

# Southern Planning Committee

## Agenda

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**Date:** Wednesday 3rd April 2019  
**Time:** 10.00 am  
**Venue:** Council Chamber, Municipal Buildings, Earle Street,  
Crewe CW1 2BJ

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Members of the public are requested to check the Council's website the week the Southern Planning Committee meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the top of each report.

It should be noted that Part 1 items of Cheshire East Council decision making meetings are audio recorded and the recordings are uploaded to the Council's website.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest/Pre Determination**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 3 - 10)

To approve the minutes of the meeting held on 6 March 2019.

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Please contact Julie Zientek on 01270 686466

E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk) with any apologies or requests for further information  
[Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) to arrange to speak at the meeting

4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Planning Committee
- The relevant Town/Parish Council

A total period of 3 minutes is allocated for each of the planning applications for the following:

- Members who are not members of the planning committee and are not the Ward Member
- Objectors
- Supporters
- Applicants

5. **18/3026N Land off Crewe Road, Haslington: Reserved Matters for Approved Application 13/5248N for Appearance Landscaping Layout and Scale for Mr & Mrs Nigel Hartley (Pages 11 - 20)**

To consider the above planning application.

6. **17/6233C Land Off Wheelock Street, Middlewich, Cheshire: Full planning application for the demolition of existing buildings and the erection of 35no. dwellings, a retirement living facility containing 50no. apartments and 3no. retail units for C/O Agent, Henderson Homes (UK) Ltd and McCarthy and Stone (Pages 21 - 52)**

To consider the above planning application.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 6th March, 2019 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor J Wray (Chairman)  
Councillor A Kolker (Vice-Chairman)

Councillors Rhoda Bailey, D Bebbington, P Butterill, J Clowes, S Davies,  
M Deakin, S Pochin, J Rhodes and B Walmsley

**NON-COMMITTEE MEMBERS IN ATTENDANCE**

Councillors S Brookfield and M Parsons

**OFFICERS PRESENT**

Daniel Evans (Principal Planning Officer)  
Andrew Goligher (Principal Development Control Officer - Highways)  
David Hallam (Principal Conservation and Design Officer)  
Margaret Hopley (Environmental Health Officer)  
Susan Orrell (Principal Planning Officer)  
James Thomas (Senior Lawyer)  
Julie Zientek (Democratic Services Officer)

**Apologies**

Councillor J Bratherton

**58 DECLARATIONS OF INTEREST/PRE DETERMINATION**

The following declarations were made in the interests of openness:

With regard to application number 17/6233C, Councillor B Walmsley declared that she was a member of Middlewich Town Council but that she had not taken part when the application was discussed. There had been a lot of interest in Middlewich and she had been approached by members of the public, including one of the speakers at today's meeting, but she had not discussed the application with them. Some time ago, she had been approached by the developer as part of the Neighbourhood Plan Steering Group. The plans had changed dramatically since then and there had been no recent contact, so she had not discussed her views. Councillor Walmsley stated that she retained an open mind and would assess the application on its planning merits.

All Members of the Committee declared that they had received correspondence with regard to application number 18/4879N.

**59 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 6 February 2019 be approved as a correct record and signed by the Chairman, subject to an amendment to delete the second reason for the deferral of application number 18/2413C (Land adjoining Meadowview Park, Dragons Lane, Moston).

**60 18/4879N NORTHERN DAIRIES, GROBY ROAD, CREWE CW1 4PE: CHANGE OF USE FROM MILK DAIRY STORAGE AND DISTRIBUTION (B8) TO METAL FABRICATION COMPANY WITH ASSOCIATED WORKSHOPS, OFFICES AND YARD (B2) (RE-SUBMISSION OF 18/1270N) FOR MR PAUL CARRUTHERS, PEGASUS MECHANICAL INSTALLATIONS LIMITED**

Note: Councillor Suzanne Brookfield (Ward Councillor), Fiona Ker and Lee Faulkner (objectors), and Keith McKinney and Mel Kenyon (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application.

**RESOLVED**

- (a) That, contrary to the planning officer's recommendation for approval, the application be REFUSED for the following reasons:
  - 1. The suggested conditions 1 & 4 are not precise/enforceable in the context of the submitted Noise Management Plan.
  - 2. The proposed change in use from B8 to B2 is contrary to Policy EG2 of the Cheshire East Local Plan.
  - 3. Adverse impact on an existing rural business (the livery to the north of the site).
- (b) That, in order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority be delegated to the Head of Planning (Regulation), in consultation with the Chairman (or in his absence the Vice Chairman) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, before issue of the decision notice.

61 **17/6233C LAND OFF WHEELOCK STREET, MIDDLEWICH, CHESHIRE:  
FULL PLANNING APPLICATION FOR THE DEMOLITION OF EXISTING  
BUILDINGS AND THE ERECTION OF 35NO. DWELLINGS, A  
RETIREMENT LIVING FACILITY CONTAINING 50NO. APARTMENTS  
AND 3NO. RETAIL UNITS FOR C/O AGENT, HENDERSON HOMES  
(UK) LTD AND MCCARTHY AND STONE**

Note: Prior to consideration of this application, the meeting was adjourned for a short break.

Note: Councillor Michael Parsons (Ward Councillor), Jill Ikin (supporter) and James Berggren (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application and an oral report of the site inspection.

RESOLVED – That the application be DEFERRED for the following:

- Clarification on deliveries to the retail units
- Clarification on bin storage to the retail units
- Clarification on the lift provision within the development
- Clarification on whether the affordable provision could be provided on site rather than an off-site contribution
- Consultation with the Fire Service regarding the mobility scooter storage
- Details of how refuse collection is managed on Wheelock Street
- Details of cycle storage on the housing development
- Does the viability comply with the revised the NPPF
- Strategic Highways Manager to address parking in the area
- Submission of an open space scheme
- Information on the size of the gardens (including plots 32-35)

62 **18/3477N SYDNEY COTTAGE FARM, HERBERT STREET, CREWE  
CW1 5LZ: OUTLINE APPLICATION FOR RESIDENTIAL  
DEVELOPMENT WITH MATTERS OF SCALE AND LAYOUT  
INCLUDED FOR JFH HORTICULTURAL SUPPLIES**

Note: Councillor M Deakin left the meeting prior to consideration of this application.

Note: Prior to consideration of this application, the meeting was adjourned for refreshments.

Note: Alastair Skelton attended the meeting and addressed the Committee on behalf of the applicant.

The Committee considered a report regarding the above planning application and an oral report of the site inspection.

RESOLVED

(a) That, for the reasons set out in the report, the application be APPROVED subject to the completion of a S106 Agreement to secure:

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable Housing</b>	30% - 65% Affordable Rent / 35% Intermediate  Submission of Affordable Housing Statement	If any market housing, 50% open market occupied prior to affordable provision.  Prior to issuing of decision notice
<b>Education</b>	Primary: £21,693 Total: £21,693	Prior to 50% occupation
<b>Public Open Space</b>	On-site provision as shown on plan. Submission of a Private Management Plan in perpetuity	Prior to occupation

and the following conditions:

1. Time Limit (Outline)
2. Submission of reserved matters (landscaping to include native hedgerows to eastern boundary)
3. Reserved Matters application made within 3 years
4. Development in accordance with approved plans
5. Prior submission/approval of levels
6. Reserved Matters scheme should be supported by an updated AIA/Tree Protection Scheme in accordance with BS 5837
7. Retention of existing hedgerow (Ecology)
8. Nesting birds
9. Prior submission of an ecological enhancement strategy
10. Prior submission/approval of the LPA for external lighting
11. Prior submission/approval of a piling method statement
12. Prior submission/approval of an Environmental Management Plan (EMP)
13. Prior submission/approval of a residents travel information pack
14. Provision of electric vehicle charging infrastructure
15. Prior submission/approval that any gas boiler installations proposed are to a certain emission standard
16. Prior submission/approval of a phase 1 contaminated land report
17. Submission/approval of a verification report
18. Submission/approval of a soil verification report
19. works to stop if contamination is identified
20. Prior submission of a surface water drainage scheme and associated management and maintenance plan
21. Implementation of Flood Risk Assessment
22. Prior submission/approval of a PROW Scheme of Management
23. Line of PROW shall be marked out on development site prior to commencement of development

24. Prior submission/approval of a Construction Management Plan

- (b) That, in order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority be delegated to the Head of Planning (Regulation), in consultation with the Chairman (or in his absence the Vice Chairman) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, before issue of the decision notice.
- (c) That, should this application be subject to an appeal, approval be given to enter into a S106 Agreement with the following Heads of Terms:

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable Housing</b>	30% - 65% Affordable Rent / 35% Intermediate  Submission of Affordable Housing Statement	If any market housing, 50% open market occupied prior to affordable provision.  Prior to issuing of decision notice
<b>Education</b>	Primary: £21,693 Total: £21,693	Prior to 50% occupation
<b>Public Open Space</b>	On-site provision as shown on plan. Submission of a Private Management Plan in perpetuity	Prior to occupation

63 **18/5733N RED HALL FARM, MIDDLEWICH ROAD, LEIGHTON, CHESHIRE CW1 4QU: ERECTION OF 2 NO. ADDITIONAL POULTRY BUILDINGS ON ESTABLISHED POULTRY FARM FOR MR JAMES CHARLESWORTH, T J CHARLESWORTH**

Note: Councillor S Pochin left the meeting prior to consideration of this application.

Note: Ian Pick attended the meeting and addressed the Committee on behalf of the applicant.

The Committee considered a report regarding the above planning application.

**RESOLVED**

- (a) That, for the reasons set out in the report, the application be **APPROVED** subject to the following conditions:
1. Time (3 years)
  2. Plans

3. Materials as per application
4. Development in accordance with EIA
5. Submission of landscape scheme with amendments
6. Implementation of landscape scheme
7. Tree protection
8. Scheme for management of spoil
9. Ecology condition- upgrading of existing units
10. Implementation of drainage proposals
11. Further agreement of drainage works close to retained trees

- (b) That, in order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority be delegated to the Head of Planning (Regulation), in consultation with the Chairman (or in his absence the Vice Chairman) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, before issue of the decision notice.

**64 19/0074N GRENSON MOTOR CO LTD, MIDDLEWICH ROAD, MINSHULL VERNON, CHESHIRE: REMOVAL OF CONDITION 14 ON 15/1249N - PROPOSED CONSTRUCTION OF 10 NO. DWELLING COMPLETE WITH ACCESS, ASSOCIATED PARKING AND LANDSCAPING FOR MR SEAN PATTINSON, GRENSON LTD**

The Chairman reported that this application had been withdrawn prior to the meeting.

**65 UPDATE REPORT FOLLOWING AN APPEAL BEING LODGED FOR APPLICATION 18/1250N - FULL PLANNING FOR DEVELOPMENT 15 NEW DWELLINGS COMPRISING 11 4/5-BEDROOMED DETACHED AND 4 3-BEDROOMED SEMI-DETACHED AFFORDABLE DWELLINGS, TOGETHER WITH ASSOCIATED GARAGES, PARKING AND ACCESS ROAD AT LAND TO THE REAR OF OAKLEAF CLOSE, SHAVINGTON, CREWE, CW2 5SF**

The Committee considered a report regarding planning application 18/1250N.

At its meeting on 8 August 2018, the Committee had resolved to refuse the application and had approved Heads of Terms for a S106 Agreement, in the event that the application was subject to an appeal.

**RESOLVED**

- (a) That the forthcoming appeal be defended in relation to reasons for refusal 1, 2, 3 and 5, as existing.
- (b) That reason for refusal 4 be not contested on the basis of the proposed affordable housing provision.



66 **PLANNING APPEALS**

The Committee considered a report regarding the outcome of Planning Appeals decided between 1 July 2018 and 31 December 2018.

RESOLVED – That the report be noted.

The meeting commenced at 10.00 am and concluded at 3.15 pm

Councillor J Wray (Chairman)

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Application No: 18/3026N

Location: Land off Crewe Road, Haslington

Proposal: Reserved Matters for approved application 13/5248N for Appearance Landscaping Layout and Scale

Applicant: Mr & Mrs Nigel Hartley

Expiry Date: 18-Sep-2018

**SUMMARY RECOMMENDATION**

**Approve subject to conditions**

**MAIN ISSUES**

**Principle of Development**

**Landscape and Trees**

**Ecology**

**Highway Implications**

**Amenity**

**Design**

**CALL IN**

The application was originally called in by the late Cllr John Hammond on the grounds of impact on openness and retaining the separation between Haslington and Winterley.

**DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a cleared site formerly associated with no. 204 Crewe Road, Haslington, a large detached dwelling and coach house fronting Crewe. The dwelling and application site share a vehicular access from Crewe Road which subdivides within the curtilage of the property. The site was formerly occupied by a commercial building, which was located to the rear of no. 204, approximately 105m back from Crewe Road, this has now been demolished.

The boundaries within the site are defined by established planting predominantly with trees throughout the site, although a significant number of trees have been removed as part of recent works. The site falls within the open countryside as designated in the Local Plan.

To the rear of the site is an ongoing development by Bovis Homes. The site is within Open Countryside, as defined in the local plan, albeit only a short distance outside the Haslington Settlement Boundary.

Southern Planning Committee approved another reserved matters application for 13 dwellings in January 2019.

## **DETAILS OF PROPOSAL**

This is a reserved matters application for details relating to appearance, landscaping, layout and scale for 11 new residential dwellings following outline approval application reference 13/5248N.

## **RELEVANT HISTORY**

17/4974N	2019	Approval for reserved matters for approved application 13/5248N for Appearance Landscaping Layout and Scale
13/5248N	2015	Appeal allowed for outline application for new residential development of up to 14 dwellings.
12/1535N	2012	Non material amendment to application number 12/0325N
12/0325N	2012	Approval for replacement dwelling for previously approved residential conversion.
11/3894N	2012	Withdrawn application for conversion to residential
10/4295N	2010	Approval for residential conversion

## **POLICIES**

### **Cheshire East Local Plan Strategy (CELPS)**

SD 1 Sustainable Development  
SD 2 Sustainable Development Principles  
SE1 Design  
SE 2 Efficient Use of Land  
PG 6 Open Countryside

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

### **Borough of Crewe and Nantwich Replacement Local Plan 2011 (CNRLP)**

NE.5 Nature Conservation and Habitats  
NE.9 Protected Species  
BE.1 Amenity  
BE.4 Drainage, Utilities and Resources  
RES.2 Unallocated Housing Sites  
RES.5 Housing in the Open Countryside

**Haslington Neighbourhood Plan** has only reached Regulation 7 stage and therefore carries no weight

### **Other Considerations**

National Planning Policy Framework  
Cheshire East Design Guide

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

**Highways:** No objection.

**Environmental Health:** No objection.

**Housing:** Originally objected as there were no details of which units were the affordable ones and their tenure. This has now been addressed.

**United Utilities:** No objection.

### **VIEWS OF THE TOWN COUNCIL:**

No comments received at the time of report writing.

### **OTHER REPRESENTATIONS**

Six representations have been received at the time of report writing; they express the following concerns:

- Erosion of the gap between Haslington and Winterley
- Not in accordance with the Inspectors decision
- Loss of trees
- Out of character with the area
- Highway safety
- No footpath
- Lack of infrastructure
- Impact on air quality
- Other more suitable layouts could be provided
- Traffic survey is inadequate as there were roadworks and temporary traffic lights in place when it was undertaken
- Danger to pedestrians crossing the road to the parking provision for plots 1, 2 and 3
- Small garden sizes to some plots

These can be viewed in full on the Council website.

## **OFFICER APPRAISAL**

### **Principle of Development**

The site lies in the Open Countryside. However outline consent for up to 14 dwellings was granted on appeal in 2015. Therefore the principle of allowing residential development on this site has already been established and cannot be revisited. In addition, reserved matters approval was given for 13 dwellings on the site was granted in January 2019.

### **Design**

The majority of the proposed dwellings would be in a linear form on the eastern side of the access road; with others arranged around the turning head. At the southern end of the site are ponds and an ecological area.

The dwellings would be constructed of a mixture of brick and render, which is appropriate in this location and in accordance with the advice given in the CEC Design Guide. There are a mix of house types and designs in the vicinity of the site, including the new development to the south of the site. It is therefore considered that the development would appear appropriate in its context.

One of the objectors has put forward an alternative layout for the site; however the application should be determined on the merits of the submitted amended plans by the applicant.

The proposal is therefore considered to be in compliance with Policies SD2 and SE1 of the CELPS.

### **Landscape**

The Inspector for the outline approval acknowledged the desire of local residents and the Parish Council to retain openness between Haslington and Winterley. However he concluded that there were other larger, more prominent areas of openness between Haslington and Winterley.

Having regard to this application, whilst some of the dwellings would be forward of the immediately neighbouring property, there are properties further along Crewe Road, adjacent to Holmshaw Lane that have a similar building line to that proposed. In addition the siting of the dwellings in relation to Crewe Road allows for additional space to the rear for ecological compensation to the rear of the site which is a positive benefit.

There would be adequate screening of the dwellings closest to Crewe Road and the Council's Principal Landscape Architect is satisfied that the proposals for the site are acceptable in their context.

The proposal is therefore considered to be acceptable and in accordance with Policy SE4 of the CELPS.

### **Trees**

The loss of protected trees, a Sycamore and Lime forming part of Group G4 of the Crewe and Nantwich Borough Council (Winterley) Tree Preservation Order 1977 were conceded by the Planning Inspector at appeal to facilitate the proposed access. The Inspector (at para 17 of the decision)

required Landscaping (including provision of additional tree planting to the front of the site) to be undertaken.

The revised Landscape Layout now provides for two replacement Lime trees on the Crewe Road frontage, with two at right angles to it to the north of the car park. This revised landscaping scheme now satisfies the concerns of Officers in respect of mitigation for the loss of the two protected trees conceded by the Planning Inspector.

In addition to the tree losses to the front, there would be some tree losses from an area opposite plots 4 and 5, three of these trees are category B2 Pines. The Council Principal Forestry and Arboricultural Officer is satisfied that this is acceptable subject to replacement planting elsewhere within the site. This can be secured by condition.

A condition relating to tree protection and retention form part of the outline approval and as such do not require re-imposing as part of this application.

The proposal is therefore considered to be in accordance with Policy SE5 of the CELPS.

### **Highways**

It is proposed to construct 11 new dwellings on land off Crewe Road, Haslington and this is a reserved matters applications following approval at appeal.

The access road is a standard 5.5m carriageway with a turning facility at the end of the cul-de-sac. The details submitted are an acceptable highway design and there are no objections from the Head of Strategic Infrastructure to the application.

Objectors have raised concerns about highway safety; however the Head of Strategic Infrastructure is satisfied that the access, internal layout and parking provision are acceptable and as such, a refusal on these grounds could not be sustained. It is important to note that access was determined at outline stage and cannot be re-visited at this time.

A Construction Management Plan has been submitted and compliance with the relevant parts (as set out in the appeal decision) of it should be controlled by condition.

The proposal is therefore considered to be acceptable and in accordance with Policy GR9 CBLPFR and the Parking Standards set out in Appendix C of the CELPS.

### **Amenity**

In terms of the surrounding residential properties the layout of the site means that all the requisite separation distances can be achieved including to the new development to the south of the site.

Having regard to the amenity of future occupiers of the dwellings, they would have adequate residential amenity space. However permitted development rights should be removed from plots 1, 2 and 3 in order to ensure that this residential amenity space is retained.

Conditions relating to air quality (EVC charging points), land contamination and piling were imposed on the outline consent allowed at appeal, as such they do not require re-imposing as part of this application.

The proposal is therefore considered to be in compliance with Policies GR6 and GR7 of the CBLPFR.

### **Ecology**

The applicant has proposed a contribution of £10,000 to fund offsite habitat creation to compensate for the loss of habitats associated with the proposed development. Unfortunately this should have been secured at outline stage and cannot now be required.

#### Bats

No evidence of roosting bats was recorded during the submitted survey and the Council's Ecologist advises that roosting bats are not reasonably likely to be affected by the proposed development.

#### Other Protected Species

The updated survey has confirmed the continued presence of other protected species on site. An acceptable mitigation strategy has been submitted.

#### Great Crested Newts

This protected species has been recorded at two ponds on adjacent land which is subject to a residential planning permission, which is in the process of being implemented. In the absence of mitigation the proposed development will result in the loss of high quality terrestrial habitat suitable for this species and also pose the risk of killing/injuring any newts present on site when works were undertaken. To compensate for the loss of terrestrial habitat the submitted mitigation strategy includes proposals for the retention of an area of terrestrial habitat and the creation of additional ponds on site.

#### Habitat Regulations

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.

### Test 1: Overriding Public Interest

The impacts of the development on the GCN population have previously been considered acceptable in the grant of previous planning permissions. The development would provide social and economic benefits in the form of employment during construction, the delivery of housing and the restoration of what is currently a derelict site. Given these benefits the development proposal contributes to meeting an imperative public interest, and that the interest is sufficient to override the protection of, and any potential impact on great crested newts, setting aside any mitigation that can be secured.

### Test 2: No satisfactory alternative

The site has outline planning permission for residential development and therefore has been assessed as being an appropriate place for this form of development. As such it is considered that there would be no satisfactory alternative.

Test 3: “the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range”.

The current proposals would compensate for the loss of terrestrial habitat the submitted mitigation strategy includes proposals for the retention of an area of terrestrial habitat and the creation of additional ponds on site.

The submitted Great Crested Newt mitigation would be adequate to maintain the favourable conservation status of the local Great Crested Newt population.

Overall, it is considered that the development contributes to meeting an imperative public interest, there are no satisfactory alternatives, and that the interest is sufficient to override the protection of, and any potential impact on Great Crested Newts, setting aside the proposed mitigation. It is considered that Natural England would grant a licence in this instance.

### **Affordable Housing**

Originally as submitted, the proposal did not put forward the correct mix of tenure as required by policy. Subsequently an amended plan has been submitted including 2 properties for affordable rent and one for shared ownership, as required by policy. These are the first 3 plots as you enter the site and whilst in a larger development, pepper-potting would be preferable, it is difficult to achieve on a small site such as this.

## **CONCLUSIONS**

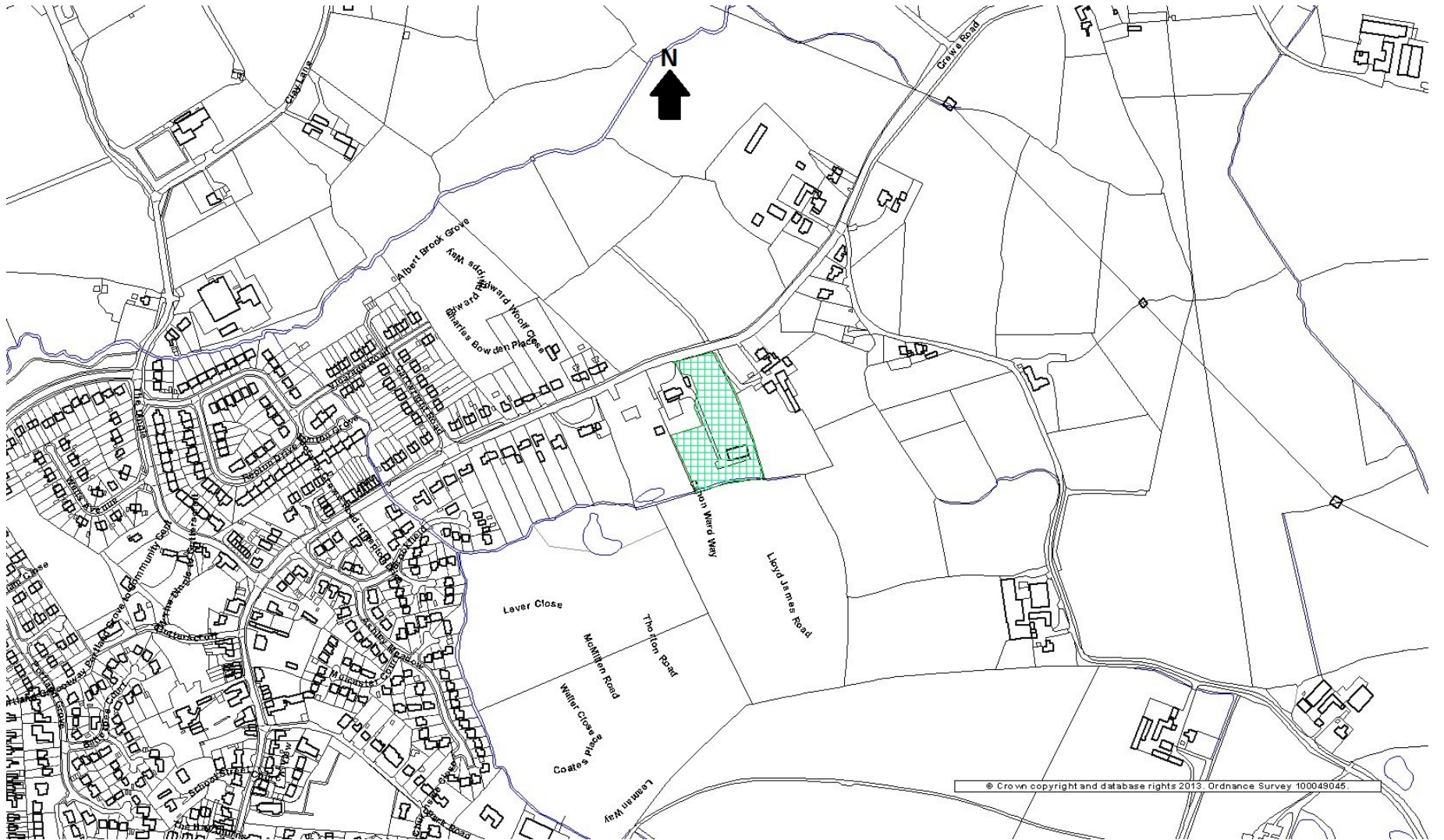
The proposed development is considered to be of acceptable design, in keeping with the character of the area, and would not adversely impact upon the amenities of neighbours. The proposal would comply with all relevant policies within the Development Plan. As such, the application is recommended for approval.

## **RECOMMENDATION**

**Approve subject to the following conditions:**

- 1. Accordance with the conditions on the outline permission**
- 2. Time limit**
- 3. Approved plans**
- 4. Details of materials to be submitted**
- 5. Compliance with the landscape planting proposals**
- 6. Replacement tree planting**
- 7. Compliance with the Drainage Strategy**
- 8. Compliance with the Construction Method Statement**
- 9. Compliance with the Badger and Bat Tree Survey and Great Crested Newt Mitigation Plan**
- 10. Incorporation of features suitable for House Sparrow and roosting bats**

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



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Application No: 17/6233C

Location: LAND OFF, WHEELLOCK STREET, MIDDLEWICH, CHESHIRE

Proposal: Full planning application for the demolition of existing buildings and the erection of 35no. dwellings, a retirement living facility containing 50no. apartments and 3no. retail units

Applicant: C/O Agent, Henderson Homes (UK) Ltd and McCarthy and Stone

Expiry Date: 31-Jan-2019

### SUMMARY

The benefits in this case are:

- The development would provide 50 flats for over 55's and 35 family houses/flats ranging from 1 and 2 bed flats to 2 and 3 bedroom houses
- The older persons accommodation would provide a type of accommodation for which there is a known need
- The development would provide economic benefits through the provision of employment during the construction phase, 3 new retail units to the Wheelock St frontage at the ground floor of the McCarthy and Stone building, new residential units and benefits for local businesses in Middlewich by virtue of the economic activity associated with the new residents of the flats and houses
- The revised layout and design of the development is considered to be acceptable. It is considered that the proposal detailed design/layout/ scale and massing safeguards the setting of adjacent listed buildings and respects the character and appearance of the Wheelock Street Conservation Area and the surrounding area.
- The proposals would remove an eyesore site that is subject to anti-social behaviour and is detrimental to the amenity of the area.
- 4 units within the housing scheme are offered as affordable units (50 Discount for Sale) as on site provision

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon protected species and trees
- There is not considered to be any drainage implications raised by this development that could not be resolved by condition
- The development would not raise any significant highways issues subject to the provision of the car parking as indicated. Whilst there is some under-provision within the family housing, the Highways Manager advises that this will not result in displaced parking on the surrounding streets and given the town centre location such under provision is acceptable. A loading bay is proposal on Wheelock St for the commercial premises
- The development will mitigate for its impacts upon education and health via contributions

The adverse impacts of the development would be:

-There is a reduced provision of affordable housing. In this case the developer has raised viability issues which have been independently assessed by the Council's own viability consultant. A total financial contribution of £366,000 has been assessed by the Independent Consultant retained by the Council as being the maximum contribution available from this scheme without making it unviable.

On balance, it is considered that the benefits of the proposal outweigh the dis-benefits in planning terms

### **Recommendation**

**Approve subject to conditions and a S106 Agreement**

### **DEFERRAL**

The application was deferral by Southern Planning Committee on 6 March 2019 for the following reasons –

- Clarification on deliveries to the retail units
- Clarification on bin storage to the retail units
- Clarification on the lift provision within the development
- Clarification on whether the affordable provision could be provided on site rather than an off-site contribution
- Consultation with the Fire Service regarding the mobility scooter storage
- Details of how refuse collection is managed on Wheelock Street
- Details of cycle storage on the housing development
- Does the viability comply with the revised the NPPF
- Strategic Highways Manager to address parking in the area
- Submission of an open space scheme
- Information on the size of the gardens (including plots 32-35)

### **DESCRIPTION OF SITE AND CONTEXT**

The application site is 2.5 hectares in size and is located wholly within the Middlewich Settlement Zone Line, an Area of Archaeological Potential, the Town Centre boundary and a Principal Shopping Area to the south of Wheelock Street, Middlewich.

The site has frontages on to Wheelock Street, the main shopping street, Darlington Street, a residential street and Southway and contains a number of residential and commercial buildings, all of which would be demolished as part of this proposal. The rear elevation of the Tesco supermarket is on the other side of Southway, which forms a walkway access from Wheelock Street to Newton Heath.

On the site there are a variety of vacant houses, single storey garages and a unit known as the Pace Centre (vacant former adult education centre Class D1), many of which are in dis-repair and the subject of anti-social behaviour.



No 8 Southway (abuts the north part of the site) is a Grade II listed building. The large villa known as the Poplars on Southway also set in extensive, tree lined grounds is also considered to contribute to the setting of the Conservation Area. The Wheelock Street Conservation Area abuts the site.

The site also contains a large number of very mature trees. Southway is a pedestrian link to the centre from Newton Heath. Vehicular access is currently taken from Wheelock Street, Darlington Street and Newton Heath. The site rises up from Wheelock Street with a change in levels across the site of approximately 6 metres toward Newton Heath.

The prevailing scale and grain of the area is 2-3 storeys, but predominantly 2 storey within the immediate context of the site. The surrounding area is mixed residential and commercial in nature.

The site abuts the Wheelock Street Conservation Area, with some encroachment into the conservation area (northern part of the site). Wheelock Street Conservation Area is identified as being at risk on the National Heritage At Risk Register. This is in part due to the uncertainty surrounding the development of this site, which plays a significant part within the setting of the CA, and due to the relatively recent loss of buildings on the Wheelock Street frontage in the north western part of the site.

### **DETAILS OF PROPOSAL**

The application is submitted by 2 developers, each working in a different market and is twofold in nature. It involves the demolition of numerous houses at Stonemasons Court, Darlington Street and various large derelict detached villas on Southway (Ivy Cottage, Barclay House, The Poplars) to make way for the Henderson Homes Development) together with the demolition of 2 vacant commercial units at 63/ 65 Wheelock Street (known as the Pace Centre) and various single storey garage buildings to Darlington Street to make way for the McCarthy and Stone proposal.

The elements are:

McCarthy and Stone propose a 3 storey block of purpose built accommodation for the over 55's comprising a total of 50 flats (25 x 1 bed and 25 x 2 bed); 3 x Class A1 units to the ground floor fronting Wheelock St (total 174sqm internal floor space), together with 40 car parking spaces accessed from Darlington Street and a communal garden for the sole use of McCarthy and Stone residents (circa 600sqm).

The vehicle entrance is to Darlington Street which provides access to a 40 space secure gated car park.

The Henderson Homes part of the site was initially submitted comprising 29 dwellings and has been the subject of extensive negotiation between the Applicant and Officers. This resulted in extensive revision of this part of the site and an increased number of units (now 35 in total). The density of development is more akin to the neighbourhood within which the site is located.

The residential mix of the Henderson Homes part of the site is -

2no 1 bed apartments  
2no 2 bed apartments  
14no 2 bed houses  
17no 3 bed houses

This element of the proposal is accessed via a new vehicular and pedestrian access off St Ann's Street, with additional pedestrian access to Southway and Wheelock Street. The scheme allows for pedestrian access from Southway through both sites to Darlington Street.

A viability appraisal has been submitted by the Applicants. Originally the Appraisal indicated that the development could sustain no financial contributions or make any provision of on site affordable housing. Following detailed liaison with the Council's retained expert, however, the Applicants' have offered a financial contribution package equivalent to £366,000.

### **RELEVANT HISTORY**

11/3737C Proposed Foodstore Development With Associated Parking, Servicing And Landscaping, And Additional A1, A2 And A3 Units (Including Demolition Of Existing Buildings) - Approved subject to S106. Not implemented and now time expired. The current site formed the car parking and additional A1,A2/A3 units and all the proposed houses to be demolished as part of the current application were also approved to be demolished as part of this permission. This has now lapsed.

09/1686C - Approval for foodstore with associated parking, servicing, landscaping and additional A1, A2 and A3 retail units. Not implemented

09/1739C - Approval for change of use from residential to A1, A2, A3 and B1

### **POLICIES**

#### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

PG2 – Settlement Hierarchy  
PG7 – Spatial Distribution of Development  
SC4 – Residential Mix  
CO1 Sustainable Travel and Transport  
CO4 – Travel Plans and Transport Assessments  
SC4 - Residential Mix  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE 1 Design  
SE 2 Efficient Use of Land



SE 3 Biodiversity and Geodiversity  
SE 4 the Landscape  
SE 5 Trees, Hedgerows and Woodland  
SE 6 – Green Infrastructure  
SE 8 – Renewable and Low Carbon Energy  
SE 9 – Energy Efficient Development  
SE 13 Flood Risk and Water Management  
EG5 - Town Centre First approach to retail and commerce  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **Saved Policies Congleton Local Plan 2005**

PS4	Towns
GR6 & GR7	Amenity & Health
GR9 & GR10	Accessibility, Servicing and Parking Provision
GR17	Car Parking
GR18	Traffic Generation
GR19	Infrastructure
NR2	Statutory Sites
NR3	Habitats
NR4	Non-Statutory Sites
BH4	Listed Buildings
BH9	Conservation Areas
DP4	Retail Sites
DP7 & DP9	Development Requirements (Middlewich Town Centre)

### **Middlewich Neighbourhood Plan – Not adopted at Referendum Stage.**

#### **Supplementary Planning Documents:**

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

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

**Strategic Highways Manager** – No objections subject to conditions

**Environmental Health** – No objections, subject to conditions relating to environmental health matters

**United Utilities** – No objections, subject to conditions in relation to drainage and surface water connections

**Flood Risk Manager:** No objections, subject to conditions in relation to drainage

**Strategic Housing Manager:** No objection to the provision of 4 units on site as affordable units (50% discounted for sale). Advises this is preferable to the previous commuted sum accepted.

**(Children's Services) Education:** The proposal will have an impact upon secondary education provision. Request a contribution of £65,371.00 to secondary education.

**NHS South Cheshire Clinical Commissioning Group (CCG) -** Both Doctors surgeries in Middlewich are at capacity. Older people are known to place greater demand on health care. Request a financial contribution of £60,696 to be used to develop existing infrastructure in the town which are operating at capacity

**Fire Service –** Comments awaited

**Playspace and Amenity Open Space -** No objection

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

**Middlewich Town Council:** Objects on the following grounds

- The Public Open Space provision is inadequate;
- The design of the houses is not in keeping with the area, particularly bearing in mind the site's proximity to the conservation area;
- Concern regarding current infrastructure and capacity of current schools and medical services to cope;
- The retail units are small with lack of storage and services.

Should the application be approved then the Town Council requests the following:

- A contribution of £65,000 towards education provision;
- Preference given to Middlewich businesses for the retail units;
- The provision of 2 x pedestrian crossings on St Anne's Road;
- A contribution towards additional CCTV to cover Southway;
- Protection for residents parking.

## **OTHER REPRESENTATIONS**

### **Original Consultation to scheme as originally submitted**

Most representations received make general comments without support or objection.

General Comments made in these representations are –

- (With regard to Darlington Street existing parking congestion issues) 40 parking spaces for 50 flats is not enough. Request mitigation for on street parking
- Request crossing on St Annes Road
- 2 parking spaces per dwelling seems inadequate
- Requests funds from the New Homes Bonus to be spent locally

- The traffic is also a concern with Darlington Street being turned into an even bigger rat run if the road is reversed.
- Newton Heath is used by people to park and they don't live in the Street which is very annoying for the people who do. Where will construction workers park?
- In support of the plans I feel it will be a genuine improvement and a lot more attractive environment. The derelict site is an eyesore and also a danger, only last week the houses on the site were set on fire and it could have been a danger to all of us if it wasn't for the quickness of residents phoning the fire brigade so the sooner they are flattened the better.
- Originally this land was earmarked for development to help improve the local town; however this plan only earmarks 3 retail units. As much as I prefer not to see another big Supermarket going in (as this would bring tenfold more traffic to the area than a housing development) I would like to see a few more units made available or a contribution to the existing ones especially along the frontage of Wheelock Street or an area given over as an area for green space/park facilities for the local population to use (more so than is on the current plan). Or a contribution to the expansion of the local health centers, both of which are currently at capacity (ref: NHS England's comments) to help with the influx of residents.
- The plans are in the older part of Middlewich, there needs to be something put there that is sympathetic to the look and feel of the area.
- If the bypass around town created 1st then the reuse of the site would have positive benefits
- If the traffic situation is not addressed the site will create massive problems and deteriorate the access routes even faster than they already do perish, increase pollution, chemical and noise, due to unsatisfactory traffic calming measures and similarly hugely increase risk to children and residents living around the school areas.

9 objections were received to the scheme raising the following issues:

- Current parking congestion/ area is already congestion proposal will make it worse
- Middlewich does not have the infrastructure to cope with new housing
- The proposed site entrance is too near to existing road junctions of Newton heath and Southway and newton court.
- Parking congestion on St Annes Road
- Traffic data used is over 9 years old
- Noise and disruption during building works
- This residential development is too near to the town centre which should instead be developed for affordable retail businesses.
- This area should be kept for future retail area for the town centre
- The scheme comprises 2 separate proposals which appear separate
- Site should be developed for retail purposes
- The proposal is contrary to the local Plan allocation and Neighbourhood Plan and will have an adverse impact upon the town centre retail function and the visitor economy
- Design and layout poor to Southway/houses presenting rear elevations/no passive surveillance/ plans don't enhance the design of the route
- Damage to other property during building process

- Impact upon infrastructure, schools and doctors etc are already full to capacity and these additional houses will only make it worse
- The siting of the communal open space to the rear of Wheelock St lacks surveillance and will result in anti social behaviour
- Light and Noise Pollution – The increased number of properties on the road and car parking facilities will also increase the amount of noise and light pollution on Darlington Street. There will be an increase in light on Darlington Street resulting from additional street lights and lighting on the site such as car parking and walkways, headlights from cars, noise from cars entering and leaving the street etc. This will directly affect the residents of Darlington Street
- It is requested that a residents parking scheme is setup for both Newton Heath and Darlington Street, this could be part of the planning conditions on McCarthy and Stone that they allocate monies (perhaps from S106) to ensure that residents do not suffer increased parking issues as a result of this development, again failure to act now will mean a failure of the council to protect the residents.

5 representations of support received from neighbours on grounds that the site is subject to anti social behaviour/ vacant properties on site subject to 3 fires in past year and attracts vermin.

### **Revised Scheme incorporating 35 units and minor elevational changes to the McCarthy and Stone building**

4 general observations have been received;

- The general arrangement of the more recent application by Henderson Homes seems to be more acceptable. However, there are some reservations about this project. The design of the properties is of concern. They appear to be very high and have the potential to dominate the skyline. It would have been helpful to have been shown a sketch of the visual impact
- This residential development will increase the existing shortfall in school places and spaces on GP registers so why is the town not receiving additional funding to plug these gaps? With an extra 2000 homes in the pipeline and no CIL where will funding come from for the obvious shortfall in services?
- It would seem a very good opportunity to try to create a small town square of some sort, ideally where the current Barclay house is currently situated to link in with the current high street
- Occupier wants to see buff bricks on gable adjoining 45 Newton Heath

6 objections have been received to the revised scheme on the following grounds:

- St Ann's Road and Middlewich Roads in general cannot support any more traffic, this area is gridlocked when the M6 is shut. The doctors and dentists are full and the schools are full or nearing capacity. This is the last piece of usable land next to the town centre and it should be used to benefit the community not line the pockets of developers.
- St Ann's Road and adjacent streets are the principal access ways to local schools and despite the variable speed limit of 20 mph and outdated speed bumps is already

dangerous at present traffic levels. Not just the obvious dangers, speeding motorists, motorists with extreme road rage, uncontrolled and limited on road parking, no safe pickup for children at school times, motorists using the road as a cut through to avoid the traffic congestion on the main roads and no maximum vehicle weights for the roads. Plus the unseen dangers of increased pollution, noise and vibrations causing damage to adjacent properties and their residents. And that's just the access for those that already utilise / live in the area without another 91 dwellings plus retail properties. At best I think it is reasonable to assume an additional 91 vehicles using/parking in the area once the development is complete, at worst this could be closer to 200. The area cannot support this and until the council sees fit to address years and years of concerns noted in writing and on many occasions by the many residents in the area this proposal cannot reasonably be approved

- The neighbourhood plan for Middlewich town centre aspires to deliver “a place where people actively choose to spend their leisure time”. It will be “a busy, focussed place with plenty to offer for both residents and visitors.” A residential cul-de-sac will not deliver either of these aspirations.
- The proposed houses and retail units are undersized. The proposal fails sustainability criteria
- There is already a public right of way for pedestrians down the side of Tesco, so another one on to Wheelock Street is not needed.
- The site is yet another cul-de-sac, again not acceptable. Either access needs to be a connective road from St Anne's onto Wheelock street. Or the cul-de-sac entrance and exit needs to come from Wheelock street, with only pedestrian access to St Anne's. St Anne's is a very busy and narrow street, with a school just down the road. Therefore traffic should be directed towards roads that are under utilised.
- Original scheme was greener and the McCarthy and Stone block is too close to properties on Wheelock St
- The number of houses planned seems to be excessive for the area. Some of these should also be affordable housing supply.
- This area is not in the local plan, and the neighbourhood plan has yet to be agreed by residents, so any referencing to the neighbourhood plan is premature

### **OFFICER APPRAISAL**

#### **Principal of Development**

Policy PG2 of the CELPS identifies Middlewich as a Key Service Centre. Within such locations, development of a scale, location and nature that recognises and reinforces the distinctiveness of the town will be supported to maintain the vitality and viability.

Policy PG7 of the CELPS states that Key Service Centres are expected to accommodate 24 hectares of employment land and 4,150 new homes over the plan period (2010-2030).

Saved Congleton Local Plan Policy DP4(M1) allocates the site for general retail use. This allocation responded to retail requirements identified in the early 2000s for the period up to 2011. This is now out of date. The site has not been promoted for food retail development

through the Part 2 Local Plan process, specifically through the 'call for sites' exercise that was carried out in 2017.

The Council has previously accepted the use of this site (with the exception of the approved retail, two storey A1 and A3 units; that were located as standalone buildings to Wheelock Street/Darlington Street frontage) as a car park for the (then) proposed redeveloped Tesco store. That development never occurred and the use of this site as a car park supported the redevelopment of the existing Tesco store, which in itself was retail led redevelopment.

The Wheelock Street frontage falls within a Principal Shopping Area as defined by Policy S4 of the CBLP which does not support non-retail uses at ground-floor level in such locations. This scheme complies with 3 Retail shops at ground floor fronting on to Wheelock Street within the McCarthy and Stone block

Policy SC5 of the CELPS requires on site provision of affordable housing. However the policy allows a financial contribution in lieu of on-site provision, in exceptional circumstances and where justified. In this case, the viability of the proposal is a material planning consideration and a rigorous examination of the Applicants' viability appraisal by the Council's appointed consultant indicates a commuted sum and a reduced provision of affordable housing is justified.

The viability appraisal submitted has been submitted and assessed in accordance with the latest NPPF and National Planning Guidance.

Since the previous Committee, the Middlewich Neighbourhood Plan has not been adopted at Referendum stage. The policies contained therein concerning this site have not been adopted and are no longer considered to have any weight in this case.

### **Housing Land Supply**

The NPPF reiterates the requirement to maintain a 5 year rolling supply of housing in order to significantly boost the supply of housing. This proposal would help to deliver an additional 85 no. dwellings, including those for the older person for which there is a known need, within the plan period in a sustainable location within the settlement boundary of one of the Key Town Centres for the Borough.

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will provide 85 units to housing land supply in a town centre location, provide employment within the 3 proposed retail units and a warden/support workers within the McCarthy and Stone Scheme which will deliver direct and indirect economic benefits to Middlewich including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The additional residents would also have the ability to add economic activity within Middlewich by working and shopping locally.

## **SOCIAL SUSTAINABILITY**

### **Open Space/Children Play Space**

Policy SE6 of the Cheshire East Local Plan Strategy seeks to deliver a good quality and accessible network of green spaces for people to enjoy, providing for healthy recreation and biodiversity and continuing to provide a range of social, economic and health benefits. There is an existing quantity deficit of amenity green space within the local area.

This application should provide 20m<sup>2</sup> per unit of amenity greenspace totalling 1,700m<sup>2</sup>.

The revised layout provides approximately 600m<sup>2</sup> private open space within the McCarthy scheme and 500m<sup>2</sup> of public open space (POS) within the housing scheme, in a linear configuration adjoining Southway.

The on-site quantum does not comply with Policy SE6. However the revised scheme of POS is in an improved location making it less susceptible to possible anti-social behaviour, is publically accessible from Southway. The Greenspace Manager considers this to be a positive within the scheme and does not object to this proposal. It also has to be borne in mind that this site is in an inner urban location where open space requirements can be reduced taking into account other material considerations including the constraints of sites and the local grain of an area. It is considered that given the character and density of surrounding areas, the distribution and layout of the public open space proposed contributes positively to the bespoke design of the housing scheme particularly.

Fountain Fields is the main town park providing the closest POS provision to the application site. The Park underwent a major refurbishment during 2018 increasing the quality in terms of play therefore it should cater for the additional burden placed upon it by the application.

It is impossible to increase the quantity of amenity greenspace or enhance the quality due to the refurbishment recently completed in Fountain Fields and therefore on this occasion commuted sums are not sought by the Greenspace Manager.

### **Garden Sizes**

There are a variety of sizes of garden throughout the site. Non statutory guidance in the Congleton Local Plan indicates gardens should be approx. 65 sq m in area. As the table below indicates the majority of gardens of individual dwellings comply with the guidance.



Plot no.	GARDEN AREA (sq.m)	Plot no.	GARDEN AREA (sq.m)
1	34.9	19	n/a
2	34.5	20	n/a
3	41.2	21	n/a
4	66.7	22	67.5
5	58.4	23	94.2
6	59.1	24	60.2
7	36.2	25	48
8	36.2	26	37.7
9	57.2	27	29.4
10	43.4	28	45.7
11	52.3	29	67.8
12	55.3	30	62.8
13	45.4	31	53.1
14	55.3	32	43.2
15	56.3	33	32.1
16	78.2	34	36.2
17	33.6	35	34
18	n/a		

For those that do not comply, 32 sq m is considered to be adequate to dry clothes, sit out in private/ have private amenity and store bins and bikes adequately. It should also be noted that terraced streets in inner locations such as this would generally have a small yard. This is consistent with the appeal decision at the 54 West Street, Congleton where 12.5sqm gardens were proposed. In this case the Inspector stated that;

*‘even in new build it may not always be possible or appropriate to provide gardens of the size required by the SPG, particularly in relation to flats or developments close to town centres’....*

*...‘There is nothing before me to indicate what domestic activities the Council considers could not be accommodated in their rear yards. There would be sufficient room there for clothes drying and for people to sit out from time to time. Not everyone has an interest in gardening or needs a large area in which to relax. The limited size of the rear yards would be apparent to anyone choosing to live there and for many it would not be a disadvantage. Many people choosing to live in an edge of town centre location neither need nor want a substantial garden’*

The site is also very close to Fountains Field local park and open space within the site itself. Additionally, there are a number of other suburban developments in Middlewich offering houses for sale which have larger gardens available for future purchasers to choose, should a larger garden be desirable to them.



## Viability

The NPPF, when considering viability as a material planning issue, states as follows:

*‘Where up to date policies have set out contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the Applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances of the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments should reflect the recommended approach in national planning guidance...’*

In accordance with the planning policy SC4 of the CELPS, the Viability Appraisal submitted in support of this application has been independently assessed on the behalf of the Council by Gerald Eve (GE). Gerald Eve is acting for the Council and has advised that the Viability evidence submitted is fully in accordance with the requirements of the updated NPPF and National Planning Guidance.

### COMBINED BUILD COSTS

Category	Rate per m2
843.1	
Building Costs	£1,429.00
External Works @ 10%	£142.90
<b>Total</b>	<b>£1,571.90</b>

The land values and build costs (above) associated with this development have been the subject of many months of professional interrogation and discussion by the Chartered Surveyors representing the Applicant and Gerald Eve (GE), retained to independently advise the Council and have been the subject of 2 separate Viability Appraisals over the 18 month duration of this application. The builds are lower than those accepted by the Inspector at the Audlem appeal.

In this case, The Council’s independent consultant (GE) has advised that a total financial mitigation contribution package of £366,000 is appropriate and achievable in this case based on the scheme’s viability. This is the point where GE advises the Council that any further contribution will render the scheme unviable. The Applicant accepts this figure.

Using the Councils affordable housing calculator within the IPS, if all this contribution was given to affordable housing a figure of £366,000 would be equivalent to 4.5 affordable units

in Middlewich. This would equate to 5% as affordable units on this site. This would not allow for any other contributions in lieu of education or health care as requested.

In the light of this independent assessment Officers have accepted that this scheme can not sustain all the policy standard requirements with regard to open space, health, education and affordable housing (30%).

Whilst it is for Committee as the decision maker to consider what weight to attach to the appraisal submitted in the planning balance, Officers are of the view that the evidence submitted has been rigorously challenged by the Council and is fully in accordance with the updated NPPF, National Planning Guidance and policy SC5 of the CELPS.

## Health

The South Cheshire Clinical Commissioning Group (CCG) have sought a S106 Contribution advise that both local medical centres are operating at capacity and therefore to accommodate the future residents put forward, both Waters Edge and Oaklands Medical Practises will need to be developed to support their ability to provide the expected level of primary care facilities in Middlewich.

The mitigation requested is £60,696, based on the following formula

Size of Unit	Occupancy Assumptions Based on Size of Unit	Health Need/Sum Requested per unit
1 bed unit	1.4 persons	£504 per 1 bed unit
2 bed unit	2.0 persons	£720 per 2 bed unit
3 bed unit	2.8 persons	£1,008 per 3 bed unit
4 bed unit	3.5 persons	£1,260 per 4 bed unit
5 bed unit	4.8 persons	£1,728 per 5 bed unit

Based on a proposed 85 dwellings with a varying housing mix and following the above formula, an estimate is as follows:

### Market Housing:

1 bed unit x 25	£12,600
2 bed unit x 43	£30,960
3 bed unit x 17	£17,136
<b>Total: 85 units</b>	<b>£60,696</b>

The requested mitigation can be provided as part of the overall financial contributions offered. On this basis the proposal mitigates for its impacts

## Education

The education impact is another element of the social sustainability of the scheme to be assessed within the overall planning balance. In this case, the impact results from the Henderson Homes element of the proposal which seeks 35 family sized dwellings.

The development of 33 (2 bed +) dwellings is expected to generate

7 primary children (33 x 0.19)

5 secondary children (33 x 0.15)  
0 SEN children (33 x 0.51 x 0.023%)

The analysis undertaken by the Education Manager has identified that a shortfall of secondary school places are available in the area. The development is not forecast to impact primary school or SEN provision.

A contribution of £81,713.00 is sought in this case to provide the 5 secondary school places attributable to the development.

The requested mitigation can be provided as part of the overall financial contributions offered. On this basis the proposal mitigates for its impacts.

### **Affordable Housing**

The Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of 3,000 or more that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or larger than 0.4 hectares in size. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

The Cheshire East Local Plan Strategy (CELPS) and the Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of 3,000 or more that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or larger than 0.4 hectares in size. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 85 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 26 dwellings to be provided as affordable dwellings.

The SHMA 2013 shows the majority of the demand in Middlewich PER YEAR up to and including 2018 is for 26 x one bedroom, 22 x two bedroom and 8 x four bedroom dwellings for General Needs. The SHMA is also showing a need again per year for 4 x one bedroom and 4 x two bedroom dwellings for Older Persons, these can be via Flats, Bungalows or Cottage Style Flats.

The current number of those on the Cheshire Homechoice waiting list with Middlewich as their first choice is 410. This can be broken down to 177 x one bedroom, 135 x two bedroom, 61 x three bedroom and 37 x four+ bedroom dwellings, therefore a mix of 1, 2, 3

and 4 bedroom dwellings for General Needs and 1 and 2 bedroom dwellings for Older Persons on this site would be acceptable.

For a policy compliant level of on-site provision of affordable housing, 17 units should be provided as Affordable/Social rent and 9 units as Intermediate tenure.

Middlewich has a clearly proven need for housing from the SHMA 2013 as this is showing a Net need for 65 Units per year being required and with the Cheshire Homechoice showing a total of 248 people on the register in need of housing.

Since the SHMA 2013 was produced and including year 17/18 Quarter 1 there have been 20 Affordable Houses completed in the period of this current SHMA 2013.

With the amount of people on the register minus the currently completed sites this still leaves 228 people still on the register. This combined with the 65 units PER YEAR required in the SHMA until 2018 results in 293 units still needed.

As this application has two applicants the policy requirements for each split below:

**Henderson Homes 35 dwellings:-**

30% = 11 dwellings with 7 Social/Affordable Rent and 4 Intermediate Tenure (65%/35%).

**McCarthy and Stone 50 Apartments:-**

30% = 15 apartments with 10 Social/Affordable Rent and 5 Intermediate Tenure (65%/35%).

The Councils Interim Planning Statement: Affordable Housing and Policy CS5 requires affordable housing to be provided on-site, however there may be circumstances where on-site provision would not be practicable or desirable. In this instance, the applicant has provided a viability appraisal which has been independently appraised by Gerald Eve who advises that the scheme can only sustain a total financial contribution of £366,000 across the whole development.

With other Retirement Living developments it has been accepted that a commuted sum in lieu of the onsite provision is appropriate. This is on the basis of a Viability Study showing that the onsite provision is not possible.

Further to the previous deferral, the Applicant has sought to address the previous concerns of Committee about the lack of any on site affordable housing provision and the reliance of a commuted sum in lieu of on-site provision.

It is now proposed that the block of 4 flats at plots 18-21 within the Henderson part of the site, which were previously market sale units, are being put forward as Discount for Sale properties (at 50%).

This is equivalent to a surplus of £223,591, whilst also allowing for the contributions sought by the NHS and the education team in full. (Equivalent to £366,000 total mitigation package when education and health contributions are fully provided for). The Councils viability consultant is appraising the updated scheme at the time of writing this report. This will be the basis of an update report.

## **Need for older persons housing**

The Government's formally adopted National Planning Practice Guidance (NPPG) states under Housing and Economic Development Needs Assessments paragraph 21:

'Housing for older people, advises as follows:

"The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Department for Communities and Local Government Household Projections 2013). The age profile of the population can be drawn from Census data. Projection of population and households by age group should also be used. Plan makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish"

The majority of older people who are looking to move home in later life are downsizing from a larger family home. Hence the need to deliver a range of choice in terms of type and tenure that will enable them to make such a move. The proposed development will contribute to the provision of such a choice and therefore falls within the spectrum of accommodation cited in the NPPG and will meet a need for specialised accommodation for older people which weights in favour of the proposal.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Amenity of existing and future residents**

For housing proposals, Saved Policy GR6 of the Congleton Local Plan requires consideration to be given to the occupiers of both neighbouring properties and the future occupants of the site with regards to privacy, loss of light, visual intrusion and pollution. Supplementary guidance in the Congleton Local Plan also indicates that a minimum distance of 13.8m from main room windows to a gable elevation should be achieved. The policy also requires 21.5m between principal elevations

Where this comprises flat developments of 3 storeys or more the minimum distance is normally increased. In this case, the gable elevation to the junction of Wheelock Street and Darlington Street is a 3 storey block of retirement flats, with secondary windows to that elevation, and is 11.1m tall opposite the principal room windows of a property in use as individual bed-sits, with numerous principal room windows looking out on to Darlington Street.

The scale and proximity of the McCarthy and Stone gable elevation has been revised marginally, including the removal of a decorative chimney and the incorporation of obscured glazing to the gable overlooking 2 Darlington Street. The windows to this elevation are also to be obscurely glazed.

Within the Henderson residential scheme, typically within the site interfaces are around 14/15 metres which is below the interface standard which for principal room to principal

room is normally 21.3m. However, this policy framework seeks to protect the amenity of existing residents' and future residents can decide whether they wish to live on a development such as this.

There is a 12m interface from the blank gable at Plot 1 of the Henderson scheme to the rear elevation of 45 and 45a Newton Heath, whilst this is slightly below the 13.8m policy standard, given the greater height of the existing dwellings at no 45 and the inner urban nature of the locality and scheme design, this is considered acceptable in this case.

Overall, it is considered that the amenity of existing residents can be safeguarded in this case.

### **Air Quality**

Chester Road is a Designated AQMA. Policy SE12 of the CELPS states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 124 of the NPPF and the Government's Air Quality Strategy.

In order to ensure that sustainable vehicle technology is a real option for future occupants at the site a condition will be imposed to secure electric vehicle infrastructure provision on the site.

### **Design considerations**

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

*'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this'*

This is supported by the Cheshire East Design Guide SPD and Policy SE1 of the CELPS.

Policy SE7 of the Cheshire East Local Plan advises that development proposals shall be assessed and the historic environment actively managed in order to contribute to the significance of the asset and local distinctiveness. Saved Policy BH9 of the Congleton Local Plan states that permission will not be granted when a proposal would have a detrimental effect upon the existing special architectural and historic interest of a conservation area and the historic built environment.

The NPPF sets out at para 133 that "Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent., unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all the following apply:



- the nature of the heritage asset prevents all reasonable uses of the site;
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;
- conservation by grant funding or some form of charitable or public ownership is demonstrably not possible
- the harm or loss is outweighed by the benefit of bringing the site back into use'

### Character

*Does the scheme create a place with a locally inspired or otherwise distinctive character?*

The Cheshire East Design Guide identifies that Middlewich is located within the Salt and Engineering Towns character area and this includes the following design cues;

- Canals heavily influence towns character
- Architypes ranges from Georgian, Victorian, Edwardian through to 20 and 21<sup>st</sup> centuries
- Building set back to pavement on Wheelock St
- Terraces dominate the town centre with semi-detached and detached on fringes
- Late 17<sup>th</sup> century properties feature camber-arched doorways and window
- Large Bay windows and timber frame detailing

The McCarthy and Stone part of the site sits adjacent to the Wheelock Street Conservation Area on Wheelock Street. The Conservation Area is at risk, partly as a result of the uncertainty surrounding the redevelopment of this site (known as the Tesco site).

The proposed McCarthy and Stone would be three-stories in height and from the front elevation facing Henderson Street turning the corner on to Wheelock Street and be 2 storeys to the rear block. Pedestrian access is from Wheelock Street, which also contains 3 shopfronts.

The McCarthy Stone frontage increases in height on Wheelock Street from 10.4m to 11.8m at the junction of Darlington Street. The Wheelock Street part of the site is within the Conservation Area which itself contains 3 storey development which is set back away from the Darlington Street frontage within landscaped grounds

The Henderson scheme has been extensively revised as part of the application and now comprises 35 units within a terraced street layout accessed from St Annes Road, with mainly courtyard parking behind buildings. The materials to be utilised comprise red brick/ grey tile and render all of which can be found in the area.

### Working with the site and its context – McCarthy and Stone

*Does the scheme take advantage of existing topography, landscape features (including watercourses), wildlife habitats, existing buildings, site orientation and microclimates?*

There is a 5m slope from Wheelock Street up to Newton Heath. Existing terraced housing to the Newton Heath area is at a higher land level and provides a significant backdrop. Generally the buildings within both elements of the site utilise the slope wells. The buildings present forward facing elevations to street frontage. A link has been provided through the

site from Southway to Darlington Street and from the housing scheme to Wheelock Street. Most trees, however, are removed to facilitate the development.

### Working with the site and its context - Henderson Homes scheme

*Does the scheme take advantage of existing topography, landscape features (including watercourses), wildlife habitats, existing buildings, site orientation and microclimates?*

The proposed layout is outward looking to Southway and St Annes Road. The main area of POS is located to Southway and is well over-looked.

There are numerous losses of trees that contribute as part of a backdrop within the setting of the conservation area and the loss of Poplars a non-designated heritage asset. Some trees that are shown to be retained will have poor social relationships at plots 22/24/32/35.

### Creating well defined streets and spaces – both Developers

*Are buildings designed and positioned with landscaping to define and enhance streets and spaces and are buildings designed to turn street corners well?*

The proposed development as revised has active frontages to all frontages. It is considered that this test has been met.

### Meeting local housing requirements

*Does the development have a mix of housing types and tenures that suit local requirements?*

The proposed development would accommodate 50 retirement living apartments (25 x one bed units and 25 x two bed units) and 35 residential units ( 4 x one bed, 14 x two bed and 17 x 3 bed). Given the scale of the development the housing mix is considered to be acceptable.

### Car parking

*Is resident and visitor parking sufficient and well integrated so that it does not dominate the street?*

The proposed car-parking would be located to the western boundary of the site and although it would be visible from the PROW and POS it is considered that this is the most appropriate location to serve the development.

### Public and private spaces

*Will public and private spaces be clearly defined and designed to be attractive, well managed and safe?*

The proposed development would sit comfortably within the site. Whilst gardens are small, this is not uncommon in inner urban living. It is considered that this test has been met.

### External storage and amenity space

*Is there adequate external storage space for bins and recycling as well as vehicles and cycles?*



The submitted plan shows that all units on the proposed development would provide an internal refuse and scooter store to serve the proposed McCarthy and Stone building and the Henderson Scheme comprises adequate bin and cycle storage to gardens. It is considered that this test has been met.

On the basis of the above assessment it is considered that the proposed development represents an acceptable design solution and that the proposed development would comply with Policies SE1 and SD2 of the Local Plan Strategy, the advice within the NPPF concerning non-designated heritage assets and achieving good quality design. This proposal is therefore environmentally sustainable in terms of the impact upon the character and appearance of the area.

### **Heritage Considerations**

Some of the existing curtilage of no 8 Southway has been reduced to accommodate the development. This would have a negative impact on the setting of the heritage asset. As the building and most of the curtilage would be retained, this harm would be less than substantial.

No 8 Southway and 28 Wheelock Street are grade II listed buildings. The issues are therefore the impact of the proposal upon No 8 Southway and on the setting of No 28 Wheelock Street and the proposals effect the setting of the adjacent Middlewich Conservation Area.

The NPPF advises that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation

The NPPF also advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal. The proposed scheme would cause the loss of only part of the curtilage of the listed building.

The public benefits of the scheme in heritage terms would be the redeveloping of a derelict site, which currently detracts from the heritage significance of the setting of the Middlewich Conservation Area and the setting of the listed building No 8 Southway.

The existing site is unsightly and although there are some old buildings of some interest, they are in a poor condition. The proposed scheme removes these late C20 buildings and the fence screening. It will replace this with a new development

Subject to the careful use and selection of materials and finishes, careful landscaping and street finishes, a reveal depth to the fenestration and the addition of chimneys on the roof, the Conservation Officer is of the view that the proposal will improve the site

On this basis, the proposed development would not adversely harm the heritage significance of the locality or the setting of the conservation area. The 'less than substantial' harm

judged due to the loss of part of the garden within the curtilage No 8 Southway is outweighed by the public benefit of the redevelopment this derelict site.

### **Highway Safety and Parking**

The Strategic Highways Manager considers that the proposals are within a very sustainable location and will not result in a severe impact on the road network capacity.

#### Access points to both elements of the proposals

Both access points are priority junctions with sufficient visibility splays provided in accordance with the speed limit. Both of the accesses can accommodate a refuse vehicle that can enter and turn within the turning areas provided within the site. It is proposed that the retirement vehicle access be gated for security reasons. A pedestrian through route through both sites from Southway to Darlington Street is proposed, however, gates are proposed to the McCarthy & Stone boundaries. A condition is needed to ensure this through route is not locked.

#### Servicing of the retail units

The Applicant has suggested a loading bay on Wheelock St which would be suitable for servicing. The Highways Manager advises this is acceptable. A Traffic Regulation Order will be necessary.

#### Car Parking

The car parking provision for the 35 residential units in the Henderson Homes proposal is 61 spaces which is at approx. 90% of the parking standard requirement (68 spaces) which although slightly below CEC car parking standards, does not result in any objection from the Strategic Highways Manager. The Highways Manager has not been able to advise upon current Middlewich Parking Strategies as requested by Committee, however, an update will be provided.

The sustainable town centre location, together with the fact that the development comprises a mix of 1/2/3 beds only, is considered to be an important material consideration to allow flexibility concerning parking in this case. The Strategic Highways Manager is satisfied that the proposal will not increase parking on surrounding streets

The parking provision for the 50 retirement units is 40 spaces; the applicant has submitted information on the operation of other McCarthy & Stone to indicate that the parking demand is lower than open market residential apartments. It is considered that the 40 spaces provided for the 50 units is not unreasonable level of parking and is higher than other approved similar retirement developments, not in town centre, accessible locations, such as this site.

## Retirement Living - Peak Parking Demand

Development	Apartments	Date of Survey	Peak Parking Demand	Peak Parking demand Spaces per Apartment
Haven Court, Hythe	36	28 April 2015	24	0.667
Hanna Court, Wilmslow	40	1 August 2016	14	0.350
Eadhelm Court, Edenbridge	34	29 April 2015	23	0.676
Pagham Court, Bognor	36	8 July 2015	20	0.556
Lauder Court, Hamilton	64	29 July 2016	21	0.328
Middleton Court, Porthcawl	60	26 July 2016	26	0.433
<b>Totals</b>	<b>270</b>		<b>128</b>	<b>0.474</b>

The McCarthy & Stone element provides for 80% parking which exceeds any peak demand as demonstrated in the table above. Given the likely average age of potential residents and the reduced levels of driving in this age group (late 70's) in comparison to the normal population, it is considered that the parking level is acceptable.

#### Traffic impact

The trip generation overall in the peak hours from both the developments are likely to be lower than 30 trips and this is split between two access points. Clearly, this is not a high level of generation that would warrant an objection on traffic impact grounds. It also worth noting that the previous Tesco redevelopment had significantly greater impact upon the local streets in terms of traffic generation.

The Strategic Highways Manager notes many of the comments/objects from neighbours concerning parking congestion in the locality. However, much of this area is subject to traffic control and the problems are pre-existing. It is therefore a matter for the police/parking enforcement operatives to control those matters. It is not considered that this proposal will further exacerbate existing problems in this area.

As a result, it is considered that the proposed development adheres with saved Policy GR9 and GR10 of the Congleton Local Plan.

#### **Ecology**

Bats occur on this site. The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) 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, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Congleton saved Local Plan Policy NE. 3 states that development will not be permitted which would have an adverse impact upon species specially protected under Schedules 1, 5 or 8 of the Wildlife and Countryside Act 1981 (as amended), or their habitats. Where development is permitted that would affect these species, or their places of shelter or breeding, conditions and/or planning obligations will be used to:

- Facilitate the survival of individual Members of the species
- Reduce disturbance to a minimum
- Provide adequate alternative habitats to sustain the current levels of population.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. “This may potentially justify a refusal of planning permission.”

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England’s standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

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 site is a eye-sore and blighted site, within the existing built up area, it is the subject of anti-social behaviour, which is causing harm to the amenity of neighbours and increases fear of crime. Its development will assist in It is therefore considered that its development is of overriding public interest. With regard to the second test, the choice of alternative sites are not as sustainably located on the edge of the existing town.

The proposed mitigation and compensation is acceptable and is likely to maintain the favourable conservation status of the species.

### No satisfactory alternative

Alternative sites are not as sustainably located and would not deliver the improvements to the eye sore site

### Maintaining the favourable conservation status

In order to compensate for the loss of bat roosts on site the applicant is proposing the provision of a number bat boxes and features for bats be incorporated into the development demolition works would be undertaken in accordance with a Natural England license. A condition is necessary in this regard. This is considered adequate to maintain the favourable conservation status of the bat species on this site

### **Trees**

There is extensive tree cover present on and adjacent to the site provide green canopy cover in an otherwise built up area. The trees are visible from outside the site boundaries.

There are no Tree Preservation Orders currently in force although some of the trees lie within the Middlewich Conservation Area

Trees shown for retention within the McCarthy and Stone layout are considered to be capable of retention and the tree officer has no concerns.

The proposals involve widespread tree losses throughout the site to accommodate the proposals and it is likely that social proximity issues will result due to the proximity of plots 22/24/32 and 35 within the Henderson scheme.

The tree officer does not consider the Sycamore trees in question to be worthy of formal protection and considers that a good quality scheme of replacement trees would be less likely to result in trees removals due to poor social proximity.

There are a group of Lime trees fronting plots 30 and 31 which are identified for retention and pollarding, however, the tree officer is of the opinion that to resolve building dominance and shading issues, the trees would be likely to be managed as pollards in perpetuity.

Overall, it is considered that appropriate replacement tree planting will satisfactorily mitigate for on site tree losses and that the proposal complies with SE5 of the CELPS.

### **Flood Risk**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. The submitted Flood Risk assessment concludes that residential development would be considered sustainable in terms of flood risk.

United Utilities have been consulted as part of this application and have raised no objection to the proposed development subject to conditions regarding foul and surface water and a drainage strategy. The Councils Flood Risk team have also raised no objection subject to conditions.

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

### **Applicants' response to Committee Deferral**

#### *Refuse Storage for the Proposed Retail Units*

Revised plans showing the provision of a dedicated refuse store for the retail units have been received. This will be accessed directly from Wheelock Street. An additional storage area for mobility scooters is provided adjacent to the entrance from the car park in order to replace the scooter storage displaced by the incorporation of the refuse store. This arrangement for refuse storage provision has been successfully provided on other such McCarthy & Stone schemes. Provision of a single refuse storage helps to enable a straightforward and efficient refuse collection.

#### *Servicing Arrangements for the Retail Units*

The majority of existing retail units fronting onto Wheelock Street are serviced directly from the Wheelock Street carriageway (which is one-way, north-westbound with controlled on-street parking zones along its length). It is intended that the refuse collection/servicing for the proposed retail units will be undertaken in line with the current collection process for other adjacent existing retail facilities. This was identified as part of the planning application for the proposed development and the highway officer raised no objection to this arrangement.

As set out above the proposed retail units will include provision for storage of refuse bins within the building which would conveniently be accessible from the Wheelock Street highway. There is no reason to conclude that this arrangement would create any detriment to highway operation or safety, a conclusion that is supported by the lack of any highway objection to the proposal.

### *Mobility Scooter Storage /Fire Issues*

The mobility scooters are stored in a room that is designed and constructed in accordance with the requirements of Building Regulations Approved Document Part B. This provides a minimum 30 minutes of fire containment. In addition the smoke alarm is linked to the McCarthy & Stone Careline which is continually monitored 24 hours every day. We are not aware of any fires occurring within the mobility scooter stores in existing McCarthy & Stone developments.

It should also be noted that fire issues are dealt with by the Building Regulations and it is not the function of the Planning Acts to replicate other statutory functions.

### *Lift Provision*

McCarthy & Stone provide a single lift in the vast majority of its Retirement Living developments. The exceptions being for very large developments (over 90 units) or where the scheme is over 5 storeys in height. The lift is located in as central a position as can be practically accommodated (as in the case of this Middlewich proposal). The developments are provided for less active but still ambient older people and McCarthy & Stone is not aware of any complaints relating to the lift position in its other developments.

### *Suggested Parking/Delivery Area*

The Applicant has suggested that double yellow lines (which protect the current access to the site) on Wheelock Street which would no longer be needed should this development proceed be allocated 'for loading'. The Applicant is willing to fund the TRO. This loading bay would benefit other shops on the frontage

## **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The proposal would result in a requirement for the provision of 26 affordable units. However after the submission and assessment of a viability report and further negotiation, the applicants' have committed to provide a total commuted sum of £366000.



It is clear that a full amount of 30% affordable housing cannot be provided for following the completion of a viability report from the applicants which has been critically appraised by the Councils own viability consultant.

The sum of £366,000 is accepted by the Councils Independent Consultant (GE) as being the maximum amount that can be achieved having regard to the viability of the scheme.

As discussed above there have been requests for a secondary education contribution of £81,713 and a NHS contribution £60,696.

The proposal would result in a requirement for the provision of secondary education which would be provided as a commuted sum of £81,713 towards the impact that the proposal has upon secondary education in the locality. This is considered to be necessary and fair and reasonable in relation to the development.

The development would result in increased demand for NHS provision in Middlewich where there is limited spare capacity in the 2 existing surgeries. In order to increase capacity of the medical centre which would support the proposed development, a contribution towards health care provision is required. This is considered to be necessary and fair and reasonable in relation to the development.

It is for the decision maker to decide where the sum is spent. In this case, officers consider that the impacts upon education and health can be fully mitigated; however, this results in a left over amount of £223,591 in lieu of affordable housing.

### **PLANNING BALANCE**

The development is considered to be located in a sustainable location. Such locations have an important part to play in the delivery of the 5 year housing land supply rather than open countryside sites. The proposal, particularly the Henderson element, is considered to be a bespoke solution to the constraints of the site that provides the maximum amount of parking that it can, whilst also complying with the Cheshire East Urban Design Guide for residential developments. The proposal, subject to conditions, would not have a significantly harmful impact upon residential amenity/noise/air quality/highways access/parking/trees/ecology/archaeology and contaminated land.

The development would not have a severe impact upon the local highways network and the parking provision on the proposed site would be acceptable. The development would be located within flood zone 1. The development is considered to be acceptable in terms of its flood risk/drainage implications.

In this case there have been requests for contributions towards affordable housing, health and education. The developer has raised viability issues which have been independently assessed by the Councils own viability consultant.

On this basis it is considered that the development could provide a contribution to mitigate the full impact upon health and education but only a limited financial contribution in lieu of on-site affordable housing.



The detailed design of the housing element of this scheme is a bespoke solution to the constraints presented by this site and the development as a whole is considered to respect the character and appearance of the area. It is not considered that this scheme will result in any exacerbation of on street parking problems in the surrounding terraced streets. Conditions can be imposed with regard to drainage, trees, landscaping to safeguard the area

It is acknowledged that due to the viability of the scheme it is not possible to fully mitigate the impact upon affordable housing. A 30% delivery affordable housing would render this scheme unviable and undeliverable.

However viability is a material planning consideration and the benefits of this type of specialist accommodation (both in terms of meeting a particular need and freeing up other housing stock in the Borough) together with the redevelopment of a blighted site which is detrimental to the setting of adjacent listed buildings and the Town Centre Conservation Area, are factors that are considered to outweigh the lack of on site affordable housing compliance, in the planning balance, particularly as a robustly tested viability position have been undertaken by the Councils appointed consultant and supports the reduced provision in this case.

At the time of writing this report, to address Committee concerns, the Applicant has proposed a scheme of 4 on site discounted for sale flats within the Henderson part of the site as on site provision of Affordable housing. This is being appraised by Gerald Eve and will be the subject of an update.

## RECOMMENDATION

**APPROVE subject to the completion of a S106 Agreement to secure the following**

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable housing</b>	£223,591	50% upon 1 <sup>st</sup> occupation. 50% at occupation of the 43 <sup>rd</sup> unit
<b>Health</b>	£60,696	50% Prior to first occupation of any part of the development 50% at occupation of the 43 <sup>rd</sup> unit
<b>Education</b>	£81,713	50% Prior to first occupation of any house within the Henderson scheme 50% at occupation of the 18 <sup>th</sup> dwelling.
<b>Retention of retail units to Wheelock St for retail uses (A1 to A5)</b>		Upon 1 <sup>st</sup> occupation of any part of the McCarthy and Stone development

<b>Private Management scheme for all POS on site.</b>		Occupation of 17 <sup>th</sup> house within the Henderson scheme or 1 <sup>st</sup> occupation of McCarthy element
<b>TRO for loading bay on Wheelock ST</b>	£10,000	Commencement of the McCarthy development

**And the following conditions:**

- 1. Standard Time**
- 2. Plans**
- 3. Tree Protection**
- 4. Tree Pruning/Felling Specification**
- 5. Service/Drainage Layout to be submitted**
- 6. Pedestrian link through site from Southway to Darlington Street to be un-gated and re-routed through McCarthy & Stone car park**
- 7. Prior to the use of any facing or roofing materials details/ samples shall be submitted and approved**
- 8. Notwithstanding the approved plans boundary treatment details shall be submitted and approved prior to commencement**
- 9. Submission, approval and implementation of a Construction/Environment Management Plan- prior to commencement**
- 10. Arboricultural Management Scheme – prior to commencement**
- 11. Site specific Engineer designed specifications for any foundation or area of hard surfacing within the root protection area of retained trees have been submitted to and approved- prior to commencement**
- 12. Existing/proposed and Finished Floor Levels to be submitted and approved prior to commencement**
- 13. Provision of Electric Vehicle infrastructure**
- 14. Contaminated land – submission of a phase 2 report - prior to commencement**
- 15. Contaminated land – submission of a verification report**
- 16. Contaminated land – works to stop if any unexpected contamination is discovered on site**
- 17. Contaminated land imported garden soil**
- 17. Breeding birds – mitigation measures**
- 18. Breeding Birds – timing of works**
- 19. Submission of external lighting details**
- 20. In respect of the dwellings - Removal of permitted development rights for all extensions/outbuildings Class(es) A-E of Part 1 and fence/ any means of enclosure forward of any building line Class B of Part 2 Schedule 2 of the Order**
- 21. Piling**
- 22. Notwithstanding submitted plans details of the hard and soft landscaping and car parking layouts to be submitted and approved**
- 23. Implementation of the landscaping scheme**
- 24. The car-parking layout approved as part of condition 22 shall be implemented prior to first occupation**
- 25. Development to be undertaken in accordance with *submitted Bat Mitigation Strategy prepared by SLR dated January 2019 unless varied by a subsequent Natural England license***

26. Residents' Sustainable Travel Information Pack
27. Programme of archaeological work
28. Detailed design and associated management and maintenance plan of surface water drainage (SUDS)
29. Windows on side elevation overlooking 2 Darlington St to be obscured/not opening
30. Notwithstanding submitted plans a landscaping, including replacement tree planting scheme to be submitted/implemented
31. Retail uses scheme of services
32. Retirement living occupation age restriction

In order to give proper effect to the Board`s/Committee`s intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice

Should this application be the subject of an appeal, authority is approved to enter into a S106 Agreement to secure the following:

S106	Amount	Triggers
<b>Affordable housing</b>	£223,591	50% upon 1 <sup>st</sup> occupation. 50% at occupation of the 43 <sup>rd</sup> unit
<b>Education</b>	£81,713	50% Prior to first occupation of any house within the Henderson scheme 50% at occupation of the 18th dwelling.
<b>Retention of retail units to Wheelock St for retail uses (A1 to A5)</b>		Upon 1 <sup>st</sup> occupation of any part of the McCarthy and Stone development
<b>Private Management scheme for all POS on site.</b>		Occupation of 17 <sup>th</sup> house within the Henderson scheme or 1 <sup>st</sup> occupation of McCarthy element
<b>TRO for loading bay on Wheelock ST</b>	£10,000	Commencement of the McCarthy development



