

Application No: 12/3746N

Location: Land off Peter Destapeleigh Way, Nantwich

Proposal: New highway access road, including footways and cycleway and associated works.

Applicant: Mr Carl Davey, Muller Property Group

Expiry Date: 30-Nov-2012

SUMMARY RECOMMENDATION

- **“Minded” to Approve**

MAIN ISSUES

Principle of Development
Highway Safety And Traffic Generation.
Landscape Impact
Hedge and Tree Matters
Ecology,
Drainage And Flooding,
Footpaths
Previous Section 106

REFERRAL

The application has been referred to Strategic Planning Board because it is related to a largescale major development and a departure from the Development Plan considered elsewhere on this agenda.

The application has also been called in by Cllr Peter Groves for the following reasons:

- The land concerned should now be in the ownership of Cheshire East Council.
- There has allegedly been non compliance with a Planning condition and Non-Implementation of Landscaped Nature Conservation Area referred to in S.106 Agreement relating to Residential Development land at Cronkinson Farm, Stapeley, Nantwich . Please refer to Planning Application No. P97/0786.

- It is a Great Crested Newt habitat . The mitigation plan for the newt ponds has been licensed by English Nature.
- There are grave concerns locally about the capability of the existing road network to cope with any further increase in traffic volumes in and around the proposed area.

Members may recall that, as a result of the felling of some of the trees this item was deferred by Strategic Planning Board for further information regarding:-

- (1) The arboricultural impact of the proposed development following the felling of three of the four 'Category A' oak trees identified in the refusal recommendation, together with advice regarding the lawfulness of the felling and the possibilities of replacement planting.
- (2) The impact of the proposed re-alignment upon open countryside, in comparison with the route previously permitted.
- (3) The impact of the proposed re-alignment upon ecology.

Upon learning of this resolution, the applicants have appealed against non-determination of the application. In such cases the matter is taken out of the hands of the Local Planning Authority and the determination is made by the Secretary of State.

Therefore the purpose of this report is merely to seek the committee's resolution as to what its decision would have been had it been able to determine the application, and this will form part of the Authority's Statement of Case on the appeal. It is generally accepted that failure to do this, with the case for the Authority relying on officer level views, will result in less weight being given to the Authority's case, and there may be possible costs implications.

The reasons for deferral are addressed in the relevant sections of the report below.

1. SITE DESCRIPTION

The application site is 1.71 hectares and in essence comprises of part of a single field which adjoins Peter Destaplegh Way to the north.

The western and southern boundaries of the site comprise of existing hedgerows, interspersed in places with trees. The eastern boundary of the site will run through the centre of the field and will follow the edge of the new highway. Further to the east of this site boundary is another hedgerow and the site of the former Stapeley Water Gardens.

There are two existing ponds within the site and to the west and south-east are areas set aside for great crested newt mitigation, the former relating to the Cronkinson Farm development and the latter relating to the Stapeley Water Garden development. The site comprises of mixture of unmanaged semi-improved grassland, bramble/scrub and a drainage ditch.

2. DETAILS OF PROPOSAL

Planning permission was granted on the 4th January 2001 for the 'Construction Of New Access Road Into Stapeley Water Gardens (Ref. No. P00/0829).

This permission allowed the construction of a carriageway on a north-south alignment similar to that now being proposed in this planning application, with a connection to the Peter Destaplegh Way/Pear Tree Field highway junction via a fourth arm. Two roundabouts were also included providing two separate accesses into Stapeley Water Gardens.

As can be seen on the ground the spur for this fourth arm off the junction is in place and, this spur has been constructed in accordance with the approved planning permission. This 2001 permission is therefore extant.

In March 2006 the former Crewe and Nantwich Borough Council produced a Draft Development Brief and Sustainability Appraisal for Stapeley Water Gardens. Two redevelopment options were put forward, both of which included a new access off Peter Destaplegh Way.

At that point in time it was envisaged that Stapeley Water Gardens would continue to operate on a smaller scale and the access road would have provided a link to this smaller operation, as well as an area of new employment development within the Water Gardens site.

The remainder of the site was to have been developed for housing and this would have been accessed off London Road via the existing access point. The Sustainability Appraisal noted that the Highway Authority had confirmed their requirements for the new Peter Destaplegh Way access.

In July 2006 the former Borough Council adopted the Development Brief as a Supplementary Planning Document. The Peter Destaplegh Way access was retained in the SPD but rather than only servicing the Garden Centre and employment area it was to be used for the entire site with the London Road access closed.

This application proposes an access onto Peter Destaplegh Way at its junction with Pear Tree Field, together with a section of carriageway and footway/cycleway on a north-south alignment from Peter Destaplegh Way to the southern boundary of the site. Prior to this section of highway reaching the southern boundary a roundabout and associated highway stub to the site's eastern boundary will be provided.

The application is submitted in parallel with an outline planning application for a mixed use development comprising of up to 189 dwellings a local centre, employment, primary school, public open space and green infrastructure on land immediately adjoining the southern site boundary of this planning application (considered elsewhere on this agenda). Whilst that proposal has its own independent access from Broad Lane, the application which is the subject of this report will provide an additional access option for the adjoining mixed-use proposals, albeit these can be served solely from Broad Lane

As noted above the spur for a fourth arm off the signalised Peter Destaplegh Way/Pear Tree Field junction has already been constructed as part of the extant planning permission P00/0829 with signals, street lighting and tactile paving. This planning application will utilise

this but with some revisions to it so that the arm is widened to accommodate the introduction of an additional lane and there will also be a new left turn lane on Peter Destapleigh Way.

The new carriageway itself will be 7.3m wide. On its western side there will be a 3m shared footway/cycleway and on its eastern side a 2m wide footway. Before the southern boundary of the application site a compact roundabout will be accommodated with a stub to the site's eastern boundary. As a result, as well as giving an alternative access option for the mixed-use proposals to the south, the application proposals have the ability to connect the former Stapeley Water Gardens land directly to Peter Destapleigh Way in a similar way to that envisaged by the Development Brief and the extant planning permission.

3. RELEVANT PLANNING HISTORY

P00/0829 (2001) Construction of New Access Road Into Stapeley Water Gardens

4. PLANNING POLICIES

Policies in the Local Plan

NE.2 (Open countryside)
NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

National Policy

National Planning Policy Framework

Other Material Policy Considerations

Article 12 (1) of the EC Habitats Directive
The Conservation of Habitats and Species Regulations 2010.

4. OBSERVATIONS OF CONSULTEES

Cheshire Wildlife Trust

Cheshire Wildlife Trust (CWT) **objects** to this application on the following grounds:

1. The proposed access road alignment encroaches significantly on land which, as far as CWT is aware from previous applications relating to Cronkinson Farm and Stapeley Water Gardens (SWG), was designated as great crested newt (GCN) mitigation land with the intention that it should provide an unbroken corridor linking retained areas of

GCN habitat north of Peter Destapeleigh Way with open countryside to the south of Peter Destapeleigh Way, in turn connecting with new GCN ponds to the SW and SE of the former SWG site. Our information derives in part from information previously drawn up by TEP in 2006 (corridor identified as 'Field D') and Planit in 2009.

2. The current proposal (Drawing BIR3790_01-1E) keys residual land in the corridor, which has not been taken up by the new road alignment, as 'Nantwich South GCN Compensation Area'. If, as we understand it to be, this land is existing GCN mitigation land, it cannot be re-designated as GCN Compensation land for the current proposal. Subject to Natural England's views, CWT considers that the same piece of land should not be identified as mitigation for two separate developments because it could not, by definition, be sufficiently improved to mitigate the impacts of each of these developments on GCNs.

Environment Agency

- The Environment Agency has received a Flood Risk Assessment (FRA) on 7th December 2012.
- Having reviewed the report they are now able to withdraw their previous objection subject to the following planning conditions being included on any planning approval as set out below.
 - 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.
- The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. Infiltration tests should be undertaken to demonstrate whether this is a feasible option for the disposal of surface water from the proposed development. If surface water is to discharge to watercourse, and a single rate of discharge is proposed, this is to be the mean annual run-off (Q_{bar}) from the existing undeveloped greenfield site. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.
- The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SuDS). SuDS, in the form of grassy swales, detention ponds, soakaways, permeable paving etc., can help to remove the harmful contaminants found in surface water and can help to reduce the discharge rate.
- During times of severe rainfall overland flow of surface water could cause a flooding problem. The road layout is to be designed to contain any such flooding within the application boundary, to ensure that any flood risk is not increase elsewhere. As such we request that the following conditions is also attached to any planning approval.
 - 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

- According to the 'Protected Species Impact Assessment and Mitigations Strategy (2012)' great crested newts are present.
- A watercourse is present on site and the drawing SCD/10141/D03 'Site Access General Arrangement' shows the proposed road crossing this watercourse. However the documents supplied do not provide any specifics on how this watercourse will be crossed.
- The Environment Agency are generally opposed to culverting because it involves the destruction of river and bank side habitat and the interruption of a wildlife corridor, acting as barrier to the movement of wildlife including fish. Article 10 of the Habitats Directive states that wildlife corridor networks should be protected from development, and, where possible, strengthened by or integrated within it. The National Planning Policy Framework (NPPF) paragraph 109 recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.
- However, in view of the type of development and the relatively small length of watercourse that would be lost, it may be that compensatory works elsewhere on the water course / in the catchment could adequately off-set the loss of habitat and river corridor disruption. Ideally this should be an open span bridge. If culverting can not be avoided then it should be as short a length as possible.

Natural England

- Natural England objects to the proposed development.
- The Protected Species Impact Assessment (PSIA) and Mitigation Strategy - September 2012 (PSIA) provided by the applicant indicates that great crested newts (*Triturus cristatus*) are using features that are to be affected by the proposed development.
- In the absence of the detailed great crested newt and protected species surveys, referred to in the PSIA report, it is unclear whether the currently proposed mitigation and compensation measures are sufficient to maintain the large population identified in the PSIA report.
- The proposed development may compromise previously agreed great crested newt mitigation schemes and habitat management agreements implemented on adjacent land. Further clarification is therefore required to put in context these proposals in relation to those previously approved schemes and agreements.
- Draw attention to Natural England's guidance on great crested newt master plan requirements for phased or multi-plot development applications. A master plan is used to help assess the overall impacts of the proposed development on the great crested newt population and the future mitigation across the whole project. It will help to ensure that all in-combination effects across the entire site have been considered and that mitigation and compensation measures are sufficient and coherent.
- Unless these issues are addressed, Natural England's view is that granting permission for this permission would be likely to offend against Article 12(1) of the Habitats Directive.

- Natural England would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:
 - local sites (biodiversity and geodiversity)
 - local landscape character
 - local or national biodiversity priority habitats and species.
- This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

Highways

Key issues

The key issues for the Strategic Highways Manager (SHM) relate to:

1. Achieving a safe and convenient junction layout.
2. Ensuring traffic and safety impact is mitigated at the junction.

Access

The Applicant has put forward a junction as per drawing SCP/10141/D03 Rev C.

Off-site Traffic Impact

Peter De Stapleigh Way/Pear Tree Fields

Whilst the Applicant has submitted a Transport Statement in support of the proposed junction which states that the junction is suitable in terms of capacity with their proposed future development of the Nantwich South site over and above the development in application 12/3747N, the SHM has not reviewed in detail nor agreed to these assumptions regarding the traffic impact of any development in excess of that proposed in 12/3747N and other locally committed development. These assumptions will have to be agreed if/when the application for any additional development is made.

The proposed junction layout is acceptable, providing that suitable forward visibility is protected on the new approach to the junction from the development site to the south and subject to agreement of a Section 278 agreement, in order to serve the proposed development in the application 12/3747N as well as the extant permission on the Stapeley Water Gardens site.

Recommendation

Subject to the agreement of the Section 278 agreement to deliver the proposed junction, the SHM recommends APPROVAL of the application.

Environmental Health

- The hours of construction works taking place during the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
- Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority. The plan shall address the environmental impact in respect of air quality and noise on existing residents during the construction phase. In particular the plan shall show mitigation measures in respect of;
 - Noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
 - Waste Management: There shall be no burning of materials on site during demolition / construction
 - Dust generation caused by construction activities and proposed mitigation methodology.
- The Environmental Management Plan above shall be implemented and in force during the construction phase of the development.
- No development shall take place until a scheme to minimise dust emissions arising from construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the duration of the construction phase.

Public Rights of Way

- The Design and Access Statement of the application states, in section 4.8, that “Cyclists will be accommodated within the main carriageway”. In contrast, the Road Plan, Drawing No. SCP/10141/D03, shows a shared space cycleway/footway facility outside of the main carriageway in both plan and cross-section views. Clarification on this point is required.
- The provision of a cycleway/footway facility alongside the spine road would provide continuity of an off-carriageway route between the current and new communities and facilities of Stapeley and Nantwich. It would also provide a continuous pedestrian/cyclist link to Broad Lane School, a request which was registered under consultation for the Council’s statutory Rights of Way Improvement Plan (ref. T19 and T75). With this strategic and sustainable active travel route proposal, the footway on the southern side of Peter de Stapleigh Way between London Road and Pear Tree Field could be upgraded to cycle track status in order to provide a continuous off-road route. This upgrade would negate the need for residents of the Stapeley Water Gardens development site to travel to the proposed local centre facilities and onwards to Broad Lane School, without having to cross Peter de Stapleigh Way twice.
- The Road Plan drawing shows crossings of Peter de Stapleigh Way and the northern end of the proposed spine road at the Peter de Stapleigh and Pear Tree Field traffic-light controlled junction. These crossings for users of the cycleway/footway facilities

already in existence and those proposed, will need to be suitable crossings which can be used by both pedestrians and cyclists. The Transport Assessment for the planning application to which the spine road will lead (12/3747N) notes the importance of the cycleway/footway facility on the northern side of Peter de Stapleigh Way to the sustainability of the site – it is therefore essential that this facility can be accessed by a suitable crossing of the road.

- Destination signage for cyclists and pedestrians to local facilities, including schools, the town centre and railway station, should be provided at junctions of the cycleway/footway facilities.

5. VIEWS OF THE PARISH / TOWN COUNCIL

Nantwich Town Council

- Object – The Town Council considers that development to the south of Peter de Stapleigh Way should only be considered in the context of the emerging Core Strategy and Draft Town Strategy. Consultation on the Town Strategy has recently been concluded and there appears to be little support for this option.
- There is also a legal agreement relating to this land and it is not clear how the measures proposed in this agreement will be satisfied if this application is approved.

Stapeley Parish Council

The Parish Council has considered the applications and makes the following comments numbered 1 -3, together with a summary of the technical highway appraisal carried out by Bob Hindhaugh Associates Limited on behalf of the Parish Council. The company's summary appraisal is included below.

The Parish Council requests that the Borough Council take into account the observations made and recommends that both applications be refused for the reasons given.

1. Objections on highways grounds as detailed in the consultant's report summarised below.
2. Crewe and Nantwich Borough Council's Adopted Replacement Local Plan 2011 which was also adopted by Cheshire East Council (Pending the development and adopted of a new Local Plan) states under RES.5 (Housing in the Open Countryside) pages 61/62 that:

“Outside settlement boundaries all land will be treated as open countryside. New dwellings will be restricted to those that:

- A) Meet the criteria for infilling contained in Policy NE.2; or*
- B) Are required for a person engaged full-time in agriculture or forestry in which case planning permission will not be given unless:*

- *Applicants can demonstrate that a location in the open countryside is essential for the efficient working of the enterprise.*
- *It can be demonstrated that the new dwelling cannot be accommodated within a defined settlement.*
- *There is no suitable, existing dwelling on the site or nearby*
- *There are no suitable buildings on the site or nearby which could be converted into a dwelling.*
- *Where possible, the new dwelling is sited within a nearby group of existing dwellings or a farm/building complex*
- *The new dwelling is of a form, bulk, design and materials which reflects the locality's rural character and the needs of the enterprise; and*
- *The new dwelling should be neither unusually large in relation to the size of the holding, nor too expensive to construct in relation to its income.*

The land which is the site of the application is outside the settlement boundary and the Parish Council considers that none of the criteria apply.

3. The current drainage system is already inadequate and additional development will exacerbate the problem.
4. 3 major reports have been submitted by Singleton Clamp Consulting Engineers in support of the application. The Parish Council has obtained independent professional advice to provide a detailed analysis of these documents. The key findings are summarised below and clearly demonstrate that there are a number of serious and fundamental flaws which have major impact on the local area.

The applicant's traffic count was 10% lower at the Newcastle Road / Elwood Road junction. This would provide some explanation as to why the application used an evening peak hour count of 16.45 -17.45 instead of the traditional peak of 17.00 – 18.00. This would account for the consultant's traffic flow data being represented in a lower number and providing a full and proper account of the actual traffic situation on the local highway network around Stapeley. This, of course, is only one of the four junctions very close to the application site which gives the general public and the Parish Council grave concerns that the traffic assessment is flawed.

If after considering all the objection responses to these applications, the local planning authority is still minded to recommend approval of the applications, the Parish Council would want to see and be allowed to comment on what would be expected to be an extensive list of mitigation measures and improvements, which would demonstrate that with these measures would make the situation better for road users, or at the very least, make it no worse.

It is Members opinion as a Parish council that together with a number of other objections from the residents of the Parish, that these proposals in their current form would cause severe impact on the local highway network and would be detrimental to that already congested flow of traffic and not in the interests of highway and pedestrian safety.

The Parish Council would urge the Local Planning Authority to recommend refusal of both these applications in the interests of public safety.

Summary of Technical Highway Appraisal by Bob Hindhaugh Associates Limited on behalf of Stapeley Parish Council

1.1 *The Muller Group provided the following major documents and reports as part of their planning submissions for applications, 12/3746N and 12/3747N.*

- **TRANSPORT ASSESSMENT (TA) for 12/3747N**
- **TRANSPORT STATEMENT (TS) for 12/3746N**
- **A51 ROUTE STUDY for 2/3746N and 12/3747N.**

1.2 *This document is a summary of the three main sections taken from the Technical Highways Appraisal document prepared by Bob Hindhaugh Associates on behalf of Stapeley & District Parish Council 13th November 2012.*

2.0 SUMMARY OF THE TRAFFIC ASSESMENT (FOR APPLICATION 12/3747N)

2.1 THE ROUNDABOUT LAYOUT

2.2 *The design principles of this roundabout are inappropriate, as the A529 at Broad Lane is a classified road and as such should come under the design manual for roads and bridges, not Manual for Streets. Broad Lane is on the edge of the built-up area, rural in nature and has an 85th percentile speed reading higher than the existing speed limit of 30 mph. For these reasons the proposed roundabout should have been designed in accordance with TD 16/07 DMRB.*

2.3 *No speed data was supplied within the TA but this was obtained on behalf of the Parish Council by Access hdpc. The results of the speed survey showed a higher average speed than the existing speed limit of 30 mph along Broad Lane close to the location of the proposed roundabout.*

2.4 *A swept path analysis drawing should have been provided as part of the planning application 12/3747N as the proposed access is to be considered with all remaining elements outline, coming forward as reserve matters applications.*

2.5 *Pedestrian and cyclists crossing facilities are inadequate for the speed and type of road at the proposed access on Broad Lane. When considering that 1215 dwelling and mixed-use site is proposed near to a primary school, already suffering with traffic-related issues, a PUFFIN or TOUCAN should have been considered to offer pedestrians and cyclists safe passage.*

- 2.6 *In view of the lack of information in support of an achievable safe working compact roundabout to serve all road users safely.*

RECOMMENDATION: I recommend that the Local Planning Authority refuses planning application 12/3747N on highways safety grounds and lack of information.

- 2.7 *In addition to the roundabout concerns, the site does not embrace or consider in any detail sustainability. There are no recommendations as to how sustainable links will reduce the reliance of car-borne journeys from this site with no mitigation measures or improvements suggested. On this point alone I consider the application can be recommended for refusal as it does not meet with current sustainable policies or requirements of the adopted Local Plan.*

- 2.8 *In view of the lack of supporting evidence in terms of available peak time road capacity at and around the development site and adjacent major traffic corridors and priority junctions,*

RECOMMENDATION: I recommend that the Local Planning Authority refuse planning application 12/3747N.

3.0 THE TRANSPORT STATEMENT

- 3.1 *I do not consider the correct pm peak hour has been used in this case. The traditional peak in 17.00 -18.00 and not 16.45 – 17.45 as used in the TS. In my view this does not give an accurate reflection of full traffic operations on the link. The key quartile 17.45 – 18.00 is omitted and this is when the link is at its most congested.*

- 3.2 *The TS makes no attempt to discuss any mitigation measures required to ensure reasonable sustainable links other than a footway link opposite Hawksey Drive; although this application is solely for access there is no indication as to how this footway will be achieved.*

- 3.3 *In my professional view, planning application No 12/3746N should have come forward for consideration for an access for both pedestrians and vehicles in the first instance and as part of an outline planning application, where all the principles for future development mentioned could have been considered at this stage, Along the same lines as the Broad Lane application.*

- 3.4 *In view of the lack of information in support of sustainable links, **I recommend that the Local Planning Authority refuse planning application 12/3746N on highways safety grounds and lack of information.***

- 3.5 *In view of the lack of supporting evidence in terms of available peak time road capacity at and around the development site and adjacent major traffic corridors and priority junctions, **I recommend that the Local Planning Authority refuse planning application 12/3746N.***

4.0 SUMMARY OF SECTION 5.0 – THE A51 ROUTE STUDY

- 4.1** *Having looked in detail at both the Singleton Clamp and Mouchel studies it is quite clear that the main areas of concern identified within the independent Mouchel report have not been fully considered in the Singleton Clamp report. They do not mention the key findings of the Mouchel report! (ie that the A51/A500 as a regional route, has a high collision rate and that the collision severity indices is above the National Average, 5.1.3 Mouchel Report 2010). In addition HGV collision rates on the route are also significantly above the National average.*
- 4.2** *In view of the lack of supporting evidence in terms of available peak time road capacity at and around the development site and adjacent major 'A' road corridors and priority junctions, I recommend that the Local Planning Authority refuse planning application 12/3746N and 12/3747N.*

5.0 SUMMARY OF AREAS OF MAJOR CONCERN

- *The roundabout is not designed in accordance with the relevant design manual and specification.*
- *The complete lack of any provision or measures to support alternative modes of travel and encourage sustainability.*
- *It is evident that congestion occurs at every peak time and this is confirmed in the Mouchel (A500/M6 2010) document on this route. We also have photographic evidence to the extent of the queue lengths causing congestion at all the relevant junctions and 'A' road corridors.*
- *I fail to accept that the traffic generation from the development proposals will not significantly worsen the capacity of the local highway network, as a result of the proposed development coming forward, as set out in 10.11 of the Singleton Clamp transport assessment.*

Based on the findings contained with the technical highways report and summary above, I would recommend that the Parish Council formally objects to planning applications 12/3746N and 12/3747N. These proposed developments would have a significant detrimental impact on the local highway network, resulting in increased congestion to priority junctions, impacting onto the A530 and A51 corridors as well as the A500 and M6 at junction 16.

All of the above is classed as "Severe" as mentioned in the National Planning Policy Framework (NPPF) and on that basis alone should be recommended for refusal.

6. OTHER REPRESENTATIONS

Reaseheath College

- *The proposed access will create major traffic congestion at the junction with Peter DeStapleigh Way especially at peak periods and during school drop off and pick up times.*

- The proposal does not offer any substantive traffic movement improvements.
- The proposal is to facilitate the development of a major housing scheme at “Nantwich South” and as such addresses a key infrastructure problem but does not address any of the problems it will create beyond the site nor does it address the needs of the wider area.
- The transport statement is modelled on a stated first year of 2014 and a subsequent proposal of 2019. Whilst the mixed use scheme will generate significant additional traffic the usual build rate for residential development of 25 to 30 units per year makes the 2014 date look unlikely and as a precursor to a much larger scheme the traffic figures appear misleading.
- We are of the opinion that development schemes need to encompass the whole of the proposals which are indicated through the linked planning application reference 12/3747N where large areas of land are shown as potential future development phases. Any road improvements and junctions should address these wider issues. As such, this application is premature. Steps are being taken to resolve future development for Nantwich. The outcome of that will identify where development should take place.

Local Residents

- Plans have been submitted prior to the adopting of Cheshire East Council’s local plan and are therefore at odds with one of the core planning principles that planning should be ‘genuinely plan-led’.
- The majority of this site is subject to an existing section 106 agreement and should now be a Landscaped Nature Conservation area in the ownership of Cheshire East council to be used for public open spaces purposes only. The proposed access road does not constitute public open space.
- The basis of the Transport Statement is fundamentally flawed modelling a year of opening of 2014 which is tied in as representative of a full proposal of circa 1215 dwellings as a maximum development size. This is clearly not feasible. As no definitive information on the additional 1215 homes and associated growth in infrastructure such as health facilities and schools which will generate extra trips is available, the trip generation and distribution cannot be accurate.
- The Transport Statement has failed to assess one of the key junctions adjacent to the site upon which there would be a significant impact, namely Audlem Road / Peter DeStapleigh Way, whilst assessing other junctions further afield. This casts doubt on the redistribution of trips suggested by the developer.
- With traffic regularly queuing along Peter DeStapleigh Way, the addition of another access road at the Cronkinsons Pub will only exacerbate the problem.
- The Transport Statement has failed to consider the existence of an additional afternoon peak period when children are collected from four primary schools and one secondary school in the locality.
- A traffic count on Broad Lane performed by members of the public following the same methodology and data collection guidelines used by SCP clearly demonstrates the existence of this third peak period of high traffic volumes (in excess of those experienced during the later pm peak period)
- The proposal does not offer any substantive traffic movement improvements.

- The proposal is to facilitate the development of a major housing scheme at 'Nantwich South' and as such addresses a key infrastructure problem but does not address any of the problems it will create beyond the site, nor does it address the needs of the wider area.
- The Transport Statement is modelled on a stated first year of 2014 and a subsequent proposal of 2019. Whilst the mixed use scheme will generate significant additional traffic, the usual build rate for residential development of 25 to 30 units per year makes the 2014 date look unlikely as a precursor to a much larger scheme the traffic figures appear misleading.
- There are several chicanes causing non-free flowing traffic already existing in Wellington Road, Audlem Road and Broad Lane. Increased traffic will make the problem worse
- The stub roundabout at the junction by the Cronkinson pub was planned to be an alternative access road to the newly located Stapeley Water Gardens. It was not intended to be an access to a huge housing estate
- As part of the mitigation for the Cronkinson Farm development, it appears that an area to the south of the main road, Peter DeStapeley Way, was designated a protected habitat for GCNs. The proposal to build an access road from DeStapeley way to the development will fragment this area.
- A significant proportion of the land edged red on the application is located within the area identified as 'new terrestrial habitat' to the south of what is now Peter DeStapeley Way in the Ponds and Amphibians Plan dated July 1998. It appears that the land is already existing GCN migration land associated with the Cronkinson Farm development. The land should remain undisturbed as it appears to be existing terrestrial habitat for GCN's
- It has been found that animal abundance of most species is negatively affected by roads and that amphibians, including newts, are amongst those animals most adversely affected. The development would greatly increase the traffic and the risk to newts and other wildlife.
- The Transport assessment draws a number of unsubstantiated conclusions about the relief traffic on Dig Lane which is misleading.
- Drivers have been forced onto the pavement several times on the approach to First Dig Lane and have complained many times.
- As scant regard is being given to where employment is being generated in the local area significant travel will be required for residents.
- Whilst Broad Lane is designated an 'A' road the road is narrow and housing is close to the road. Additional traffic is not a sustainable or acceptable option.
- Concerns regarding traffic along London Road is already very busy.
- Why is the development under way without formal approval having been granted?
- Although it is claimed that traffic surveys have been carried out these were somewhat limited as they missed the 8.30 – 9 am period when the roads in this area are a particular problem with schools traffic. Such surveys should be carried out over longer periods as events such as poor weather and travel problems on other local and major routes e.g. A500 and M6 have a huge bearing on traffic levels in the area.
- Assuming that each house in the proposed development has one car and does 2 school runs and one shopping trip per day this equates 6 journeys per car per day

(3 there and three back) 6966 journeys. At 1.5 cars per household the number increases to 8127 journeys and at 2 cars per household it is 9288

- It would be good if the Council took a lesson from history when the railways wanted to site a junction in Nantwich and were told 'not wanted here'.
- The roads (complete with railway crossings) are not suitable for increased traffic load.
- When there is a closure or major incident of on the M6 many drivers leave the motorway and, using the A500, try and bypass the problem using the roads around Nantwich. This exacerbates the problem on Peter DeStapleigh Way and other roads around Nantwich.
- No provision to turn right into London Road from Peter DeStapleigh Way

Objection Report by M Williams BSc, MSc

An extensive and detailed objection report has been received from Mr M. Williams, the executive summary of which states:

1. *The proposed speculative development is not plan-led and is not included in Cheshire East Council's Draft Development Strategy therefore it fails to comply with Paragraph 17 of the National Planning Policy Framework which states that planning should 'be genuinely plan-led, empowering local people to shape their surroundings....'.*
2. *The majority of the application site (land edged red) is designated under saved policy 'NE.10 New Woodland Planting and Landscaping' of the Borough of Crewe and Nantwich Replacement Local Plan 2011. The proposed access road passes over land that is covered by saved policy NE.10 therefore the proposed development is not policy-compliant as a road does not constitute new woodland planting and landscaping.*
3. *An exhaustive review of a wide range of documentary sources has established that the majority of the application site is existing Great Crested Newt mitigation land implemented as mitigation for the Cronkinson Farm development. One of the documents reviewed (dated 2005) refers to this land as a 'newt reserve' before stating that 'The newt reserve is protected against development under a Section 106 agreement' (underlining added for emphasis).*
4. *The majority of the application site is subject to an existing Section 106 agreement (referred to in point 3 above) and should now be a Landscaped Nature Conservation Area in the ownership of Cheshire East Council to be used for public open space purposes only. No provision exists in the S106 Agreement for a future road through this land (as proposed by Muller) and the proposed access road does not constitute public open space.*
5. *The majority of the application site is existing Great Crested Newt mitigation land but it is also proposed as compensation land in planning application 12/3746N. However, existing mitigation land cannot be reallocated as proposed compensation land for a separate development proposal.*
6. *A private practice of planning solicitors has advised that the aforementioned S106 agreement is still enforceable. The key test is whether the S106 agreement still serves*

a useful planning purpose. Clearly it does, as the S106 Agreement is the mechanism for securing the majority of the application site as Great Crested Newt mitigation/compensation land implemented as mitigation for the Cronkinson Farm development (refer to points 3 and 4 above). Therefore, it is considered that Cheshire East Council should refuse this planning application and enforce the existing S106 legal agreement.

- 7. The basis of the Transport Statement is fundamentally flawed, modelling a year of opening of 2014 for the full proposal of circa 1,215 dwellings. As no definitive information on the additional 1,215 homes and associated infrastructure such as health facilities and schools is available, the trip generation and distribution cannot be accurate.*
- 8. The Transport Statement (TS) fails to assess one of the key junctions adjacent to the site upon which there would be a significant impact, namely Audlem Road/Peter Destaplegh Way, whilst assessing other junctions further afield. A technical critique of the TS- commissioned by Stapeley Parish Council- recommends that the council refuses this application.*
- 9. The full text of the report can be read on the Council's website*

7. APPLICANT'S SUPPORTING INFORMATION:

- Great Crested Newt Survey
- Protected Species Survey
- Transport Statement
- Planning Statement
- Design and Access Statement
- Transport Statement

8. OFFICER APPRAISAL

Principle of Development and Main Issues

The previous approval (P00/0829), which remains extant, established the acceptability, in principle of an access road in this position to serve the former water gardens site. This application does not present an opportunity to revisit that issue. The main issues in the consideration of this application are the acceptability of the realigned route of the access road, and its suitability for use as an alternative access point to the proposed residential development on land to the south, in terms of impact on open countryside, highway safety and traffic generation, landscape impact, hedge and tree matters, ecology, drainage and flooding.

Open Countryside

The site lies in the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to

agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

Whilst the proposed development does not fall within any of the above categories of development, the previous approval for an access road through this land is a material consideration in the determination of the application. The issue which Members must consider, therefore, is whether the access road, as now proposed, will have any greater impact on the character and appearance of the Open Countryside than the previously approved scheme.

Comparison of the drawing labelled P00/0829 (the previously approved plan) and drawing number SCP/10141/D03 (the proposed plan), included within the Key Plans booklet, shows that whilst the proposed alignment of the main part of the road has changed, and it is slightly wider, it will not have a significantly greater impact on the openness of the countryside. The only additional impact of any significance is the creation of an additional spur from the second roundabout into the proposed development site to the south which as stated above is currently subject to a parallel Appeal. It is not considered that this additional spur will have such a significantly urbanising visual impact on the Open Countryside, as to justify a refusal of the amended access scheme.

Highway Safety and Traffic Generation.

A Transport Assessment has been submitted with the application which states that:

- *The proposals involve amendments to the existing layout of the A5301 Peter Destapleigh Way / Pear Tree Field signalised junction and the creation of a new access road running south into the site. The access road will have a carriageway width of 7.3m and will provide a 3m wide shared footway / cycleway on the western side of the access road and a 2m wide footway on the eastern side of the access road. A compact roundabout is proposed at the southern end of the access road which will serve potential development on the former SWG site.*
- *It is anticipated that the proposed access road has potential to serve additional development on land to the south of the A5301 Peter Destapleigh Way and on the former SWG Site, with a number of development options being considered.*
- *The development option that will generate the highest volume of traffic involves the creation of 1215 dwellings (200 of these being on the SWG site), 3,700 sq. m of employment use and a local centre. The traffic generated by this development has been estimated and operational assessments of the proposed layout of the A5301 Peter Destapleigh Way / Pear Tree Field signalised junction undertaken which demonstrate that the junction will operate well within capacity in a future assessment year of 2019, with the proposed development in place.*
- *It is therefore concluded that there is no reason on highway or transport grounds why the development proposals should not be granted planning permission.*

The Strategic Highways Manager has considered the submitted Transport Assessment, which makes reference to the access being suitable to serve, not only the former water gardens site, and the site for 189 dwellings, for which planning permission is sought under reference 12/3747N, but also the further land, for c. 1000 houses, which is being pursued through the local plan process.

As no application has yet been received for this land, the Strategic Highways Manager has assessed the application, purely on the basis of the access serving the former water gardens and the site referred to in application 12/3747N. He has confirmed that on this basis alone, the proposed access and its design are acceptable and would not result in any “severe” impacts in terms of highway safety or congestion. On this basis the scheme complies with the provisions of both local plan policy and the NPPF.

However, he has reserved his position in respect of any future development of land beyond that covered by application 12/3747N. In the event that an application for further development were received, it would need to be judged on its own merits, and there may be cause for objection or a requirement for further highway junction upgrading / mitigation based on the increased impact caused by any houses over and above the 189 for which consent is currently being sought.

Landscape Impact

The Council’s Landscape Officer has examined the application and commented that this is an application for a new highway access road, including footway and cycleway off Peter Destapeleigh Way, located to the south of Nantwich; the application site covers approximately 1.54 ha of agricultural land. There are no landscape designations on the application site and he does not feel that the proposed development would result in any significant landscape or visual impacts, on the wider landscape.

Hedge and Tree Matters

The proposed access off Peter Destapeleigh Way shown on the General Arrangement Drawing (Drawing SCP/10141/DO3) would have impacted upon a mature category 'A' Oak located to the west of the existing formed access on the southern section of Peter Destapeleigh Way. This tree was shown for retention on the previously approved extant scheme (Ref P.00/0829) . This permission allowed for a 7.3m wide access road; 2metre footpath and 0.9 metre verge. The current access arrangements as shown on the site access general arrangement drawing (SCP/10141/DO3) now appears wider at a point opposite the Oak tree, with a proposed footpath and cycleway now located within the root protection area of this tree. The revised Arboricultural Impact Assessment (Revision D) has now identified this as Tree T175 (and not as previously suggested the two Oaks that were shown on the extant permission which have since been removed) . The Arboricultural report indicates that this tree will be retained and protected, however despite assurances during the site meeting by the project Arboriculturist that the access could be amended to accommodate this tree no further amendments to the access were received that would allow for satisfactory retention of this tree in accordance with the requirements of *BS5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations*.

The revised Arboricultural Report at para 6.6 identified the loss of a further three category A1 Oak trees (T148, 149 and 150).to facilitate the construction of the southern spur of the proposed internal roundabout (see site access general arrangement drawing SCP/10141/DO3), although the Arboricultural Implications and Assessment Table at Appendix A states that there are four A1 Category Oak trees to be removed (T147, 148, 149 and 150)

The revised position of this roundabout and arm represent a departure from the previous approval which allowed for the retention of all four Oak trees and would have required only the loss of a poor quality Willow and Sycamore. The submitted Arboricultural report recognises the importance of these trees as '*significant components of the wider pastoral landscape*' (para 6.8) and states that these can be mitigated through a landscape scheme. It should be noted however that any sequence of mitigation should in the first instance seek to avoid by all practical means any adverse impacts, or minimising the said impact. Rectifying the impact through compensatory planting should be the final consideration, but not the only consideration.

In this regard the Council's Landscape Officer was of the view that due regard had not been given to alternatives to avoid the loss of the trees identified and that the scheme relied primarily on the provision of replacement planting to offset any tree losses. He therefore recommended refusal of the application.

However, the mature category 'A' Oak located to the west of the existing formed access on the southern section of Peter Destapeleigh Way (T175) which was to be retained on the general arrangement drawing and the three category A1 Oak trees (T148, 149 and 150) shown for removal to facilitate the construction of the southern spur of the proposed internal roundabout were felled on or around the 27th March 2013 in advance of the planning application being determined by the Council.

Discussions between the Forestry Commission and the Council's Forestry Officers have concluded that a felling licence for the felling of the trees had not been obtained and therefore the felling of the four trees constitutes an offence under the provisions of Section 17 of the Forestry Act 1967. This matter has now been investigated by the Forestry Commission and a report has been forwarded to the National Office for determination. A decision on the outcome of this report is now awaited.

In this regard the Forestry Commission have three options:-

- to pursue a prosecution.
- to proceed with a restocking notice (replacing the trees that have been felled).
- serving a warning letter on the owner of the land.

Notwithstanding the on-going investigation of the matter by the Forestry Commission, and any action which may result, the felling of the four 'A' category Oak trees has effectively removed the Council's reason for refusal on this application; in the light of the loss of these trees a Tree Preservation Order was served on 30th April 2013 to protect the remaining trees located on the land that is the subject of this application. It is not therefore considered that an objection on tree grounds could be sustained at the forthcoming Appeal against non-determination.

Ecology

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this case the Council's Ecologist has examined the application and commented that the proposed development is supported by an acceptable protected species impact assessment.

Great Crested Newts

The proposed development is located within an area of land subject to habitat enhancement undertaken under a section 106 agreement and the site has been subject to habitat creation works specifically for great crested newts.

In the absence of mitigation/compensation the proposed development will result in the loss of an identified great crested newt breeding pond (pond NS2). The development would also result in the loss of terrestrial habitat utilised by this species and also be likely to isolate the

remaining area of the Cronkinson Farm compensatory habitat from the surrounding landscape and the SWG mitigation area. Finally, the works would also pose a significant risk of killing/injuring any newts within the area of the proposed works.

The submitted ecological assessment identifies the unmitigated impacts of the proposed development as being 'High'.

To compensate for the loss the pond on site (pond NS2) the applicant's consultant is recommending the construction of a new larger pond. The creation of a newt compensation area is also proposed together with the provision of amphibian crossings to reduce the fragmentary impacts of the development. Newts will also be cleared and excluded from the development site using standard best practise methodologies under license by Natural England. In response to the initial consultation response by the Council's Ecologist the submitted mitigation strategy has been amended to include an additional wetland scrape and associated bunds to increase the ecological value of the retained habitat.

It is now considered that the proposals for the removal and exclusion of newts from the development site and the proposed replacement pond are acceptable to mitigate the risk of animals being killed or injured by the proposed works.

Following a recent site visit the Council's Ecologist advises that whilst the site of the proposed development has been subject to past habitat creation works the site still has potential for further ecological enhancements to be implemented to compensate for the proposed access road.

Therefore it is advised that if planning consent is granted the proposed mitigation and compensation is adequate to maintain the favourable conservation status of the local great crested newt meta-population. The implementation of the proposed mitigation/compensation should be secured by means of a condition if planning consent is granted.

It is acknowledged that the land subject to this application has been previously utilised for habitat creation works to enhance its potential for great crested newts. This work was undertaken as part of an ecological mitigation/compensation package developed in respect of the nearby Cronkinson Farm development. Natural England have advised that, due to the works taking place prior to recent changes in the relevant legislation, no enforcement action would be open to them if the proposed works resulted in the terms of the original license issued by them being breached. Accordingly, the Council's ecologist has advised that regardless of whether the land has previously been subject to licensed habitat creation works, the application should, on balance, be treated in the same manner as any other planning application affecting a site supporting this protected species.

The Council's ecologist has further advised that if planning consent is granted the proposed mitigation and compensation is adequate to maintain the favourable conservation status of the local great crested newt meta-population. The implementation of the proposed mitigation/compensation should be secured by means of a condition if planning consent is granted.

Badgers, bats, water vole and barn owls

The proposed development is unlikely to have a significant impact on these species.

Breeding birds

If planning consent is granted standard conditions will be required to safeguard breeding birds.

Ditch

The ditch adjacent to the proposed development has not been identified as supporting protected species; however the submitted report recommends that it is safeguarded by an 8m buffer zone. As the proposed road terminates within a short distance of the ditch it appears unlikely that this recommendation could be implemented by the developer. The need for the access road to be located in such close proximity to the ditch appears to be dependent upon the determination of planning application 12-3747n.

Hedgerows

Hedgerows are a Biodiversity action plan priority habitat and hence a material consideration. It appears likely that the proposed development will result in the loss of some sections of hedgerow. However, it is likely that the proposed hedgerow along the boundary of the new access road would be adequate compensation for any losses.

Natural England's Consultation response

The Council's Ecologist has had further discussions with Natural England with regard to their consultation response. Natural England raised three areas of concern in respect of applications 12/3746n and 12/3747n. There were:

- Lack of a detailed protected species survey report
- The proposed development of land subject to a section 106 agreement for nature conservation
- The lack of a master plan detailing any future development proposals.

The first of these concerns has been addressed through the applicant's provision of a detailed protected species survey report. With regard to the second point Natural England advise that this matter rests with the Council. In respect of the third point, Natural England have advised that, as no master plan is currently available, the Council should seek assurance from the applicant's ecologist that the current mitigation strategy has been mindful of the potential future developments to the south of the site. This confirmation has now been provided.

Conditions

If planning consent is granted the following conditions will be required:

- Implementation of submitted protected species mitigation unless varied by a subsequent natural England license.
- Safeguarding of breeding birds

- Provision of bat and bird boxes
- Detailed design of proposed pond and scrape including fencing to prevent public access.
- 8m buffer zone adjacent to ditch.
- Proposals for in perpetuity management of the retained and newly created habitat areas.

Footpaths and Rights of Way

The Rights of Way Officer has queried the Design and Access Statement which states, in section 4.8, that “Cyclists will be accommodated within the main carriageway”. In contrast, the Road Plan, Drawing No. SCP/10141/D03, shows a shared space cycleway/footway facility outside of the main carriageway in both plan and cross-section views. Clarification on this point is required. The applicant has confirmed that there is an off-road shared footway / cycleway incorporated within the proposals. The Rights of Way Officer has stated that this is important in order to provide a link with the proposed development site for which permission is sought under application 12/3747N and Broad Lane School beyond. This can be secured by condition.

The Public Rights of Way Officer has also noted that crossings of Peter de Stapleigh Way and the northern end of the proposed spine road are proposed at the Peter de Stapleigh and Pear Tree Field traffic-light controlled junction. These crossings for users of the cycleway/footway facilities already in existence and those proposed, will need to be toucan crossings which can be used by both pedestrians and cyclists. The Transport Assessment for the planning application to which the spine road will lead (12/3747N) notes the importance of the cycleway/footway facility on the northern side of Peter de Stapleigh Way to the sustainability of the site and it is therefore essential that this facility can be accessed by a suitable crossing of the road

Furthermore, destination signage for cyclists and pedestrians to local facilities, including schools, the town centre and railway station, should be provided at junctions of the cycleway/footway facilities.

These provisions can also be secured by appropriate conditions.

Drainage and Flooding

The applicant has submitted with the application, a detailed Flood Risk Assessment (FRA). In summary, it states that:

- *The site lies within the Environment Agency (EA) Flood Zone 1 which is at little or no risk of fluvial flooding. However, in accordance with Planning Policy a flood risk assessment (FRA) appropriate to the scale, nature and location of the development is required for all developments greater than 1 ha in size.*
- *It has been demonstrated that surface water from the proposed development can be managed by a drainage system without increasing risk of flooding to the future site occupants or the surrounding area. There are options described in the report to discharge surface water to the ground or to a watercourse crossing the site. It has been shown that the drainage scheme can be designed to meet SUDS, EA and UU*

requirements to limit flow from site to Greenfield rates and to allow for future climate change. Design of the optimum working drainage solution(s) can be undertaken post planning in accordance with SUDS manual, Ciria C697 and Building Regulations.

- *The optimum surface water drainage design of the site will depend on further ground investigations prior to the construction stage. The Position of any attenuation can be designed to suit the final site master plan layout.*
- *This report has considered flood risks in accordance with current UK guidelines. The implementations of the following mitigation measures will ensure that flood risks to and from the proposed development are addressed:*
 - *Flood risk to surrounding properties and future developments should and can be addressed by ensuring all hardstanding areas are drained away from neighbouring land.*
 - *Surface water drainage of the proposed development should and can be managed to mitigate any risk of flooding from the site. The drainage should be designed prior to the construction stage.*

The Environment Agency have considered the report and raised no objections subject to the imposition of appropriate planning conditions relating to the provision of a scheme to limit surface water run-off and manage the risk of flooding from overland flow. Concern has also been expressed about the means by which the road crosses the watercourse on site. The Environment Agency discourages the use of culverts and would prefer the use of a single span bridge. However, they stated noted that if a culvert is the only option, given the sort length involved, they would not raise an objection on this basis. It is considered that this could be addressed through a condition requiring the watercourse to be crossed by means of a single span bridge, unless it can be demonstrated that a culvert is the only feasible option.

Subject to adherence to these conditions, it is therefore concluded that the proposed development will not adversely affect onsite, neighbouring or downstream developments and their associated residual flood risk.

Previous Section 106 Agreement

Local residents have expressed concern that the application site forms part of the mitigation for the Cronkinson Farm development, which is a large residential housing estate, developed over the last 10 years, located to the north of Peter DeStapeley Way. They have stated that a significant proportion of the land edged red on the application is located within the area identified as 'new terrestrial habitat' for Great Crested Newts. They therefore believe that the land should remain undisturbed.

The residential scheme for Cronkinson Farm was approved by the former Crewe & Nantwich Borough Council after the completion of an S106 legal agreement in March 2000. The legal agreement required, amongst other things, a Landscape Nature Conservation Area (LNCA) (rather than a "new terrestrial habitat" as has been suggested) to be provided on the area of land currently subject to this application.

The S106 agreement required a scheme for the LNCA to be submitted by the landowner and approved by the Local Planning Authority, then the approved scheme to be implemented and maintained for 18 months and transferred to the Council. On the ground it

appears that some works were undertaken to the land some years ago, ponds and a part completed hibernacula are visible on site. The Landscaped Nature Conservation Area has still not been fully implemented and therefore there has been no transfer of the land to Council ownership.

Notwithstanding the requirement of the 2000 S106 agreement, the current proposal should be considered on its own merits. Land ownership is not a material consideration so regardless of whether the land had progressed to transfer to the Council, it still would not be a consideration for this application.

It should also be noted that there is an extant permission for an access road to the former Water Gardens site across this land, and therefore, the principle of the proposal has been established. The revised proposal would re-align the road and create an additional roundabout spur into the land to the south, subject of application 12/3747N. This would result in the loss of only marginally more habitat than the approved road. The only issue, therefore, which can be considered as part of this application is the impact that this realignment and the additional length of road would have on the ecology within the site.

Furthermore, the current proposal and delivering enhancements and improvements to the area of land are not mutually exclusive and the applicant has attempted to demonstrate through the information submitted that the impact on conservation can be mitigated, a view supported by the Councils Ecologist, subject to receipt of amended plans showing the agreed mitigation proposals as referred to in the Ecology Section of this report.

9. CONCLUSIONS

Whilst it is noted that the site forms part of a Landscape Nature Conservation Area, the provision of which was a requirement of the Section 106 Agreement attached to the nearby Cronkinson Farm residential development, and should have been transferred to the Council, the ownership of the land is immaterial to the consideration of the application and the proposal should be considered on its own merits.

Furthermore, there is a previous approval (P00/0829), which remains extant, and has established the acceptability, in principle of an access road in this position to serve the former water gardens site. This application does not present an opportunity to revisit that issue. The revised proposal would re-align the road and create an additional roundabout spur into the land to the south, subject of application 12/3747N. This would result in the loss of only marginally more habitat than the approved road.

The main issues in the consideration of this application are the acceptability of the realigned route of the access road, and its suitability for use as an alternative access point to the proposed residential development on land to the south.

Furthermore, the current proposal and delivering enhancements and improvements to the area of land are not mutually exclusive and proposals have been put forward to mitigate the ecological impacts.

The proposal raises concern in respect of the loss of 4 “Category A” Oak trees. In this regard the Council’s Landscape Officer is of the view that due regard has not been given to alternatives to avoid the loss of the trees identified and that the scheme relies primarily on the provision of replacement planting to offset any tree losses. This is contrary to established Local Plan policy and the provisions of the NPPF. However, these trees have now been removed, which has eliminated the grounds for the Landscape Officer’s objection to the scheme.

The access road as now proposed is considered to be acceptable in terms of drainage and flooding, footpaths and rights of way, its wider landscape impact and, subject to the receipt of amended plans, ecology. With regard to highway and traffic generation, the Strategic Highways Manager has confirmed that based on the new access being utilised by the former water gardens site plus the 189 dwellings for which consent is being sought under application 12/3747N, there would be no grounds for refusal. However, any further development of land beyond the site referred to in application 12/3747N, or any increase in housing numbers within that site may result in objection or further mitigation measures becoming necessary.

Whilst previously these issues were considered to be insufficient to outweigh the concerns regarding trees and accordingly the proposal was recommended for refusal, given that the trees in question have now been removed, it is not considered that it an objection to the forthcoming appeal on tree grounds could be sustained. Accordingly it is recommended that the the Strategic Planning Board resolve that it would have been “minded” to approve the application, subject to conditions and not to contest the Appeal Against non-determination.

10. RECOMMENDATION

That the Strategic Planning Board resolve that it would have been “minded” to approve the application and not to contest the Appeal Against non-determination.

- 1. Standard**
- 2. Scheme of landscaping / Replacement Planting**
- 3. Implementation of Landscaping**
- 4. Tree Protection**
- 5. Implementation of Tree Protection**

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