

Application No: 12/1381N

Location: FORMER STAPELEY WATER GARDENS, LONDON ROAD,  
STAPELEY, CW5 7JL

Proposal: Erection of 146 Dwellings, Public Open Space, Access and Associated Works

Applicant: David Wilson Homes North West

Expiry Date: 18-Jul-2012

12/1381N – Stapeley Water Gardens

#### **SUMMARY RECOMMENDATION**

**APPROVE** subject to conditions and the completion of Section 106 legal agreement to secure the following:-

- 1. Provision of 33% affordable housing units – 50% to be provided as social rent/affordable rent with 50% intermediate tenure**
- 2. The provision of a LEAP and Public Open Space**
- 3. Financial Contribution Towards Primary School Education**

#### **MAIN ISSUES**

**Impact of the development on:-**

**Principal of the Development**  
**Affordable Housing**  
**Highway Implications**  
**Public Rights of Way**  
**Amenity**  
**Trees and Hedgerows**  
**Design**  
**Ecology**  
**Open Space**  
**Education**  
**Flood Risk and Drainage**  
**Archaeology**

#### **REASON FOR REFERRAL**

This application is referred to the Strategic Planning Board as it relates to a housing development of 146 dwellings on land which is 5.5 hectares in area. In addition previous applications at this site have been referred to Strategic Planning Board for determination.

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

The application site forms part of the wider former Stapeley Water Gardens and Stapeley Manor site which is located within the Settlement Boundary for Nantwich as defined by the Borough of Crewe and Nantwich Replacement Local Plan Proposals Map. The site is also allocated as a Mixed Use Regeneration Area which is covered by Policy S.12.5 of the Local Plan. The land to the north of the access road forms the former Stapeley Manor curtilage and grounds and contains a large number of number of trees covered by TPONo.200. The land to the southern part of the site is covered by the former Stapeley Water Gardens buildings and large areas of hardstanding and planting. To the east and south of the site is land which is retained as newt mitigation land. The site is currently access via London Road which serves the still operational Angling Centre. A Public Right of Way Stapeley No.1 crosses the site along the existing driveway from London Road before turning north at the western part of the site towards Peter Destapleigh Way.

## **2. DETAILS OF PROPOSAL**

This is a full planning application for the construction of 146 dwellings. The dwellings proposed are a mixture of two storey detached, semi detached and terraced properties and the construction of two three storey apartment blocks, each containing 12 units. Of the dwellings proposed 48 (33%) would be affordable housing units, with a 50/50 split between social rented and shared ownership/rent to home buy. Access to the site is proposed from a reconfigured access at the existing point of access to the former Water Gardens site off London Road. The scheme includes the provision of a LEAP to be sited in the northern part of the site. Areas of public open space are also proposed, the majority of which would be sited around the existing protected trees and retained newt mitigation corridors. Additional landscaping is also proposed throughout the site. The works also include the provision of a substation and pump station. Temporary access to the Angling Centre, while it remains open, is also proposed.

## **3. RELEVANT HISTORY**

**09/4017N** – Planning permission approved for The Construction of Two Newt Mitigation Areas and Associated Connection Corridors on 23<sup>rd</sup> April 2010.

**P06/1001** – Outline Planning Permission was approved for the redevelopment and relocation of the existing garden centre facilities, A1 and A3 retail units, construction of Class C3 residential development, B1 office development, car parking, and ancillary facilities and infrastructure on 21<sup>st</sup> May 2010.

## **4. POLICIES**

### **Local Plan Policy**

NE.5 Nature Conservation  
NE.9 Protected Species  
NE.17 Pollution Control

NE.20 Flood Prevention  
BE.1 Amenity  
BE.2 Design Standards  
BE.3 Access and Parking  
BE.4 Drainage, Utilities and Resources  
BE.5 Infrastructure  
TRAN.9 Car Parking Standards  
RT.3 Provision of Recreational Open Space and Children's Playspace in New Housing Developments  
RT.9 Footpaths and Bridleways  
S.12.5 Mixed Use Regeneration Areas - Stapeley Water Gardens

Stapeley Water Gardens Development Brief Supplementary Planning Document (2006)

### **National Policy**

National Planning Policy Framework

### **Other Considerations**

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  
Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026  
Cheshire East Local Transport Plan (LTP) 2011-2026

## **5. CONSULTATIONS (External to Planning)**

**Environment Agency:** Objection raised from Environment Agency. There is insufficient information contained within the Flood Risk Assessment to assess the issue of flood risk. Discharge of surface water from the site will be to a watercourse to the west of the development and will have less run than from the existing site which is acceptable in principle. The FRA does not contain any information on how discharge rates are calculated and details of the sites existing surface water drainage will be required. The FRA does not contain any information as to how overland flow is to be managed during severe rainfall events when the water drainage system will be surcharged. Submitted plans show an existing culvert with flows to be diverted into the new system. The FRA does not contain any information on existing flows in this culvert and no information on existing flows in this culvert and no assessment of the flood risks associated with the proposed diversion.

**United Utilities:** No objection; the site must be drained on a separate system with only foul drainage connected into the foul sewer.

**Strategic Highways Manager:** Given that the TA makes no mention of retention of previous uses on the site we were unaware of any. We now understand that the Angling Centre will remain

temporarily open although, as no time period is specified, we need to treat its access and traffic generation as permanent. This needs to be reflected as part of the off-site modelling.

In order to accurately assess the site access, we therefore require a current traffic turning count at this location. This will have the dual purpose of counting the existing site traffic (Angling Centre) and providing evidence that the previous count provided at this location was suitable.

We still consider it appropriate to undertake fresh traffic counts at the junctions outlined above.

Traffic should be assessed at the 2022 assessment year indicated above.

We will require the RSA1 to be undertaken and submitted for the site access.

The restrictive planning condition remains important. Of course, in this instance, it will relate to the access of the agreed number of dwellings and the Angling Centre. We consider it appropriate to condition the application such that dwellings that would be accessed (or have their garages accessed) from the same Private Drive as the Angling Centre should not be built/occupied prior to closure of the Angling Centre.

Depending on the results of the traffic surveys and traffic modelling we reserve the right to consider further conditions to limit the level of development accessed from London Road to a traffic envelope no greater than the 150 dwellings previously allowed from this location. We also reserve the right to seek appropriate transport measures/contributions.

**Environmental Health:** No objections subject to conditions relating to construction hours, piling hours, piling management plan, noise mitigation measures to be carried out in accordance with report, an Environmental Management Plan in relation to Air Quality and Phase II Site Investigations in relation to Contaminated Land.

**Public Open Space:** No comments received at time of writing report

**Natural England:** This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. Advises the authority that permission may be granted subject to a condition requiring a detailed mitigation and monitoring strategy for great crested newts.

**Public Rights of Way:** Stapeley Public Footpath No. 1, crosses the proposed development site. The existing public right of way should be regarded as an opportunity to improve the connectivity of the development site with the rest of Stapeley and Nantwich communities and facilities. Residents of the development site travelling, for example, to Pear Tree School or the local centre facilities, the use of the public right of way offers a much more direct journey than use of the London Road entrance. The public footpath connects with Peter Destapleigh Way at a location where there is no crossing facility and where visibility would make such a facility undesirable. However, on the south side of Peter Destapleigh Way is a wide verge which could, in agreement with Highways, be upgraded as a shared use facility for pedestrians and cyclists. This would link the existing public footpath with the traffic light controlled junction of Peter Destapleigh Way and Pear Tree Field which does not have full toucan facilities either north-south across Peter Destapleigh Way, or east-west across Pear Tree Field. An upgrade to these facilities would be desirable to link the development site with the services of Stapeley and Nantwich.

The public footpath within the development site could be upgraded to a shared use facility to accommodate both pedestrians and cyclists. The route would be maintained by the management company as part of the Public Open Space maintenance agreement. The landowner/developer would have the opportunity to upgrade the legal status of the public footpath or to provide cycle access on permissive basis.

To reduce the isolation of the development site due to the adjacent roads, the pavement along the western side of the London Road between the development site entrance and Peter Destapleigh Way should be improved for use by pedestrians and cyclists. This route would be the main route for residents of the development site travelling to the employment and leisure facilities in Crewe.

The development site falls within the catchment area for Stapeley Broad Lane Primary School. The former school travel team and public rights of way team have previously received requests from Stapeley Parish Council for improved pedestrian and cyclist access from the Stapeley Pear Tree Field area to Broad Lane School (ROWIP Ref. T19, T75). There are two options for this: a) a new off-road cycle track from Peter Destapleigh Way across the fields, which could run the length of the development site western boundary, and onto Deadman's Lane (Public Bridleway No. 6, Stapeley) via third party owned land; or b) a footway/cycle lane along London Road and then an improved surface along the length of Deadman's Lane (Public Bridleway No. 6, Stapeley). Under both options part or all of the surface of Deadman's Lane (Public Bridleway No. 6, Stapeley) would need improving.

**Education:** This development is anticipated to generate some 22 primary pupils and 17 secondary pupils. There is currently and projected to be surplus places in the local secondary sector. Primary is a little different in that there is currently a surplus in local schools however projections show numbers on roll increasing in these schools year on year and by 2017 we anticipate only 17 places in the local schools. On this basis and by adapting the usual formula a contribution of :- 17 places available – 22 pupils generated = -5 places. Therefore based on  $5 \times 11919 \times 0.91$  a commuted sum of **£54,231** to provide additional spaces is required.

## **6. VIEWS OF THE PARISH COUNCIL**

**Stapeley Parish Council:** No comments received

## **7. OTHER REPRESENTATIONS**

43 letters of objection have been received from local households, RPS Group PLC and Bob Hindhaugh Associates Ltd raising the following points;

### Principal of development

- Stapeley does not need any more houses
- Lack of comprehensive approach for planning of area
- Application should be considered on its merits in context of current policy
- Contrary to Policy S.12
- Access from Peter Destapleigh Way is a clear pre-requisite for the site
- Expectation that development would deliver an operational replacement water gardens
- Use has stopped and there is no intention to reopen
- Viability case for using London Road access to assist investment in regenerating the Water Gardens no longer exists

- Current outline permission cannot be implemented
- There are development plan objections to piecemeal development of the site
- Any development scheme should be in the context of the whole site
- A place shaping exercise is in hand for the housing and other growth requirements of Nantwich
- In terms of access arrangements there is no viability case for departing from the development brief and taking access to the site from London Road

### Highways

- Already too much traffic along Peter Destapleigh Way proposed development will add to it
- Should be no further development in area until southern bypass built
- Development Brief identifies that entire site should be accessed from signalised junction on Peter Destapleigh Way and existing London Road access closed. Proposed development therefore contrary to development plan.
- Proposed access arrangement is completely unacceptable to London Road and Wybunbury Lane residents.
- Proposed access arrangement is a significant and unacceptable departure from the Adopted Development Brief.
- Spread of suburban development cannot support the increased need for employment and will become a dormitory for elsewhere increasing traffic flow
- Wybunbury Lane becoming dangerous and used as a rat run
- Increase traffic, traffic noise and pollution
- Could mean in excess of 250 – 300 cars using Wybunbury Lane at peak times
- Object to the base traffic flows recorded in November 2011 for the AM peak at the junction of Peter Destapleigh Way, London Road and Elwood Way. Traffic count undertaken by Local Residents on 16<sup>th</sup> November 2011. Local residents recorded 624 vehicles travelling eastbound through this junction from Peter Destapleigh Way to Elwood Way between 8 and 9am whereas Singleton Clamp recorded only 402 which is 35.6% less than that recorded in the traffic count by residents.
- Residents for the opposite direction of travel (westbound from Peter Destapleigh Way to Elwood Way between 8 and 9am) recorded 351 vehicles travelling whereas Singleton Clamp recorded only 225 which is 35.9% less than that recorded in the traffic count by residents.
- Potential impacts of the proposed development on the local road network may have been underestimated.
- Recommend CEC undertake own traffic count
- No assessment of the potential traffic impacts on either the Peter Destapleigh Way/Pear Tree Field junction or the Peter Destapleigh Way/Audlem Road junction.
- Revised TA required to take into consideration missed junctions
- TA fails to assess other permitted developments in the locality
- No assessment of the permitted relocated water gardens or B1 office/employment. It is likely that the remainder of the former Stapeley Water Gardens will be redeveloped in due course, whether that be a relocated water gardens and B1 office/employment or simply another 150 or so houses. The traffic generated by those developments would have a direct bearing on the operational capacity of the local road network
- 9 no. detached dwellings was permitted at Foolpenny Hall, London Road, Stapeley not considered
- Three open road connections through site
- Condition attached to outline states that there should be no through road connection. Principle of no through route has been established.

- No need for connections in current application as western part of site is to be accessed from Peter Destapleigh Way.
- Access to Angling Centre should be from PDS
- TA is more comparable to a Transport Statement
- Cannot accept that the proposed development traffic will be less than the traffic flows associated with SWG. It is a proven fact that SWG was a seasonal operation, with traffic peaks between Easter and September. traffic flows from this proposal would continue
- Throughout the year and have a greater impact locally.
- No account of angling centre which will continue to operate
- PDW/Audlem Road junction approaching or at capacity
- PDW/London Road/Elwood Way junction is at operational capacity now in the peak times.
- All roads must end with Hammerhead turning points and not be allowed to be left open.
- TA is deficient on many levels
- Traffic flow figures in TA lower than those identified in 2006 TA
- Public traffic flow surveys in 2006 confirmed validity of 2006 TA
- Some traffic flow figures within the TA comparing flows with and without SWG's shows some greater figures without SWG.
- The projected vehicular movement counts for 2019 show figures considerably less than those taken by members of the public
- Base flows from 2011 should not be used for this application
- Traffic datasets held by CEC are 8 years old – updated count should be done and these should not be used
- Use of the London Road access would be unsafe
- A petition containing 109 names objected to the use of the London Road access was submitted to the council with regard to the 2006 application
- Allowing access for 146 dwellings could have implications on highway safety around the substandard access at redeveloped site known as The Woodlands (6 dwellings)
- Traffic queues often back up to The Woodlands access, 215m from London Road PDSW junction
- Access would be blocked by vehicles entering the site from the southbound carriageway
- Vehicles often travel in excess of 40mph
- Development could lead to severe traffic impacts contrary to NPPF
- Snapshot report for Nantwich identifies that the largest growth in traffic in the urban areas of Cheshire East was experienced in Nantwich'.
- A minimum highways contribution of £18,550 should be sought

### Green Issues

- Loss of Silver Birch part of TPO 200, G8.
- Birch contributes significantly to streetscene
- Existing access for No.92 is via the site
- Part of this birch tree is within the application site
- This tree will need to be felled as new access for No.92 is required
- Tree not shown on arboricultural plan/report
- Habitat compensation measures have not been carried out in full
- Southern corridor does not appear to have been completed
- The proposed planting of 50,000 trees have not been carried out in full
- Pond in corridor connecting areas A and B not carried out to correct extent

### Infrastructure

- Impact on local school and healthcare

#### Design

- Proposed three storey apartment block at southern end of site on rural edge is inappropriate form of development.
- Block more appropriate at northern part of site near PDS Way
- Height appears to be over 10m. Hedges are 5m
- Visual impact of apartment block, many gardens face towards site, would represent an incongruous urban feature
- 3D visual prepared demonstrates that the apartment block would be out of place
- Slab levels are 1.05m above current ground levels for apartment block, making building taller than needs to be
- Plot 49 too close to road and out of keeping with streetscene

#### Amenity Issues

- Unacceptable impact on amenity of occupants of apartment block at south of site due to proximity to landscaping.

#### Other issues

- Object to diversion of public right of way from current alignment

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

To support this application the application includes the following documents;

- Planning Statement (Prepared by NJL Consulting dated April 2012)
- Design and Access Statement (Prepared by NJL Consulting dated April 2012)
- Transport Assessment (Prepared by Singleton Clamp dated April 2012)
- Arboricultural Report (Prepared by Cheshire Woodlands dated March 2012)
- Consultation Statement (prepared by Lexington Communications)
- Flood Risk Assessment (Prepared by David Wilson Homes dated April 2012)
- Flood Risk Assessment (Prepared by Mewies Engineering Consultants dated May 2012)
- Noise Impact Assessment (Prepared by Hepworth Acoustics dated April 2010)
- Updated Noise Impact Assessment (Prepared by Hepworth Acoustics dated May 2012)
- Sustainability Statement (Prepared by David Wilson Homes)
- Great Crested Newt Mitigation Statement (Prepared by CES Ecology dated March 2012)
- Air Quality Impact Assessment (Prepared by URS dated April 2012)

These documents are available to view on the application file.

### **9. OFFICER APPRAISAL**

#### **Principal of Development**

The site lies within the settlement boundary for Nantwich and forms part of a larger mixed use regeneration allocation for the former Stapeley Water Gardens site. Policy S.12.5 covers the former Stapeley Water Gardens site and includes the application boundary. That Policy seeks to ensure the regeneration of the site to provide a mixture of employment (B1 uses), leisure, tourism and housing of up to 120 dwellings.

The Stapeley Water Gardens: Adopted Development Brief Supplementary Planning Document also covers the site. The Brief reiterates the Policy requirements of S.12.5. In summary, the Brief requires a comprehensive design approach for the site and requires three chief uses for the site as a whole, the replacement water gardens, business and housing. Two development options for the site are identified both of which identify the three principle uses to occupy approximately 1/3 of the site. Both options for the redevelopment of the site identify the site in its entirety to be serviced off Peter Destapleigh Way with the existing access off London Road to be closed.

The proposed development is not in complete accordance with the Local Plan Policy S.12.5 or Stapeley Water Gardens Development Brief in terms of proposed housing numbers proposed as the proposed scheme is for 146 dwellings. In addition the proposed access arrangements are not in compliance with the Development Brief which requires the site to be accessed in its entirety from the access spur from Peter Destapleigh Way. Notwithstanding this, the site is located within the settlement boundary for Nantwich where there is a clear presumption in favour of development.

#### Outline Planning Permission P06/1001

Outline Planning Permission has been approved for the redevelopment of the Stapeley Water Gardens site. The outline permission was for the redevelopment and relocation of the existing garden centre, A1 and A3 retail units, residential development and B1 office development. It should be noted that the scheme was sanctioned by the former Crewe & Nantwich Borough in 2007 but due to lengthy discussions and amendments due to the complexity of the site the decision was only issued on 25<sup>th</sup> March 2011. That decision was also subject to a legal agreement to secure affordable housing, open space, highway improvements and also phasing of the development.

The provision of housing under that outline scheme encompassed the eastern part of the site and limited development to no more than 5.5ha of the site as a whole and up to 150 dwellings. The residential development was approved to be accessed from London Road.

It is acknowledged that this is a Full Planning application and is not a Reserved Matters application to that Outline consent. However, the outline decision is a material consideration in the determination of this application, which has set the principles and parameters of acceptable development on this site. The proposed development in respect of housing development is in line with that previous decision.

While it is accepted that, like the outline application, a holistic view of the site in its entirety would be desirable, the proposed application for residential development on this part of the wider site does prevent or disable the wider site coming forward or being developed for the proposed uses identified in the Development Plan, and for that part of the site to be accessed from the existing spur from Peter Destapleigh Way.

#### National Planning Policy Framework

Members should note that on 23<sup>rd</sup> March 2011 the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15<sup>th</sup> June 2011 this was supplemented

by a statement highlighting a 'presumption in favour of sustainable development' which has now been published in the National Planning Policy Framework (NPPF).

At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 14 of the NPPF states that for decision-taking this means;

*'Where a development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted'*

Paragraph 49 of the NPPF then goes on to state that;

*'Housing applications should be considered in the context of the presumption in favour of sustainable development'*

### Planning Policy and Housing Land Supply

Having regard to the current housing land supply position within Cheshire East, the figures contained within the Regional Spatial Strategy proposed a requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Draft Strategic Housing Land Availability Assessment (SHLAA).

The Draft SHLAA has put forward a figure of 3.9 years housing land supply. The inability of the Council to demonstrate a 5 year housing land supply is also a material consideration which weighs in favour of the proposed development of an available and developable brownfield site.

### Sustainability of Site

It is necessary to consider the three dimensions of sustainable development: economic, social and environmental. The economic dimension is clear with the requirement for housing within the Borough together with the need to secure the provision for infrastructure. The environmental role in terms of biodiversity, natural resources and climate change is considered in the sections below. Furthermore, the proposal does not result in the loss of a Greenfield site outside of the settlement boundary. In terms of the social role the proposal would help to provide for the housing needs (including affordable housing) of the Borough in a location which is well connected to the existing settlement, services and facilities of Nantwich.

It is considered that in this case that the proposed development is a deliverable brownfield site, would not conflict with the three dimensions of sustainable development.

### Conclusion on Principle of Development

In the light of Local Plan Policy the other material considerations outlined above it is considered that the redevelopment of this previously developed site for 146 dwellings would represent a sustainable form of development and is acceptable in principle, subject to the wider considerations, identified below, being acceptable.

### **Affordable Housing**

The Interim Planning Statement on Affordable Housing identifies that on allocated sites there will be a minimum requirement to provide 30% affordable housing within the scheme. The normal expected ratio between social rented accommodation and intermediate housing is 65/35.

The proposed scheme includes the provision of 146 dwellings, of which 48 would be dedicated to affordable housing. This equates to 33% on site affordable housing provision, of which it is proposed that 24 (50%) would be social rented and 24 (50%) would be shared ownership/home buy properties. The scheme would deliver a level of affordable housing above the Policy requirement of 30%. However the ratio is not in line with the guidance and concern has been expressed by the Housing officer in this respect. Notwithstanding this, the level of affordable housing is in line with the agreed level of provision for affordable housing within the outline approval on the site which is a material consideration. The proposed affordable housing provision is considered to be acceptable.

The proposed mix of unit type is considered to be acceptable as it will meet housing need for the area. The planning layout showing the proposed locations of the affordable units has been provided and the affordable units are spread across the site in clusters and show a degree of integration into the Open Market housing.

### **Highways Implications**

The proposed access is to be provided from a reconfigured access off London Road. The Development Brief identifies that the development should be provided off Peter Destapleigh Way and the existing access off London Road to be closed. The proposed development is not in accordance with the Development Brief requirement. Notwithstanding this, permission has been approved, under planning permission P06/1001 for an access off London Road to serve a maximum of 150 dwellings. The principle of an access retained off London Road to serve a residential development has therefore been established.

It is acknowledged that this is a Full Application and should be considered afresh with regard to the impact that the proposed development would have on the Highways Network. The application has been supported by a Transport Assessment which has been prepared by Singleton Clamp dated March 2012. The TA identifies that the proposed development could generate a total of 111 trips in the morning peak and 119 trips in the evening peak, and identifies that Stapeley Water Gardens generated vehicular movements of 136 vehicle movements in the morning peak and 178 movements in the evening peak and conclude that the development represents a net reduction in traffic from the previous use of the site.

The TA also considers whether the proposed development can be accommodated on the local highway network with capacity assessments for a future year of 2019. The results demonstrate that the site access, the junction of Peter Destapleigh Way/Elwood Way and Elwood Way/Newcastle Road can all accommodate the traffic from the proposed development.

Concern has been raised by Local Residents that the traffic counts taken by Singleton Clamp, dated November 2011, and contained within the TA underestimate the volume of traffic passing through the junction of London Road, Peter Destapleigh Way and Elwood Road. Local residents have carried out their own traffic count at a similar date which highlight that in some critical directions the counts contained within the TA are over 35% less than those recorded by local residents. It is also noted that some of the figures recorded are lower than those recorded in the 2006 TA. In addition concern has been raised with regard to the failure to consider other nearby junctions and other permitted developments in the surrounding area.

The Strategic Highways Manager has considered the submitted information and are aware of local concern. They have stated that insufficient information has been submitted to determine the application. The proposed TA fails to consider the retention of the Angling Centre which has to be considered as a permanent retention and needs to be reflected in the off site modelling. In addition the Strategic Highways Manager has requested that:

- Fresh traffic counts have been requested and any traffic should be assessed at the 2022 assessment.
- Traffic should be assessed at the 2022 assessment year indicated above.
- A Road Safety Audit 1 be undertaken and submitted for the site access.
- Restriction be placed on the total number of units served off London Road access
- Dwellings which would be accessed via the private drive to Angling Centre should be not be built/occupied prior to closure of Angling Centre
- Reserve right to seek appropriate transport measures/contributions

The applicant does not consider that any additional work on the highways issue is necessary. A further response from the Strategic Highways Manager is awaited.

A condition attached to the outline approval required no vehicular through route between the two elements of the site. The scheme submitted with this application proposes temporary vehicular access to be retained to serve the existing Angling Centre. The scheme has been revised so that the roads are no longer engineered hard up to the western site boundary. It is understood that the Angling Centre will be relocated and therefore a condition could be attached to any permission for this access to be ceased once the Angling Centre is relocated and details of the proposed measures to close the access to any use to be submitted.

The application proposes a layout which has elements which have been informed by Manual for Streets. No objection has been raised to the site layout from a highways point of view. The proposal provides a satisfactory level of parking for the development and no objection has been received from the Strategic Highways Manager in this respect.

### **Impact on Public Right of Way**

A Public Right of Way (Stapeley No.1) crosses the site and runs along the route of the existing driveway into the site before directing north to join Peter Destapleigh Way. The Public Right of Way would be retained and would follow the route of the road into the site before crossing a landscaped area towards Peter Destapleigh Way. An opportunity exists to improve the PROW within the site and the amended plans appear to suggest that this would be more formalised. Full details of the surfacing of the footpath have not been provided however this could be secured by

condition. The Councils Public Right of Way Officer has indicated that the route within the site could be upgraded to a shared pedestrian/cycle route.

A requirement of the Outline consent was to provide a footpath along the eastern edge of the site adjoining London Road. This would form part of the scheme and a condition can be attached to ensure that it is delivered. There was no requirement to improve the junction of Pear Tree Field and Peter Destapleigh Way, or to provide improved facilities along Peter Destapleigh Way under the extant approval.

## **Amenity**

### Relationship with Nearby Dwellings

In terms of the surrounding residential properties the application site is located to the rear of properties which front London Road. Between these properties and the application dwellings is an area of Newt Mitigation which has been approved to be heavily landscaped. The proposed development would be above the suggested spacing standards distances and as a result would not cause any amenity issues to these properties.

The exception to this is 92 London Road which would be sited adjacent to a new dwelling at the entrance to the site, plot 49. The proposed development would not result in any significant harm to the amenities of this property through loss of daylight, loss of privacy, overlooking or overbearing.

The existing dwellings to the north of the site on the opposite side of Peter Destapleigh Way also satisfy acceptable spacing standards. The northern boundary to the site is also heavily vegetated.

With regard to the disturbance impact during the construction phase of development Environmental Health have suggested that conditions be attached to any approval relating to hours of construction, pile driving and dust control.

### Internal Relationships

The layout of the scheme in the main satisfies spacing standard guidance and it is considered that there would be no significant harm on the amenity of future occupants of the scheme through overlooking, overbearing, daylight or privacy. However, there are some very minor breaches of spacing standards between some facing principal elevations. Notwithstanding this, it is considered that this would not result in an unacceptable level of amenity for future occupants. It should also be noted that the layout has been informed by some of the principles of Manuel for Streets which can often result in lower spacing standards, at the expense of improved public realm.

The scheme proposes a mixture of dwelling sizes and consequently there is also a mixture in the garden sizes proposed. There is one garden which is below the suggested garden size of 50sqm. This garden, for plot 119, provides 40sqm of garden space. While this is below the guidance contained within the SPD for new housing development in backland and gardens, the size is still adequate to provide for the requirements of the dwelling.

The apartment block at the southern end of the site has been repositioned so that its proximity to the boundary is improved.

### Impact on the Scheme from Noise

A revised Noise Impact Assessment has been submitted to support the scheme following concerns raised by Environmental Health. An attended day and night noise survey was carried out to determine the impact on the proposed development from noise. In order to achieve acceptable noise levels within the proposed development a noise mitigation scheme is proposed. This includes upgraded glazing, and acoustic ventilation for properties closest to London Road and Peter Destaplegh Way. Some dwellings would require acoustic fencing. There has been no objection raised from Environmental Health with regard to noise impact and this can be secured by condition.

### Impact on Air Quality

An Air Quality Impact Assessment has been submitted to support the application which has been assessed by Environmental Health. The report is considered to be satisfactory and its conclusions accepted. However, they have highlighted that dust during the construction phase of development needs to be considered and have suggested that a condition be attached to any permission to require the submission and approval of an Environmental Management Plan to outline sources of dust and suggest mitigation measures.

### Contaminated Land

The site was formerly a garden centre and therefore the land may be contaminated which needs to be fully considered as the application proposals are for a sensitive end use. A geo-environmental report has been submitted to support the application. This has recommended that further investigation works are carried out to fully assess identified possible pollution linkages within the site. The Councils Contaminated Land Officer has suggested that this can be assessed through the implementation of a contaminated land condition for a Phase II investigation to be carried out and if contamination is found then remediation measures be carried out.

### **Trees and Hedgerows**

The site contains a large number of trees which are covered by the Stapeley Manor Nantwich (No. 200) Tree Preservation Order 2006, therefore the proposed development needs to ensure that the impact on these trees is acceptable.

Pre application discussions were carried out with the Council which agreed in principle to the removal of a number of unprotected individual, groups of trees and four sections of hedgerow which are considered to be of poor quality or of limited amenity value.

### Application for works to protected trees (App 10/4637T)

An application for works to protected trees submitted by the Managing Director of Stapeley Water Gardens was received by the Council on 26<sup>th</sup> November 2010 (App 10/4637T). The proposed work included the removal of three mature Sycamore trees (T14 and one Sycamore forming part G5 of the TPO) along the north side of the existing access road. The third Sycamore tree next to a protected Oak (T15 of the TPO) did not form part of the Order. The trees were found to be in decline, with significant crown dieback and displayed other structural defects which presented a risk to users of the access road. The application also included

pruning works to other protected trees to provide adequate clearance over the access road. A Decision Notice authorising these works was given on 20<sup>th</sup> January 2011 subject to a condition requiring the planting of three Norway Maples on the north side of the access road.

#### Planning layout (Drawing Ref H4602:01)

The submitted Arboricultural Report identifies the removal of various unprotected low value trees and shrubs to accommodate the proposed development. The trees are generally in poor condition or do not contribute significantly to the landscape and wider amenity of the area and therefore there is no principle objection to their removal. A number of protected trees have been identified for removal namely a Norway Maple to the north of the site (T3 of the Order; T4 of the report) which displays extensive decay to the stem and therefore mechanically compromised, and two Irish (fastigate) Yew (G2 of the Order; G9 of the report). In order to provide an acceptable access, it will be necessary to remove a protected London Plane (T10 of the Order; T8 of the Report). The tree has suffered from past failure of primary limbs and is presently located within a narrow planting bed within the centre of the existing access. The removal of these trees is considered to be acceptable in terms of their condition/limited contribution to amenity and highway considerations.

Concern has been raised on the original layout with regard to the impact the proposed development would have on a Protected Silver Birch which is sited on the boundary between Plot 49 and No.92 London Road. Plot 49 would be within the Root Protection Area of this tree which is not shown on any plan or within the arboricultural report. The layout has since been amended so that the dwelling is no longer immediately adjacent to this tree which appears to address this issue. However no information has been submitted from the applicants Arboriculturalist on this matter.

In addition the plans do show a new driveway for No.92 which is currently accessed via the application site. Clarification has been requested from the applicants with regard to this.

The position of a protected Juniper tree to the front of Plot 49 also appears to have been omitted from the Arboricultural plan and report. This tree (protected within G8 of the Order) stands within the area occupied by proposed Plot 49. The layout has been amended and its retention may now be allowed. It is noted however that this tree displays an included fork and there is no principal objections to its removal. Notwithstanding this, this needs to be considered in the applicants Arboricultural report.

The consequence of the revised plan means that both plots 49 and 50 are sited within close proximity to a protected Silver Birch (T.19) and this layout would require its removal. The Arboricultural report identifies the protected Silver Birch (T11) (T19 of the report) as a B category tree with relatively low visual prominence. The Councils tree officer is prepared to concede that this not a significant tree in the context of its contribution to the wider landscape setting and visual prominence when viewed from London Road. The proposal to carry out the planting of two replacement trees within the front garden of Plot 49 provides some mitigation for the loss of T11, although species and size needs to be specified clearly on the submitted landscape plan. On balance such replacement planting could be deemed acceptable subject to the consideration of the position of Plot 49 in relation to the existing protected Silver Birch.

The remaining plots generally provide a satisfactory distance from trees.

Additional information is requested from the applicants with regard to showing all trees on the proposed plans, the justification for the removal of the protected juniper tree to the front of Plot 49, and clarification on the proposed access for No.92 London Road.

## **Design**

The application is a full application for the construction of 146 units. The scheme comprises a mixture of 122 detached, semi detached and terraced properties which are two stories in height. However some units have accommodation in the roofspace. The housing mix is for 7 x 2-bedroom properties, 34 x 3-bedroom properties, 68 x 4-bedroom properties and 13 x 5-bedroom properties.

In addition, the scheme also includes the construction of two three-storey apartment blocks each containing 12 units (6 x 1-bed units and 6 x 2-bed units). A condition was attached to the outline consent which restricts the residential development to no greater than 3 storeys in height. The scale of the proposed development and its mix of units is considered to be acceptable in this location.

The site is relatively well contained from existing built fabric of Stapeley due to the high level of vegetation and surrounding areas of newt mitigation land. The northern part of the site is largely constrained due to the existing protected trees and newt corridor. The development takes advantage of these existing constraints and would make for an attractive built environment in this location. Consequently the northern part of the site is of a relatively low density, but does provide a mixture of house types and is considered to be acceptable.

The southern part of the site is free from such constraints, save for an easement which crosses the southernmost part of the site. This part of the site is therefore more intensive and has a higher density. Notwithstanding this it is not considered that this represents an overdevelopment of the site as the layout does provide satisfactory parking and gardens for these dwellings.

The house types are of varying sizes and heights which will add some subtle interest to the appearance of the dwellings with a varying ridge line across the development. The proposed dwellings include features such as projecting gables, sill and lintel details, porches and bay windows, these details provide interest to the dwellings. A mixed palette of building materials is proposed with varying brick types utilised and key plots finished in render. A revised scheme has been submitted to improve the public realm. The revisions include the creation of feature squares with a mixture of surfacing materials and introduction of street landscaping.

Plot 49 was originally shown to be sited close to London Road. This has now been repositioned so that it more appropriately reflects the building line along London Road.

The application site forms an urban fringe location with areas of newt mitigation to the south and east of the site and the wider Open Countryside beyond to the south. The proposed development would be visible from the wider open countryside. Concern has been raised that the proposed three storey apartment block to the south of the site would form an incongruous feature on the landscape and therefore causing harm to its character and appearance, particularly when viewed from existing properties along London Road and a public right of way to the south. The very nature of the development would ultimately change the character of wider of the landscape. This feature would also be viewed in the context of the other two storey buildings proposed, and these

buildings would also be apparent. In addition, over time, it is considered that the impact of the apartment block would be softened by the extensive landscaping which is to be carried out within the Newt Mitigation land to the east and south of the south.

Given the nature of the application site, its internal constraints and its urban fringe location the right type of boundary treatment is an important factor. Some details of boundary treatment have been submitted to support the application. However due to changes to the layout this plan is no longer up to date. It will be important to ensure that appropriate boundary treatment is incorporated into the scheme, particularly those areas which face onto to newt mitigation land. Details of proposed boundary treatment can be secured by an appropriate condition.

## **Ecology**

### Great Crested Newts

In terms of history a 'large' population of great crested newts formally occurred on the Stapeley Water Gardens site. Great Crested Newts have now been translocated to a receptor site created under planning consent 09/4017N, for an extensive Newt Mitigation Scheme, and under the terms of a Natural England license.

It is not anticipated that Great Crested Newts remain within the development footprint, therefore the proposed development of the site is not likely to have an adverse impact upon this European protected species. The submitted Great Crested Newt assessment does however make recommendation for the supervised destruction of any features on site under the supervision of an ecologist as a precautionary measure.

Natural England have advised that planning consent can be granted subject to appropriate conditions.

To ensure that the adjacent Great Crested Newt mitigation site functions as envisioned there are two requirements of the currently proposed development. These are that a newt corridor and road tunnels are provided around the Stapeley manor site and that a suitable access point into the mitigation area is maintained.

The original master plan for the re-development of the Stapeley Water Gardens site included the provision amphibian corridors around the site of the former Stapeley Manor and it is understood that the provision of these corridors is also a requirement of the Natural England license. The proposed LEAP was initially sited within this corridor. The revised site layout now shows this LEAP to be clear of the newt mitigation corridor.

The proposed cultivated turf of the newt mitigation corridors as shown on the submitted landscaping scheme is unacceptable. Details of appropriate treatment of the newt mitigation corridor has been requested.

The proposed access to the newt mitigation area B is required to be retained. The revised layout shows access to mitigation area B to be provided from the southern part of the site to the south of the apartment block. Acceptability of this position is awaited from the Councils Nature Conservation Officer.

Conditions would be attached to any approval have been suggested by the Nature Conservation Officer. These conditions relate to breeding birds, the incorporations of features into the scheme suitable for breeding birds, submission of a 10 year habitat management plan, and the implementation of recommendations suggested by Cheshire Ecological Services.

## **Public Open Space**

The application submission identifies that the development would provide just over 8500sqm of public open space. A high proportion of this POS would be sited towards the northern part of the site. This open space includes the land surrounding the retained Protected Trees and land which is also to be retained as Newt Mitigation Corridor. The level of provision is in accordance with Policy RT.3, the justification to which identifies that Public Open Space can be designed purely as a visual feature using landscaping and planting. As such the proposed development makes best use of its existing constraints to make for an attractive environment. This level of open space is considered to be acceptable and its provision and management will be secured via a S106 Agreement.

In terms of children's playspace the scheme offers the provision of a LEAP (400sqm), this would be provided within the northern part of the site adjacent to the proposed Public Open Space. The shape of the LEAP has been amended so that it is informed by its surrounding natural environment. In addition it is now shown to be clear of the route of the Newt Corridor. The provision, maintenance and management of the LEAP can be secured through the S106 Agreement.

The provision of a LEAP and POS is in line with the original outline agreement for the site. In addition, there is a Equipped Childrens Playground at the junction of Peter Destapleigh Way and Pear Tree Field which is in close proximity to the site.

## **Education**

This development is anticipated to generate some 22 primary pupils and 17 secondary pupils. There are currently and projected to be surplus places in the local secondary sector. However, with regard to the primary sector there is currently a surplus places in the local schools. However, projections show numbers on roll increasing in these schools year on year and by 2017 it is anticipated that there would only be 17 places in the local schools.

On this basis there would be a deficit of 5 places in Local Schools as a result of this development. As such a contribution of £54,231 has been requested by the Education Officer to compensate for this deficit.

No contribution towards Education was required as part of the outline agreement. However it is acknowledged that the position is likely to have changed since that application was determined and no precise housing figures or tenures were identified as part of that application. The proposed contribution can be secured by Legal Agreement.

The applicant however at time of writing has indicated that they will not pay this contribution as they argue that it does not form part of the existing outline agreement for the site. However, that application was considered by Crewe and Nantwich BC in September 2007 and this issue would be revisited.

## **Flood Risk and Drainage**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site exceeds 1 hectare a Flood Risk Assessment has been submitted as part of this application.

Surface water will be drained to an existing watercourse to the west of the site. The flow will be attenuated up to a 1 in 30 year plus 20% allowance for climate change storm event using oversized pipes. Discharge rates will be controlled using hydrobrakes. The drainage system will be split into two outlets from the site at two locations. The hydrobrake to the north of the site will restrict flows to 53l/s and the hydrobrake to the south of the site will restrict flows to 77l/s. This is lower than the existing flow rate of 156l/s. The applicants state that the proposed drainage scheme provides betterment to the existing situation as there is a reduction in peak discharge from the site. Storage in the form of underground oversized pipes will be utilised to attenuate the flow prior to discharge into the watercourse.

The Code for Sustainable Homes requires that peak surface water runoff should be equal to or less than existing and an increase in volume should be mitigated for by using infiltration type drainage or rainwater harvesting. The scheme cannot provide infiltration type drainage. Rainwater harvesting alone would only provide for a small part of the drainage mitigation required. Further mitigation is therefore required.

The Environment Agency have raised an objection to the proposed development due to insufficient information. No details of existing or proposed discharge rates are provided. The FRA does not include any information as to how the risk of flooding from overland flow is to be managed, during severe rainfall events when the site's surface water drainage system will be surcharged. The FRA does not contain any information on existing flows in this culvert and no assessment of the flood risks associated with the proposed diversion. It is hoped that these matters will be resolved and Members will be updated accordingly.

The proposed foul sewage will be connected to the existing foul drains. United Utilities have raised no objection to the proposed development in this respect.

## **Archaeology**

A condition was attached to the outline consent for a scheme of archaeological investigation and works to be submitted and approved at the site. It is considered that this condition should be replicated on any approval.

## **LEVY (CIL) REGULATIONS**

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

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

The development would result in increased demand for primary school places which has very limited projected spare capacity. In order to increase capacity of local school which would support the proposed development a contribution towards primary school provision is required. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, affordable housing, POS and children's play space is a requirement of the Interim Planning Policy; it is directly related to the development and is fair and reasonable.

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

## **10. CONCLUSIONS**

The application site is located within the settlement boundary for Nantwich where there is a presumption in favour of development. The site is allocated within the Local Plan as a mixed use regeneration scheme to deliver a replacement water gardens, business units and residential development. While the number of units proposed and access details differ from those specified in the Development Plan, an extant outline planning permission has established that the amount of development and the position of the access to be acceptable. In addition, the proposed development would not compromise the remainder of the site coming forward for those uses specified in Local Plan Policy and the Development Brief.

It is considered that the proposed development is of an acceptable design and would not cause significant harm to the character and appearance of the area, or the amenities of adjoin properties. In addition the proposed development could be carried out without having an adverse impact on great crested newts or the significance of the TPO which covers much of the site.

There are a few issues outstanding matters to be clarified in respect of updates from the EA, the education payment, and highways. An update will be provided to Members accordingly.

Subject to the above it is recommended that the proposed development should be approved subject to the completion of a Legal Agreement to secure the delivery of affordable housing, open space and LEAP, and a contribution towards primary school education.

## **11. RECOMMENDATIONS**

**APPROVE** subject to completion of Section 106 legal agreement to secure the following:-

- 1. A scheme for the provision of 30% affordable housing – 50% to be provided as social rent/affordable rent with 50% shared ownership/homebuy. The scheme shall include:**
  - The numbers, type, tenure and location on the site of the affordable housing provision**
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**

- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. A scheme for provision of a LEAP and Public Open Space to be maintained by a private management company. The scheme shall include:
- Timing and delivery of LEAP and POS and its phasing into the development
  - Details of proposed equipment, design and layout, including surfacing and boundary treatment
  - Long term maintenance and management
3. A financial contribution of £54,231 towards improved primary school provision

And the following conditions

1. Standard Time Limit (3 years)
2. Approved Plans
3. Submission of Materials
4. Full details of all surfacing materials
5. Full Landscaping scheme to be submitted, including details of replacement trees
6. Landscaping Implementation
7. Full details of all boundary treatment. Boundary treatment onto newt mitigation land shall not be close board fence
8. Details of Sub station of Pump Station to be submitted
9. Tree Protection measures
10. Full details of treatment of public right of way to be submitted
11. Submission of 10 year habitat management plan including proposals for monitoring
12. Implementation of recommendation made by the submitted Great Crested Newt assessment undertaken by Cheshire Ecological Services.
13. Safeguarding breeding birds (as above)
14. Detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrows. Such proposals to be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.
15. Details of newt tunnels
16. Proposed Public Footpath along western side of London Road to be provided
17. Once Angling Centre ceases to operate the temporary access shall be closed and details to be submitted
18. Scheme of Archaeological Investigation to be submitted for Stapeley Manor Site
19. Full details of access to be submitted, access to be submitted in accordance with approved plans
20. Parking to be provided prior to first occupation of the dwelling
21. Access to Newt Mitigation Area B to be permanently retained
22. Hours of construction Monday – Friday: 08:00 to 18:00 hrs, Saturday: 09:00 to 14:00 hrs and Sundays and Public Holidays: Nil
23. Method Statement for pile driving to be submitted. All piling operations shall be restricted to - Monday – Friday: 09:00 – 17:30 hrs, Saturday: 09:00 – 13:00 hrs, Sunday and Public Holidays: Nil
24. Noise mitigation measures to be carried out in accordance with Acoustic Statement

**25. Submission of an Environmental Management Plan (EMP) with respect to the construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation.**

**26. Prior to the commencement of development a Phase II Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**

**27. No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority showing how at least 10% of the predicted energy requirements of the development will be secured from decentralised and renewable or low-carbon sources. The scheme shall be implemented as approved and retained thereafter.**

**28. Removal of permitted development rights**

**29. The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by, the Local Planning Authority.**

**30. The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to, and approved in writing by, the Local Planning Authority.**

**31. Details and location of the contractors compound together with details of management of the site to be submitted to the LPA and approved in writing**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Management and Building Control has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.**

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