecologist advises that the level of survey effort undertaken is inadequate to establish the presence/absence of this protected species.

He therefore advises that if any works are proposed within 8m of the river bank, further survey effort will be required to establish the presence/absence of this protected species.

No evidence of otter recorded on site during the phase one survey. In the opinion of the Councils Ecologist otters are likely to at least pass through the site on an occasional basis. He therefore recommends that the clarification be sought from the applicant's consultant as to whether the application site is considered likely to provide any features that could be used as shelter and protection for Otter.

If despite the above comments, planning consent is granted, the following conditions would be required to cover the following:

- Safeguarding of nesting birds
- Submission of provision of features for nesting birds
- Submission of bat 'friendly' lighting scheme
- Submission of measures for safeguarding of the adjacent water course from pollution during construction
- Measures to minimise the risk of hedgehogs being injured during the construction phase
- Method statement for the control of Himalayan Balsam

#### Biodiversity metric calculation

The Councils Ecologist advises has formulated a Biodiversity Metric calculation on the basis that all the existing habitats on the St Anne's Park being lost as a result of the land remediation and development works. The calculation shows that the proposed development would result in the loss of 2.75 biodiversity units. The Councils Ecologist advises that in accordance with the mitigation hierarchy this loss of biodiversity should be avoided/minimised through the retention of the existing woodland as part of the development of this site.

If the loss of the woodland is considered to be unavoidable, then in order to compensate for this loss and comply with the Local plan site specific policy for the development of this site, the developer would be required to provide 2.42ha of woodland planting on habitats of existing low value.

As discussed, on some previous schemes we have accepted a commuted sum to fund offsite habitat creation. It would be the Ecologists preference for the developer to develop a scheme and implement an offsite habitat creation scheme to offset the effects of their proposals in accordance with the local plan policy for this site.

If a commuted sum was provided to enable the Council to undertake offsite woodland planting a sum of £22,787.32 together with a fee of £5,000 to cover staff costs would be required. This is therefore a commuted sum of £27,787.32. These costing reflect figures in the draft CEC Nature Conservation Supplementary Planning document. The suggested contribution is considered within the viability section above.

#### **Flood Risk**

The application site is located within Flood Zones 2 & 3 according to the Environment Agency Flood Maps. Therefore a Flood Risk Assessment (FRA) is required.

The FRA concludes that the majority of the site lies in Flood Zone and has a probability of flooding of between 1 in 100 years and 1 in 1000 years.

An easement area will need to be retained for access and maintenance to the watercourse. This reduces the developable area of the site by 1400m<sup>2</sup> to approximately 6065m<sup>2</sup>. Finished floor levels will need to be set at a minimum of 600mm above the 1 in 100 year flood level (a minimum of 35.36mAOD).

Sustainable Urban Drainage Systems (SUDS) will also need to be incorporated into the development. Preference should be given to above ground SUDS features and surface water run off should be discharged to the Ricer Weaver as it is unlikely that discharge to ground will be feasible due to the level of contamination of the site.

The Environment Agency have been consulted as part of the application and have raised no objection subject conditions requiring compliance with the Flood Risk Assessment, a remediation strategy, verification report and piling. A number of advisory notes are also offered to the applicant.

United Utilities have raised no objection to the proposed development subject to conditions regarding foul and surface water and a surface water drainage scheme. The Councils Flood Risk Team has also been consulted who raise no objection subject to conditions regarding compliance with the submitted FRA and detailed drainage design.

These conditions requested are considered both reasonable and necessary and can be added to any decision notice.

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

## **Economic/Social**

With regard to the economic role of sustainable development, the proposed development will help to provide new housing with indirect economic benefits to Nantwich including additional trade for local shops and businesses, jobs in construction, employment (40 full time and 20 part time) and regeneration from the retail and hotel use and economic benefits to the construction industry supply chain.

## **OTHER**

The majority of representations have already been addressed in the main report above. However a few concerns require addressing.

- Replacement building on Welsh Row not in keeping – revised plans have since been received with a building more in-keeping
- What planting will be provided to prevent noise/disturbance to local residents – this will be secured by condition as will open hours, working hours of construction is controlled through legislation outside of planning
- Can a small, narrow, garden be indented along the rear car park wall thereby making a feature. Also, can the Black Lion, Ferenza be opened up from the back – the Council has to consider the application as put before them
- Applicant should pay for neighbouring windows to be cleaned after construction works – this is a civil matter over which the Council has no control

- Wish for tree to the South West of the site to be felled – this is not relevant to the determination if a planning application
- No need for more apartments – the site is allocated in the local plan for new housing thus the need is justified
- Loss of light to neighbouring properties – sufficient distances to neighbouring properties to the west to prevent significant loss of light

## **PLANNING BALANCE**

The site is within in the settlement boundary where development is acceptable provided that it is compatible with surrounding uses and accords with other relevant local plan policies.

The site also has site specific designations under Policy LPS47 of the Cheshire East Local Plan and saved Policy S12.3 of the Crewe and Nantwich Local Plan. These policies in essence seek to encourage the regeneration of the site by providing a mixed use scheme.

The current proposal seeks a mixed use scheme for housing, commercial and hotel. As a result the proposal appears acceptable in principle from a pure land use perspective.

The benefits of the proposal would be the regeneration of this current derelict/brownfield site and assisting to meet the Councils objectives for the site under Policy LPS47, the remediation of a highly contaminated site, the boost to the economy and job creation through both construction and the operation of the retail and hotel elements, the boost to the vitality/viability of Nantwich Town Centre through increase in trade and footfall, the provision of open market housing and the limited economic benefits during construction.

The development would have a neutral impact upon design, flooding, living conditions, trees, PROW and air quality.

The dis-benefits of the proposal would be the absence of providing of any the required contributions towards affordable housing, open space, education, ecology or medical provision; however this has been justified by an open book viability report which has been independently verified. Further dis-benefits would be loss of an existing informal car parking area however this could be lost at any point and the usability of the car park is limited given the varied land levels. The loss of existing trees to the eastern boundary is a further dis-benefit though replacement planting is proposed.

The proposal is considered to be very finely balanced. However the overall benefits of the scheme with the remediation of the site and the regeneration benefits are given significant weight and thus on balance are considered to outweigh the harm caused by the dis-benefits.

As such it is considered that the proposal constitutes sustainable development and should therefore be approved.

## **RECOMMENDATION:**

The application be **APPROVED**, subject to the satisfactory completion of a Section 111 Agreement with a Draft S106 attached to secure:

- Overage provision to capture any uplift in value with any additional sums paid to the Council to invest back into education and health provision within the borough

And subject to the conditions below:

- 1 Time limit
  - 2 Approved plans
  - 3 Materials
  - 4 Compliance with the submitted Flood Risk Assessment
  - 5 Submission of a drainage strategy
  - 6 Compliance with the noise report
  - 7 Travel information pack
  - 8 Low emission boilers
  - 9 Electric vehicle charging points
  - 10 Contaminated land X 3
  - 11 Programme of archaeological work
  - 12 Foul and surface water and a
  - 13 Surface water drainage scheme
  - 14 Piling
  - 15 Obscure glazing to x2 living/kitchen/dining room windows on the western elevation
  - 16 No removal of any vegetation or the demolition or conversion of buildings taking place between 1st March and 31st August
  - 17 Features for breeding birds
  - 18 Safeguarding of nesting birds
  - 19 Submission of provision of features for nesting birds
  - 20 Submission of bat 'friendly' lighting scheme
  - 21 Submission of measures for safeguarding of the adjacent water course from pollution during construction
  - 22 Measures to minimise the risk of hedgehogs being injured during the construction phase
  - 23 Method statement for the control of Himalayan Balsam
  - 24 Open hours – 7 days/week
- Shops 9am – 5pm  
Restaurants 12.00 noon – 11pm  
Café's 8am – 6pm

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 his/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.

