

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

This application was submitted as an alternative access to the main application 12/3747N Residential development up to a maximum of 189 dwellings; local centre etc. also considered on this agenda, now that the access to the south, off Broad Lane, is no longer being pursued.

An access across this site, in a very similar form to that proposed, was approved (P00/0829) in this position to serve the former water gardens site, and as such the principle of building a road across this site has already 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.

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, the proposal should be considered on its own merits.

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, looking carefully at the ecological considerations.

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 ecology. With regard to highway and traffic generation, Highways have 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.

Members previously resolved to refuse the application "because it would result

in a loss of habitat for protected species and part of an area allocated for tree planting, landscaping”. The Secretary of State in his most recent decision raised no issues with regards to ecological impact, but did not consider that the road in the open countryside could not be justified in the absence of permission for the housing scheme.

In view of this determination, and the fact the two applications are intrinsically linked, it is recommended that the Council is Minded to Refuse this application as there is no justification for allowing this access in the open countryside and the harm this will cause if development of the main site to the south does not go ahead.

RECOMMENDATION

MINDED to REFUSE

BACKGROUND

Some Members may recall this application, for the access to Peter Destapeley Way, which was submitted back in 2012, to provide an alternative access to the substantive part of the site to the south, also considered on this agenda. The main application (12/3747N) was refused by Committee in April 2013. This access application remains undetermined, as the matter was subject to a non determination appeal, but Committee (In June 2013) resolved that they would have been minded to refuse that application. The applications went to Public Inquiry in February 2014.

The cases were determined by the Secretary of State and dismissed on 17 March 2015.

The applicant challenged the decision in the High Court and the decision was quashed on 3 July 2015.

The Secretary of State Re-determined the decision and again dismissed the appeal on 11 August 2016.

The applicant again challenged the decision and the decision was again quashed on 14 March 2017.

The matter is now to go before a second public Inquiry starting on the 20 February 2018.

For information the original decision by Cheshire East back in April 2013 was to refuse the main application for the following 3 reasons:

1. The proposed residential development is unsustainable because it is located within the Open Countryside, where according to Policies NE.2 and RES.5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan there is a presumption against new residential development. Such development would be harmful to its open character and appearance, which in the absence of a need for the development should be protected for its own sake.. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also

premature to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. In the absence detailed survey information the applicant has failed to demonstrate that the proposal will not result in loss of the best and most versatile agricultural land (Grade 3a) and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has also failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is unsustainable and contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.

3. The scheme as presented will result in an immediate loss of trees that contribute significantly to the amenity and landscape character of the area and that the proposed indicative mitigation measures for this loss do not satisfactorily establish the benefits required by local and national policy. The proposal is therefore contrary to Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.

The resolution from Committee on this access application 12/3746N subject to non-determination from the minutes reads:

“That the Board would be minded to refuse the application as the proposed development was unsustainable because it would result in a loss of habitat for protected species and part of an area allocated for tree planting, landscaping and subsequent management contrary to policies NE9 (Protected Species) and NE10 (New Woodland Planting and Landscaping) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and paragraph 118 of the National Planning Policy Framework....”

The purpose of this report is to update Members on what has changed in the interim period, and seek a formal Council resolution to report to the forthcoming Inquiry.

As a significant period of time (5 years from the submission) has elapsed since the original application was submitted a number of the reports have been updated and this report includes reference to the original consultee replies and updated comments where applicable.

SITE DESCRIPTION

The application site is 1.71 hectares and in essence comprises of part of a single field which adjoins Peter Destapleigh 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.

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 Destapleigh 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 Destapleigh 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 Destapleigh Way access.

In July 2006 the former Borough Council adopted the Development Brief as a Supplementary Planning Document. The Peter Destapleigh 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 Destapleigh Way at its junction with Pear Tree Field, together with a section of carriageway and footway/cycleway on a north-south alignment from Peter Destapleigh 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 Destapleigh 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.

RELEVANT PLANNING HISTORY

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

The associated planning application:

12/3747N Residential development up to a maximum of 189 dwellings; local centre (Class A1 to A5 inclusive and D1) with maximum floor area of 1800sqm Gross Internal Area (GIA); employment development (B1b, B1c, B2 and B8) with a maximum floor area of 3,700sqm GIA; primary school; public open space including new village green, children's play area and allotments; green infrastructure including ecological area; new vehicle and pedestrian site access points and associated works. LAND BETWEEN AUDLEM ROAD/ BROAD LANE & PETER DESTAPLEIGH WAY, STAPELEY UNDETERMINED

PLANNING POLICIES

Cheshire East Local Plan Strategy 2010-2030

The following are considered relevant material considerations:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC3 – Health and Wellbeing
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 - Design
SE2 - Efficient Use of Land
SE3 – Biodiversity and Geodiversity
SE4 - The Landscape
SE5 – Trees, Hedgerows and Woodland

SE9 –Energy Efficient Development
IN1 - Infrastructure
IN2 – Developer Contributions

Saved policies in the **Crewe and Nantwich Local Plan**

NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
NE.21 (Land Fill Sites)
BE.1 (Amenity)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

Stapeley & Batherton Neighbourhood Plan

The plan is at Regular 17 – Examination stage with the examiner asking a number of questions to which responses have been given. Relevant policies include:

Policy GS 3 – Landscape Quality, Countryside and Open Views
Policy GS 5 – Woodland, Trees, Hedgerows, Walls, Boundary Treatment and Paving
Policy GS 8 – Buffer Zones and Wildlife Corridors
Policy GS 9 – Biodiversity
Policy T 1 – General Transport Considerations
Policy T 2 – Walkable neighbourhoods
Policy T 3 – Pedestrian and cycle routes

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.

CONSULTEES

Cheshire Wildlife Trust

Commenting on the originally submitted application, Cheshire Wildlife Trust (CWT) objected 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

Again commenting on the originally submitted application:

- 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

Their revised comments are “no comments”, but in relation to the original submission they raised objections:

- 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

Commenting on both this and the main application (17/3747N) Highways raise no objections to the revised proposals, subject to the requirement for same obligations in the S106 as previously agreed and also with the added Condition to require MOVA to be installed at the site access and at the Audlem Road/Peter Destapleigh Way traffic signal junctions.

Environmental Health

A series of conditions covering the construction period of the site are suggested.

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 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 – 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.

VIEWS OF THE PARISH / TOWN COUNCIL

Nantwich Town Council

Commenting on the originally submission they:

- 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

Again commenting on the original submission:

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 was included in the original officers report, and the "Summary Of Areas Of Major Concern" are set out 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. The proposal is contrary to Crewe and Natwich Local Plan policies RES.5 as 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.
2. The current drainage system is already inadequate and additional development will exacerbate the problem.
3. 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 m, that these proposal 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.

“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

Commenting on the original submission:

- 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 was 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 Destapleigh 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 (and update)
- Protected Species Survey (and update)
- Transport Statement (and update)
- Planning Statement
- Design and Access Statement

8. OFFICER APPRAISAL

Principle of Development and Main Issues

The previous approval (P00/0829), 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 Cheshire East Local Plan Strategy 2010-2030, where policies PG6 sets out the limited list of exceptions which could be acceptable..

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.

Highways

Commenting on both applications Highways comment:

Access

Access to the site is taken from the existing signal junction at Pear Tree Field/Peter Destapleigh Way, this is the only point of access to the site and there is no secondary access to Broad Lane.

Development Impact

The applicant has submitted a new Technical Note that assess the impact of the development, new traffic surveys were undertaken in 2017 at a number of local junctions that were agreed in original scope of impact. Both traffic growth and committed development have been added to the base flows to ascertain the assessment flows used to assess the traffic impact of the development.

As part of the Stapeley Water Garden (SWG) development there are junction improvements at the signal junctions at London Road and Newcastle Road, these improvements have not yet been implemented but are likely to be implemented in 2018. The capacity assessments undertaken by the applicant have included these improvements in the models and have tested the junctions in the future year 2022.

Capacity assessments have been undertaken at the junctions as listed below

Audlem Road/Peter Destapleigh Way
Pear Tree Field/Peter Destapleigh Way/Site Access
London Road/Peter Destapleigh Way
Newcastle Road/A5301 Elwood Way

The results of the capacity assessments indicate all of the junctions will operate close their practical capacity in 2022 with exception of the site access junction that operates with some spare capacity.

Summary

In summary, the junctions previously agreed that were likely to be impacted by the development have been reassessed to include up to date traffic flows and committed development and whilst the junctions are operating close to capacity there is no reason to object on grounds on traffic impact.

There were a number of highway contributions agreed as part to the original assessment of the application for public transport improvements and a pedestrian crossing. These contributions in the unilateral undertaking are still required although the junction improvements are being implemented as part of the SWG's development.

The improvements to the signals junctions at London Road and Newcastle Road both include MOVA to optimise the operational capacity of the junctions, the other junctions assessed should also include MOVA and this should be secured by Condition.

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 Destapleigh 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/D03) 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 still 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

Commenting on both applications, the Council's Ecologist comments:

Great Crested Newts

No updated great crested newt surveys have been completed as part of the updated ecological assessment ; however monitoring surveys undertaken in respect of the nearby Cronkinson Farm and Stapeley Water Gardens ecological mitigation areas are considered sufficient in this case to confirm the continued presence of a notable ('large') population of great crested newts in this locality. These adjacent ecological mitigation areas are connected to the land covered by this application by means of direct habitat links and amphibian road tunnels. Whilst an updated survey should have been undertaken, as we know from on going surveys that there is a large population on site and there has been no change in circumstances since the agreed mitigation was accepted during the last appeal, it is not

considered that an objection can be sustained on this basis. This will of course be a matter the Inspector will need to consider at the forthcoming Inquiry.

The proposed development is located within an area of land subject to habitat enhancement undertaken to compensate for the impacts of an earlier consented development.

In the absence of mitigation/compensation the proposed development will result in the loss of terrestrial habitat utilised by this species and also result in the fragmentation of the available great crested newt habitat. Finally, the works would also pose a significant risk of killing/injuring any newts within the area of the proposed works.

The proposals have now been revised and the great crested newt breeding pond that was previously to be lost as a result of the development is now retained as part of the revised layout.

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

To compensate for the loss of terrestrial habitat the creation of a newt compensation area is proposed together with the provision of amphibian crossings to reduce the fragmentary impacts of the development. To avoid newts being killed or injured during the construction phase newts will be removed and excluded from the development site using standard best practise methodologies under license by Natural England. The 2013 mitigation strategy was amended to include an additional wetland scrape and associated bunds to increase the ecological value of the retained habitat.

As a requirement of the Habitat Regulations the three tests are outlined below:

EC Habitats Directive
Conservation of Habitats and Species Regulations 2010
ODPM Circular 06/2005

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

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities ("lpas") to have regard to the directive's requirements.

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

- The proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

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

Overriding Public Interest

The provision of mitigation would assist with the continued presence of Great Crested Newts.

Alternatives

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

- No Development on the Site

Without any development, specialist mitigation for Great Crested Newts would not be provided which would be of benefit to the species. Other wider benefits of the scheme need to be considered.

Detriment to the maintenance of the species

The Council’s Nature Conservation Officer has advised that with appropriate mitigation, as proposed, there should be no harm to Great Crested Newts.

It is advised that the proposals for the removal and exclusion of newts from the development site and the proposed habitat creation is acceptable to mitigate the risk of animals being killed or injured by the proposed works.

The amended scheme which includes the retention of the existing pond is a more favourable alternative to the previous scheme which included the loss of a known breeding pond.

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.

In the event that planning permission is granted it is recommend that a condition be attached which requires the submission of a detailed great crested newt mitigation strategy informed by the recommendations of the Protected Species Impact Assessment and Mitigation Strategy prepared by CES Ecology (March 2013 revision). For the avoidance of doubt, the mitigation strategy should include the provision of an additional pond.

Bats

The updated (2017) Ecological Addendum Report has identified a number of trees on site as having potential to support roosting bats. One of these trees is likely to be lost as a direct result of the proposed development. The updated ecological assessment states that any tree to be affected by the proposed development must be subject to a detailed survey to determine the presence /absence of roosting bats.

It is therefore advised that in order to determine the potential impacts of the proposed development upon this protected species group a further survey must be undertaken of any trees potential affected by the works either through direct loss or other adverse impacts and a report of the required survey submitted prior to the determination of the planning application.

The construction of the access road and loss of hedgerow is likely to have a localised impact upon foraging bats. This would be compensated for through the creation of the replacement hedgerow and the additional pond would also provide additional compensatory habitat for bats. To avoid any adverse impacts on bats resulting from any lighting associated with the development I recommend that if planning permission is granted a condition should be attached requiring any additional lighting to be agreed with the LPA.

Any proposed lighting should be low level and directional and the design of the lighting scheme informed by the advise in *Bats and lighting in the UK- bats and the built environment series*, (Bat Conservation Trust, 2009).

Reptiles

Reptiles were not originally thought to be likely to be present at this site. However, a grass snake was encountered during the implementation of the adjacent Stapeley Water Gardens ecological mitigation works. It is therefore likely that grass snakes may occur on the application site on at least a transitory basis.

It is advised that the proposed great crested newt mitigation and compensation works, with slight modification that could be covered by condition, would also mitigate the potential impacts of the proposed development upon reptiles.

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. The proposed development will result in the loss of a section of hedgerows near to where the access road enters from Peter Destapleigh Way.

The previously submitted protected species impact assessment and mitigation strategy (March 2013) included proposals for the creation of a native species hedgerow along the western boundary of the proposed assess road. It is advised that this is acceptable compensation for that lost.

Ditch

The ditch adjacent to the proposed development has not been identified as supporting protected species. The submitted ecology report recommends however that it is safeguarded by an 8m buffer zone. As the proposed road crosses the ditch it is impossible for this recommendation to be implemented by the developer. It may however be possible to design the ditch crossing in such a way that the impacts on the ditch are minimised.

In the event that planning permission is granted it is recommend that a condition be attached which requires the submission of a detailed design for the ditch crossing and that the crossing be designed so as to minimise the impacts of the crossing on the ditch habitats.

Nesting Birds

In the event that planning permission is granted it is advised that a condition is required to safeguard nesting birds.

Conditions

In the event that planning permission is granted, once the required further bat surveys have been submitted, the following conditions will be required:

- Submission of detailed ecological mitigation strategy informed by the submitted 2013 report to include; details of design for additional pond and wetland scape, enhancement of existing retained pond, provision of bat and bird boxes, reptile mitigation measures, hedgerow planting and fencing to limit public access to the ecological mitigation area.
- Submission of bat friendly lighting scheme.
- Safeguarding of breeding birds
- Detailed design of ditch crossing to minimise impacts upon the ditch.
- Proposals for in perpetuity management of the retained and newly created habitat areas (may require legal agreement).
- Proposals for in perpetuity management of the retained and newly created habitat areas.

Footpaths and Rights of Way

Commenting on the original submission, the Rights of Way Officer 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 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.

Any updated comments from the Council's Flood Risk Team will be reported in any update report.

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 existing 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.

CONCLUSIONS

This application was submitted as an alternative access to the main application 12/3747N Residential development up to a maximum of 189 dwellings; local centre etc. also considered on this agenda, now that the access to the south, off Broad Lane, is no longer being pursued.

An access across this site, in a very similar form to that proposed, was approved (P00/0829) in this position to serve the former water gardens site, and as such the principle of building a road across this site has already 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 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 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 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.

Members previously resolved to refuse the application “because it would result in a loss of habitat for protected species and part of an area allocated for tree planting, landscaping”, which was not and is still not supported by officers, the Secretary of State in his most recent decision writes in relation to this site (Appeal B):

“50. Having carefully considered the Inspector’s analysis at IR12.28-12.32, the Secretary of State agrees with the Inspector that Appeal A should not proceed unless the Appeal B scheme were also to be constructed. Conversely, in determining Appeal B, the Secretary of State gives great weight to the fact that the scheme would only be required if Appeal A were to proceed and, in view of his conclusion in paragraphs 41-49 above, there would be no justification for allowing any harm arising from the Appeal B development without granting permission for the development in Appeal A.”

In view of this determination, and the fact the two applications are intrinsically linked, it is recommended that the Council is Mindful to Refuse this application as there is no justification for allowing this access in the open countryside and the harm this will cause if development of the main site to the south does not go ahead.

RECOMMENDATION

MINDFUL to REFUSE for the following reason

- 1. In the absence of planning permission for development of the adjacent site, there is no justification for approving an access road in open countryside which would be harmful to the character and appearance of the area and contrary to policy PG6 of the Cheshire East Local Plan Strategy**

