

Application No: 24/4223/FUL  
Application Type: Full Planning  
Location: Land Off Peter De Stapleigh Way, Stapeley, Cheshire East,  
Proposal: Full planning permission for the erection of a retirement living development (category 2 type accommodation) (use class C3); green infrastructure; landscaping; access and associated infrastructure.  
Applicant: (none) , Muller Property Group and McCarthy and Stone Retirement Lifestyles Ltd  
Expiry Date: 24 February 2025

## **Summary**

This application seeks full planning approval for a residential development of 49 retirement living apartments within part of the approved site for a mixed-use scheme granted on appeal by the Secretary of State in July 2020.

The proposed development would nevertheless result in residential development located within “open countryside” beyond the Nantwich Sandbach Settlement Boundary in conflict with policies PG6 of the CELPS and GS1 and H5 of the SBNP and the development plan as a whole. However, the Council is unable to demonstrate a five-year supply of housing and paragraph 11d of the NPPF is engaged.

The NPPF seeks to boost significantly the supply of housing unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This is with particular regard to directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

## **Disbenefits**

- The proposed development would result in residential development with the open countryside located beyond the Nantwich Settlement Boundary
- On site policy compliant affordable housing is not being provided due to scheme viability (albeit as a result of the viability review a financial contribution will be made towards the provision of off-site affordable housing)
- loss of approved mixed-uses including employment within Maylands Park development

## **Benefits**

- The proposal would result in the creation of 49 dwellings which will contribute towards the Council’s 5-year housing land supply.
- The proposal would also go some way to help the Council meet the significant identified need for retirement living units (Class C3) .
- The proposed development will have indirect economic benefits including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.
- Social and health benefits resulting from the provision of retirement living apartments.
- The site is sustainably located given its location on the edge of a Key Service Centre with good accessibility to local services and facilities

- The application site benefits from full consent for commercial development which remains extant. The alternative development of the site for residential development represents an effective use of land.
- The scheme is of a good overall design at this prominent gateway site into the Maylands Park development. Given the urbanised context of the site in this edge of settlement location, this scheme would not be out of character with recent development in locality and at Maylands Park
- Reduction of vehicle movements in comparison to those generate by commercial mixed uses of the approved fallback position (Maylands Park Phase 2 – mixed uses)
- The proposed development will have indirect economic benefits including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

#### Neutral

- The layout and design of the scheme would not harm residential amenity
- The development is considered to be acceptable in terms of its impact upon the highway network.
- The proposals do not result in any significant ecological impacts and is acceptable subject to the imposition of planning conditions
- The proposal would not result in any significant flood risk/drainage issues
- The proposal would not result in an unacceptable impact on air quality with mitigation secured through planning conditions.

Given the findings of the independent viability review, contributions towards healthcare provision, off-site sport/recreation and off-site affordable housing will be secured through a S106 Agreement.

In summary, the development would significantly contribute towards the 5-year housing land supply, including significant identified need for retirement living units, and the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposals when assessed against the policies within the NPPF.

Subject to financial contributions being secured towards mitigating the impact on local services/facilities and towards off-site affordable housing, the proposed development would benefit from the presumption in favour of sustainable development which weighs heavily in support of the proposed development. Therefore, the application is recommended for approval.

#### **Summary recommendation**

**Approve subject to a Section 106 Agreement and the following conditions**

## **1. REASON FOR REFERRAL**

The floor area of the development to be created exceeds the delegated threshold.

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

2.1. The application site occupies part of the mixed-use development approved on land to the south of Peter Destapleigh Way that was granted outline planning approval (12/3747N) on appeal by the Secretary of State on 15th July 2020.

2.2. Reserved Matters approval was granted for the first phase of the mixed-use scheme (22/3170N) and related to a residential development of 188 dwellings, associated

infrastructure and open space and ecological areas. This is located to the west of the application site and Plot 188 of the approved residential development adjoins the south-western site boundary.

- 2.3. Reserved Matters Approval 23/2566N was granted subsequently granted for Phase 2 of the mixed-use development comprising a Local Centre and Employment Development. This residential scheme is proposed to occupy the site of an office building and a group of industrial/warehouse units.
- 2.4. Peter Destaplegh Way and the Cronkinson Farm residential development lie to the north of the site.
- 2.5. An access road was approved (12/3746N) to serve the mixed-use scheme from the existing traffic light junction off Peter Destaplegh Way.
- 2.6. The site is generally flat, former agricultural land.

### **3. DESCRIPTION OF PROPSAL**

- 3.1. This application is one of three planning applications submitted in relation to land forming Phase 2 of the approved mixed-use development within the site known as Maylands Park.
- 3.2. The two other applications relate to the remaining land within Phase 2 of the mixed-use scheme;
  - A full planning application (24/4242/FUL) seeks approval for a residential development of 40 units with associated landscaping and infrastructure. on the opposite (eastern) side of the access road serving the wider site.
  - An outline application 24/4228/OUT for an 80-bed care home relates to land adjoining the eastern boundary of the site and identified to accommodate a primary school. This application is to be considered at a future SPB meeting.
- 3.3. This full application seeks full planning approval for a retirement living scheme of 49 apartments (Class C3). The scheme comprises 28 one-bedroom apartments and 21 two-bedroom apartments. The development proposes accommodation which provides for independent living, suitable for people who can look after themselves and are usually over 60. No additional care or other support services will be provided.
- 3.4. Communal facilities will be provided within the complex including a residents' lounge, an office for the House Manager, battery/pavement car store in the building; secure entrance lobby with CCTV link to individual apartments; 24-hour emergency help line; guest suite; and private grounds and gardens.
- 3.5. Access to the development will be via the access road leading southward from the traffic light junction on Peter Destaplegh Way which was also granted full planning approval (12/3746N) on appeal by the Secretary of State on 15th July 2020. Planning permission (21/1703N) was also subsequently granted for a section of internal spine road leading on from the southern end of the access road to serve the approved mixed-use scheme. This has now been constructed.
- 3.6. A single access point would be located to the west of the spine road, providing access to the proposed retirement scheme which leads to the proposed Care Home Development subject to outline application 24/4228/OUT. The retirement scheme will be served by 36 car parking spaces including 4 disabled bays.

3.7. The development essentially comprises a distinctive, contemporary three-storey set behind a landscaped frontage alongside the main access road into the wider development from Peter Destapleigh Way.

#### **4. RELEVANT PLANNING HISTORY**

23/2566N - Reserved matters application pursuant to outline planning permission ref: 12/3747N for the appearance, scale, layout, and landscaping for Phase 2 mixed-use development including employment development (comprising office and warehouse and light industrial buildings) and local centre with parking, service yards and associated infrastructure. Approved 12th February 2046

22/3170N - Reserved matters application pursuant to outline planning permission 12/3747N for the appearance, scale, layout and landscaping for Phase 1 residential development (Use Class C3) including internal access roads, public open space including NEAP, village green, community orchard and ecological areas, parking and associated infrastructure. Approved 26th May 2023

21/1703N - Full planning application for an internal spine road to serve land South of Peter Destapleigh Way. Approved 24th December 2021

12/3747N - Proposed residential development for up to a maximum of 189 dwellings; local centre (Class A1 to A5 inclusive and D1) with a maximum floor area of 1,800 sq.m Gross Internal Area (GIA); employment development (B1b, B1c, B2 and B8) with a maximum floor area of 3,700 sq. m GIA; primary school site; public open space including new village green, children's play area and allotments, green infrastructure including ecological area; access via adjoining site B (see below) and new pedestrian access and associated works Allowed on Appeal 15th July 2020 (Ref APP/R0660/A/13/2197532)

12/3746N - New highway access road, including footways and cycleway and associated works. Allowed on appeal 15th July 2020 (Ref APP/R0660/A/13/2197529)

#### **5. NATIONAL PLANNING POLICY**

5.1. The National Planning Policy Framework (NPPF) was first published by the Government in March 2012 and has since been through several revisions. It sets out the planning policies for England and how these should be applied in the determination of planning applications and the preparation of development plans. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF is a material consideration which should be taken into account for the purposes of decision making.

#### **6. DEVELOPMENT PLAN POLICY**

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions on planning applications to be made in accordance with the Development Plan unless material considerations indicate otherwise. The Cheshire East Local Plan Strategy (2010 – 2030) was adopted in July 2017. The Site Allocations and Development Policies Documents was adopted in December 2022. The policies of the Development Plan relevant to this application are set out below, including relevant Neighbourhood Plan policies where applicable to the application site.

6.2. Relevant policies of the Cheshire East Local Plan Strategy (CELPS) and Cheshire East Site Allocations and Development Plan Policies Document (SADPD)

- 1.SADPD Policy PG 9: Settlement boundaries
- 2.SADPD Policy GEN 1: Design principles
- 3.SADPD Policy GEN 7: Recovery of planning obligations reduced on viability grounds
- 4.SADPD Policy ENV 1: Ecological network
- 5.SADPD Policy ENV 12: Air quality
- 6.SADPD Policy ENV 14: Light pollution
- 7.SADPD Policy ENV 15: New development and existing uses
- 8.SADPD Policy ENV 16: Surface water management and flood risk
- 9.SADPD Policy ENV 2: Ecological implementation
- 10.SADPD Policy ENV 3: Landscape character
- 11.SADPD Policy ENV 5: Landscaping
- 12.SADPD Policy ENV 6: Trees, hedgerows and woodland implementation
- 13.SADPD Policy ENV 7: Climate change
- 14.SADPD Policy RUR 5: Best and most versatile agricultural land
- 15.SADPD Policy RUR 6: Outdoor sport, leisure and recreation outside of settlement boundaries
- 16.SADPD Policy HOU 1: Housing mix
- 17.SADPD Policy HOU 12: Amenity
- 18.SADPD Policy HOU 13: Residential standards
- 19.SADPD Policy HOU 14: Housing density
- 20.SADPD Policy HOU 15: Housing delivery
- 21.SADPD Policy HOU 2: Specialist housing provision
- 22.SADPD Policy HOU 8: Space, accessibility and wheelchair housing standards
- 23.SADPD Policy INF 1: Cycleways, bridleways and footpaths
- 24.SADPD Policy INF 3: Highway safety and access
- 25.SADPD Policy INF 9: Utilities
- 26.SADPD Policy REC 2: Indoor sport and recreation implementation
- 27.SADPD Policy REC 3: Open space implementation
- 28.SADPD Policy REC 5: Community facilities
- 29.CELPS Policy MP 1: Presumption in favour of sustainable development
- 30.CELPS Policy PG 1: Overall development strategy
- 31.CELPS Policy PG 2: Settlement hierarchy
- 32.CELPS Policy PG 6: Open countryside
- 33.CELPS Policy PG 7: Spatial distribution of development
- 34.CELPS Policy SD 1: Sustainable development in Cheshire East
- 35.CELPS Policy SD 2: Sustainable development principles
- 36.CELPS Policy IN 1: Infrastructure
- 37.CELPS Policy IN 2: Developer contributions
- 38.CELPS Policy SC 1: Leisure and recreation
- 39.CELPS Policy SC 2: Indoor and outdoor sports facilities
- 40.CELPS Policy SC 3: Health and well-being
- 41.CELPS Policy SC 4: Residential mix
- 42.CELPS Policy SC 5: Affordable homes
- 43.CELPS Policy SE 1: Design
- 44.CELPS Policy SE 12: Pollution, land contamination and land instability
- 45.CELPS Policy SE 13: Flood risk and water management
- 46.CELPS Policy SE 2: Efficient use of land
- 47.CELPS Policy SE 3: Biodiversity and geodiversity
- 48.CELPS Policy SE 4: The landscape
- 49.CELPS Policy SE 5: Trees, hedgerows and woodland
50. SE 6: Green infrastructure
51. SE 8: Renewable and low carbon energy
52. SE 9: Energy efficient development
53. CO 1: Sustainable travel and transport
54. CO 2: Enabling business growth through transport infrastructure

55. CO 4: Travel plans and transport assessments

### 6.3. Stapeley & Batherton Neighbourhood Plan (SBNP)

Policies of the Neighbourhood Plan relevant to the consideration of this application are:

Policy GS 1 - Landscape and the Countryside.

Policy GS 2 - Open Space

Policy GS 3 - Woodland, Trees, Hedgerows, Walls, Boundary Treatment and Paving

Policy GS 5 - Environmental Sustainability of buildings and adapting to climate change

Policy GS 6 - Biodiversity

Policy T 1 - General Transport Considerations.

Policy T 2 - Pedestrian and cycle routes.

Policy T 3 - Footpaths, Cycleways and Bridleways.

Policy T 4 - Bus Services

Policy T 5 - Improving Air Quality

Policy T 6 - Identification of underground utility assets

Policy C 1 - Existing and New Facilities

Policy C 2 - New Business

Policy C 3 - Scale, Design and Amenity

Policy AWB 1 - Accessible GP practices

AWB 2 - Services for the elderly, disabled and for mental health.

Policy AWB 3 - Provide for the sports needs of residents

Policy AWB 4 - Community Facilities.

Policy AWB 5 - Communications Infrastructure

H1 - Housing Development.

H2 - Housing to meet Local Housing Needs.

Policy H3 - Tenure Mix.

Policy H4 - Design.

Policy H5 - Settlement Boundary.

## 7. Relevant supplementary planning documents or guidance

7.1. Supplementary Planning Documents and Guidance do not form part of the Development Plan but may be a material consideration in decision making. The following documents are considered relevant to this application:

- Housing SPD
- Developer Contributions SPD
- Biodiversity and Net Gain SPD
- Environmental Protection SPD
- SuDS SPD
- Cheshire East Design Guide SPD

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

8.1. **Environmental Protection:** No objection subject to conditions requiring the remediation of contamination and suitability of imported soils, use of Ultra-low NOx emission boilers, submission of an amended CEMP and implementation of the submitted ravel plan . Standard informatives are recommended relating to hours of construction, Piling, floor floating and dust management.

8.2. **CEC Highways:** No objection.

8.3. **United Utilities:** No objection.

**8.4. Flood Risk:** No objection.

**8.5. Stapeley Parish Council:** Objects and raises the following concerns

- Contradictions in Ecological Appraisal concerning the removal of hedgerows and trees. The arboricultural report references two woodlands, but these are omitted from the ecological appraisal. (NB No trees or hedgerow are being removed from this application site)
- No clear plan for implementing critical recommendations, such as a bat lighting
- Status of existing pond is unclear - will it form part of the attenuation system?
- Lack of public transport and bus service withdrawn (No.73)
- Reference is made to Section 106 contributions of £60,000 for bus services and £30,000 for bus stops on Audlem Road. The Parish Council requests clarification on the status of these funds.
- Clarification required of proposed pedestrian crossings.
- No clear action plan exists to monitor compliance with environmental measures during construction.
- Clarification required of approved hours for construction to prevent disturbances of nearby residents.
- insufficient evidence of meaningful discussions with Cheshire East Council regarding provision of critical infrastructure, such as schools and GP services. Local resources are already under strain and cannot accommodate additional demand.
- lack of amenities within the retirement development. No space allocated for community use, which would allow for resident interaction and engagement with the community.
- Clarity required on funding for the future maintenance of trees, verges, and NEAPs.
- Exacerbate impact on air quality.

**8.6. Housing :** Object. Affordable housing is not proposed within the development where there is a clear policy requirement to do so.

**8.7. NHS -** Comment that there is a requirement for financial contribution of £904 per apartment to mitigate impact on healthcare provision.

## **9. REPRESENTATIONS**

9.1. None received

## **10. OFFICER APPRAISAL**

### *Principle of the development*

10.1. The application site lies outside of the defined settlement boundary for Nantwich and consequently within the area defined as 'open countryside'.

10.2. Consequently, these proposals for residential development do not represent a form of development that would normally be allowed in the open countryside (under Policy PG 6) and represent a departure from the development plan.

10.3. Policy PG6 is consistent with Policies GS1 and H5 of the Stapeley and Batherton Neighbourhood Plan (SBNP) which seeks to restrict housing development in the open countryside in a similar manner. Although Policy H5 states that, "the focus for development will be on sites within or immediately adjacent to the Nantwich Settlement Boundary, with the aim of enhancing its role as a sustainable settlement whilst protecting the surrounding countryside" it adds that, "Outside the settlement boundary any development is subject to

the Cheshire East Local Plan Strategy Countryside Policy PG 6 and other relevant policies of this Plan”

- 10.4. Importantly, in this case, reserved matters applications 22/3170N (phase 1 for residential uses) and 23/2566N (phase 2 for employment, commercial and mixed-uses) in line with the outline consent granted by the Secretary of State have been approved. Therefore, the application site benefits from full consent which remains extant and could be developed in accordance with the permissions already granted.
- 10.5. The proposed development would not comply with the requirements of policy PG6 of the CELPS or Policies GS1 and H5 of the SBNP. The proposal would therefore represent a departure from the Development Plan as a whole. However, planning law requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.6. The National Planning Policy Framework (“NPPF”) requires that planning decisions apply a presumption in favour of sustainable development. As set out at paragraph 11d if there are no relevant development plan policies, or the policies which are most important for determining the proposal are out of date, planning permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is with particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
- 10.7. The NPPF defines that being ‘out of date’ in the context of housing proposals includes situations where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 10.8. Consequently, the Council’s housing land supply position and performance in terms of the housing delivery test are therefore a material consideration to take into account when assessing the benefits arising from housing schemes.

### *Key Issues*

#### **Housing Land Supply**

- 10.9. The Cheshire East Local Plan Strategy was adopted on the 27th July 2017 and forms part of the statutory development plan. The plan sets out the overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing (36,000 new dwellings over the plan period, equating to 1,800 dwellings per annum) in order to meet the objectively assessed needs of the area.
- 10.10. As the plan is more than five years old, deliverable housing land supply is measured using the local housing need figure (plus 5% buffer), which is currently 2,603 dwellings per year rather than the LPS figure of 1,800 dwellings per year.
- 10.11. The National Planning Policy Framework (NPPF) identifies the circumstances in which relevant development plan policies should be considered out-of-date. These include:
- Where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with appropriate buffer) or:
  - Where the Housing Delivery Test Measurement indicates that the delivery of housing was substantially below (less than 75% of) the housing required over the previous three years.



- 10.12. In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council's most recent Housing Monitoring Update (base date 31 March 2024) was published in April 2025. The published report identifies a deliverable five-year housing land supply of 10,011 dwellings which equates to a 3.8-year supply measured against the five-year local housing need figure of 13,015 dwellings.
- 10.13. The 2023 Housing Delivery Test Result was published by the Department for Levelling Up, Housing & Communities on the 12 December 2024 and this confirms a Housing Delivery Test Result of 262%. Housing delivery over the past three years (7,392 dwellings) has exceeded the number of homes required (2,820). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%.
- 10.14. In the context of five-year housing land supply, relevant policies concerning the supply of housing should be considered out-of-date and consequently the 'tilted balance' at paragraph 11 of the NPPF is engaged

### **Sustainable Location and Accessibility**

- 10.15. The site is located on the edge of Nantwich, which is identified by the CELPS as a Key Service Centre. Nantwich as noted within the CELPS, has a good range of local services, (schools, healthcare, public houses, shops, community facilities, sports provision and places of worship etc), access to public transport (rail and bus) and access to employment.
- 10.16. Furthermore In granting outline planning approval (12/3747N) on appeals for the mixed- use scheme, which includes this site, the Secretary of State considered that the mixed-use site to which included significant housing development (188 dwellings – phase 1) to be in a sustainable location and noted that Nantwich is one of the preferred locations for development in the CELPS.
- 10.17. This scheme along with along with Anwyl Homes residential development (24/4242/FUL) would however replace the previously approved employment and local centre. This would result in highly accessible employment and local facilities not being provided at the heart of the wider development area. However, the site is within walking/cycling distance of community hall, retail centre and other amenities within the wider Stapeley neighbourhood
- 10.18. In terms of pedestrian and cycling accessibility the site itself can access a segregated footway / cycleway provided on the northern side of Peter Destaplegh Way. The site is also well placed to access bus services along Audlem Road.
- 10.19. The development site is therefore sustainably located given its location on the edge of a Key Service Centre and would minimise the dependence on the use of the private car.

### **Need for retirement living**

- 10.20. SADPD Policy HOU 2 'Specialist housing provision' supports the delivery of specialist housing where it meets an identified need. It also notes that schemes should contribute to maintaining the balance of housing stock in the locality (i.e. there should not be an over-concentration of specialist housing types in any particular area); and provide easy access to services, community and support facilities including health facilities and public transport.
- 10.21. As set out in the SADPD (para 8.8), there is likely to be a substantial increase in the number of people in older age groups in Cheshire East over the period to 2030. Most of these

older people will already live in the area and whilst many will not move from their current homes, those that do are likely to be looking for suitable housing.

10.22. The Three Dragons report for retirement living apartments submitted in support of this application confirms that a total of 12,435 dwellings for older people should be delivered before the end of the LPS plan period in 2030. Of the total need identified nearly half the 6121 units are for leaseholder sheltered housing.

10.23. The report has also appraised potential demand for specialist retirement housing in 2027, the earliest date at which the retirement scheme is likely to be available. Using two alternative models, it is suggested there will be a required need for either 2,525 or 3,593 sheltered housing units. This demonstrates there is therefore a significant level of need for sheltered (Retirement Living C3) housing across Cheshire East and the proposed scheme of 49 apartments will help address this demand.

### **Efficient Use of Land**

10.24. Policy HOU14 of the SADPD requires residential developments to generally achieve a net density of at least 30 dwellings per hectare. The proposed apartment development would achieve a density of 80 dwellings per hectare.

10.25. The application site already benefits from full consent which remains extant, and this could be developed in accordance with the permissions already granted constituting a deliverable “fall back” position.

10.26. In overall terms it is considered that given the urbanised context of the site in this edge of settlement location, this scheme would not be out of character with recent development undertaken and approved within the locality.

### **Design**

10.27. Policies SD2 and SE1 of the CELPS expect that development proposals consider the wider character of a place in addition to that of the site and its immediate context, to ensure that it reinforces the area in which it is located. These principles are also reflected in the CEC Design Guide.

10.28. The importance of securing high quality design is specified within the NPPF and Policies SE1, SD1 and SD2 of the CELPS, GEN1 of the SADPD and the Cheshire East Design Guide. In particular, development proposals should consider the wider character of a place in addition to that of the site and its immediate context, to ensure that it reinforces the area in which it is located. These principles are echoed by SNP Policy H4 and also reflected in the CEC Design Guide.

10.29. Amended plans have been submitted to the design of scheme during the course of application. These changes have been assessed by the Council's Design Officer, summarised as follows;

- The scheme has been enhanced through an entrance at the NE corner of the building. It is considered that this entrance could be further enhanced through detailing within/around the entrance area (externally and through use of a living roof and potentially walling to help announce it to users) and via external soft landscaping/hardscape. These details can be secured through a planning condition.

- It is noted that the elevations still infer use of quite a pale brick (brindled), its use and the brick type requires careful consideration and materials should be controlled through a condition.
- Previously raised concerns concerning the visual support for the metal clad projecting elements has been addressed by the amendments.
- The appearance of balustrades has been improved as they are proposed in metal rather than glazed.
- As shown elevations/modelling/visualisations, the treatment of verges for brick gabled elements appears simplistic and elevations/modelling/visualisations. It is however considered this can be addressed through a detailing condition.
- The extent of hard surface/car parking has been broken up by inclusion of trees along the western run of parking but there are still further improvements that could be made in terms of the landscaping, including in relation to inclusion of a wider range of SuDS components. Rain gardens are suggested by the Design Officer as ideal bio-retention elements to complement permeable paving within the scheme. Further details of SuDs and the need to deliver a landscape scheme which is more imaginative, positive and usable can be secured through suitably worded conditions,

### Design Conclusion

10.30. Overall, the proposals are considered to be of distinctive and good quality contemporary design in occupying a prominent gateway position at the entrance to the wider Maylands Park Development. The changes to the building's design and detailing have improved the scheme. A number of refinements are still required, these issues can be addressed through suitably worded planning conditions.

## **Highways**

### Background

10.31. It was established under full planning approval 12/3746N (access road) that the access to the mixed-use development known as Maylands Park would be via the traffic light-controlled junction of Peter Destaplegh Way and Pear Tree Field.

10.32. It was established under full planning approval 12/3746N (access road) that the access to the mixed-use development known as Maylands Park would be via the traffic light-controlled junction of Peter Destaplegh Way and Pear Tree Field.

10.33. The detailed junction arrangements for the access road with Peter Destaplegh Way were approved under full planning approval 12/3746N. In addition, there is a separate approval (21/1703N) for the main internal spine road serving the site which connects with the southern end of the approved access road leading to the junction with Peter Destaplegh Way (12/3746N). This route incorporates a cycle way/ footway which provides reasonably direct access from the mixed-use site to the primary school located off Pear Tree Field via pedestrian crossing facilities at the traffic light-controlled crossroads junction.

10.34. Much of this highway infrastructure has been provided and will now be utilised to serve this proposed retirement development as well as Phase 1, the Anwyl residential development of 40 units (24/4242/FUL) and an 80-bed care home (24/4228/OUT).

- 10.35. It should also be noted that the mixed-use development approved on appeal is bound by the terms of the S106 agreement, to secure highway contributions, including financial contribution towards a bus service, provision of new bus stops and for a pedestrian crossing on Peter Destapleigh Way (position to be agreed).

#### Highway Assessment

- 10.36. The access to the site is in the same location as the previously approved access from the spine road to the local centre. The design of this access serving the private car park is acceptable.

#### Parking

- 10.37. A total of 36 car parking spaces are provided, 4 of these being accessible spaces. Although this application is a Class C3 residential development, the trip generation is not typically of residential levels, as residents do not have the same car ownership levels as normal residential properties resulting in lower car parking demand. Whilst there is a shortfall of spaces against CEC recommended standards, the level of car provision is considered acceptable and unlikely to cause overspill parking problems on the local public highway.

#### Traffic Impact

- 10.38. The traffic generation of this proposal needs to be considered against the approved commercial development on the site. The consented retail scheme produced much higher trip generation than this retirement living scheme and results in significantly less traffic generation on the local highway network and is considered by the CEC Highway Officer as beneficial.

#### Summary

- 10.39. The site access design has been previously accepted to serve a much more car intensive commercial development and as such is suitable to serve this retirement living scheme.
- 10.40. There are 36 car parking spaces provided within the private car park with a turning facility provided at the end of the car park. The site is connected to the main spine road by a footway along the site access road and a path to the main entrance to the building.
- 10.41. The Highway Officer advises that the retirement scheme of 49 apartments has a much reduced traffic impact than the previously approved commercial scheme (local Centre), and this results in a net traffic impact benefit on the local road network.

#### **Public Open Space**

- 10.42. CELPS Policy SE6 requires major developments (10 or more) to provide open space in line with Table 13.1 of this policy, including amenity and green space. However, this also advises that in some cases, commuted sums generally may be more appropriate for improvement of other open spaces and green infrastructure connectivity.
- 10.43. The retirement apartments (Class C3) will have private community space although this will not meet the policy quantum of space. However, the retirement development will be accessible through footpath links to the nearby and extensive central areas of POS which will serve the Maylands Park scheme beyond the proposed Care Home site to the west.
- 10.44. In terms of Policy SE6 requirement for outdoor sports contributions, the proposal will increase demand on existing facilities and as such a financial contribution towards off site

provision is required. The financial contribution is £782.27 per bed space in apartments (to a maximum of £1,564.54 per apartment). The funds would be required on commencement of development and used in line with the Council's adopted Playing Pitch and outdoor Sports Strategy.

### **Amenity**

10.45. SADPD policy HOU 13 Residential standards, as set out in Table 8.2 Standards for space between buildings, sets out the required separation distances.

- 21 metres for typical rear separation distance (24m plus 2.5m per additional storey)
- 18 metres for typical frontage separation distance (20m for three-storey buildings)
- 14 metres for a habitable room facing a non-habitable room (the addition of 2.5m per additional storey).

10.46. The retirement development achieves an acceptable relationship with adjoining plots of the approved David Wilson development (Phase 1) as the south western wing of the building has been designed to step down to two-storey height. This part of the building is also set-off the site boundary with adjacent plots by at least 10m ensuring that there will be no adverse amenity impacts including loss of light or overbearing impact.

10.47. In addition, windows of serving apartments will not directly face towards principal windows of plots within phase 1 (including Plot 188 ) and not therefore result in unacceptable overlooking or loss of privacy.

10.48. Whilst the frontage of the scheme will face towards proposed units of the Anwyl scheme situated on the opposite side of the spine road, significant separation distances will be achieved between facing windows of these developments well in excess of those set out in the SADPD.

10.49. In conclusion, the retirement apartment scheme will achieve an acceptable relationship with the approved David Wilson properties to the west and also those proposed under application 24/4242/FUL (Anwyl) which face towards the site across the spine road and intervening landscaping.

### **Healthcare provision**

10.50. The NHS Cheshire and Merseyside ICB request a financial contribution from the developments to offset the impact of the development on local health care provisions and help fund necessary improvements to GP Practices. Importantly, the NHS set out that the current model of primary care provision generally focuses on a shift away from smaller GP practices to larger scale premises that accommodate a range of healthcare services. Consequently,

an operationally efficient primary healthcare facility should accommodate a minimum of 7,000 registered patients.

This contribution equates to £904 per apartment (total £36,120) and calculated on the following basis;

- Population served by surgery = 7,000
- Equivalent number of dwellings (at an average of 2.3 persons per dwelling) = 3,043
- Total cost of required primary care floorspace = £2,752,367
- Contribution cost per dwelling = £904

This contribution per dwelling will contribute to the capital cost of primary healthcare provision. In particular further information has been provided identifying improvements to the following GP Practices;

- Nantwich Health Centre (Tudor Surgery, Kiltearn Medical Centre and Nantwich Health Centre)

- optimisation of existing duplicated rooms (x3 practices in one building) and reception areas to create additional x4 clinical rooms of 1st floor and x3 clinical rooms on 2nd floor – associated costings indicated at £450,000

- 3 storey extension to the rear of the practice – indicative cost circa £2.3 million (including installation of 3rd lift shaft for patient access)

- Wrenbury Medical Practice

- Expansion into car park and creation of 2 storey extension – Landlord feasibility costings advised at £780,000

10.51. However, Muller Property Group disputes the justification for this financial contribution and include a legal opinion to that effect, notwithstanding the additional information provided by the NHS above. It is considered that the approach used is “imposing a blanket per dwelling contribution on new housing development” without specific evidence that justifies the contribution, such as in addressing the existing capacity at the health centres above, nor evidence for why they would be unable to cater for any additional demand on their services resulting from the proposed development. It concludes that they are “adopting an approach that is unsupported by law, policy or evidence and is fundamentally flawed”

10.52. Further comments are awaited from the NHS in response to the issues raised by the legal opinion. It is noted that the initial response from the NHS was not very detailed or specific in its ask. However, following further information submitted by the NHS Officers have continued discussions with the applicants given that similar principles for contributions from the NHS have been secured on many other similar applications. As it currently stands, it is considered that the requested healthcare contribution is fair and reasonable in addressing the impact of the proposed residential development on local healthcare provision.

## **Housing**

10.53. Policy HOU 2 of the adopted Site Allocations and Development Policies document (SADPD) states that affordable housing provision is required for specialist housing, where independent dwellings are formed. As this development will provide 49 retirement living dwellings, the 28 x 1 bedroom and 21 x 2-bedroom apartments will trigger the need for the provision of affordable dwellings.

10.54. The Councils adopted Housing Supplementary Planning Document (HSPD) and Policy SC5 (affordable homes) in the Cheshire East Local Plan Strategy (CELP) sets out the thresholds for affordable housing provision in the borough. In this case 30% of all units are to be affordable on-site dwellings.

10.55. The HSPD also states that the tenure mix split the Council requires is 65% social or affordable rented units and 35% affordable intermediate units. This means that 10 social or affordable rented and 5 affordable intermediate tenure properties should be provided.

10.56. In this case the proposals do not include policy compliant affordable housing within the scheme on viability grounds. As set out in the HSPD, in such circumstances the developer is required to submit an open book viability assessment which will be subject to an independent review.

## **Viability Assessment**

- 10.57. A Financial Viability Appraisal (FVA) prepared by Alder King has been submitted in support of the application as outlined below and has been independently appraised on behalf of the Council by consultants Keppie Massie.
- 10.58. In conclusion, the lack of the policy compliant affordable housing contribution counts against this application and does not comply with the Development Plan in this regard.
- 10.59. The FVA prepared by Alder King concludes that there is “no financial headroom available for planning obligations”. In this case, this would include the provision of on-site policy compliant affordable housing and also the requested NHS financial contribution to mitigate healthcare impact (£44,264).
- 10.60. Keppie Massey has undertaken an independent review of each of the inputs into the FVA appraisal, including estimated development costs, and determined whether they are reasonable for the purpose of assessing viability in this case. Keppie Massie’s review has concluded the application scheme could support a S106 contribution of **£328,500**. This sum could therefore be used to provide a contribution in lieu of on-site affordable housing together with other S106 contributions
- 10.61. In addition, Keppie Massie advise, *“ that should the council be minded to accept a reduced planning contributions package, then in accordance with the relevant SPD we recommend that provision for an overage calculation be included in the S106 agreement. This would allow for a reassessment of the viability position at a future point in the development programme.”*
- 10.62. It is understood that the applicant is considering the findings of Keppie Massie’s report and confirmation is awaited whether they are willing to enter into a S106 Agreement to secure the identified financial contribution and also to enable the future re-assessment of development’s viability.

### **Ecology**

- 10.63. There are various ecology matters to consider. These are broken down into the following subsections and assessed accordingly. Additional information and in respect of ecological issues and Biodiversity Net Gain (BNG) has been provided during the course of the application.

#### Mandatory Biodiversity Net Gain

- 10.64. The application is subject to Mandatory Biodiversity Net Gain. The BNG metric submitted in support of the application indicates that the proposed development would result in a net gain of 10.65% in respect of Area Based habitats and a net gain in respect of hedgerows.
- 10.65. However, the Council’s Ecologist considers that the submitted BNG information is insufficient to inform the determination of the application and further supporting information is required. Updated BNG documents have been submitted, and these are currently being assessed by the Council’s Ecologist.

#### Great Crested Newts

- 10.66. This protected species is known to breed at a number of ponds within close proximity of the proposed development. In the absence of mitigation, the proposed development would result in the loss of lower value terrestrial habitat in the form of grassland habitats and

moderate value habitat in the form of hedgerows and would pose the risk of injuring and killing any newts present on site during site clearance works.

10.67. It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to the Habitat Regulations when determining this application. The Habitats Regulations only allow planning to consent to be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

10.68. In this case, the applicant's ecological consultant has confirmed that the site is covered by an extant Natural England protected species licence. However, confirmation from the applicant is awaited as regards whether newts are currently excluded from the footprint of the development by means of an intact amphibian fence.

#### Common Toad

10.69. This priority amphibian species is also likely to be present on site. The proposed development would also result in an adverse impact upon this species. However, mitigation and compensation measures to address the impacts of the proposed development upon great crested newts would also minimise the risk to this species.

#### Badgers

10.70. The submitted Badger report advises that whilst evidence of badger activity was recorded on site, no active setts are present. It is advised that the proposed development would result in a minor adverse impact on badgers as a result of the loss of potential foraging habitat.

10.71. As the status of badger activity can change is a short time scale, the Councils Ecologist recommends that if planning consent is granted a condition must be attached to ensure that an updated badger survey is undertaken prior to commencement.

#### Bats

10.72. The proposed development will not result in the loss of any potential bat roosting habitat or significant foraging habitat.

#### Lighting

10.73. To avoid any adverse impacts on bats resulting from any lighting associated with the development it is recommended that a condition is attached requiring any additional lighting to be agreed with the LPA.

#### Barn Owls

10.74. The grassland habitats on site may offer potential for foraging barn owls and evidence of barn owl presence was recorded incidentally during the ecological surveys on the wider site. No evidence of this species roosting on site was recorded during the surveys of the trees off site. It is advised that the proposed development may potentially have a minor impact upon barn owls due to the loss of potential foraging habitat.



## Reptiles

- 10.75. Reptile species are not reasonable likely to be present or affected by the proposed development

## Hedgehogs and Brown Hare

- 10.76. Hedgehogs and Brown Hare are a priority species and hence a material consideration. No evidence of these species was recorded onsite, but the species may occur on site on a transitory basis. It is advised that the proposed development poses a low risk to this species. The Council's Ecologist recommends that a condition is imposed requiring the implementation of measures to minimise the risk of these species being harmed during works on site as detailed in paragraph 4.2.24 of the submitted Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment prepared by ECUS dated September 2024.

## Ecological enhancement

- 10.77. This planning application provides an opportunity to incorporate features to increase the biodiversity value of the development in accordance with Local Plan Policy SE 3. It is therefore recommended that a condition should be attached which requires the submission of an ecological enhancement strategy.

## **Trees**

- 10.78. Policy SE5 advises that proposals should look to retain existing trees/hedgerows that provide a significant contribution to the area and where lost replacements shall be provided. Policy ENV 6 advises that development proposals should seek to retain and protect trees, woodlands and hedgerows.
- 10.79. An Arboricultural Impact Assessment has been submitted in support of this application and adjacent sites for proposed residential development (24/4242/FUL) and care home development (24/4228/OUT). However, the Council's Forestry Officer advises that there are no trees within the site, and consequently no significant arboricultural implications having regard to the development of this site.

## **Air Quality**

- 10.80. 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. SNP Policy T5 (Improving Air Quality) echoes these objectives and also set out the required details of Air Quality Assessments.
- 10.81. Air quality impacts have been considered within the air quality assessment submitted in support of the application. This also relates to the wider development on the site which includes the proposals for a care home and residential scheme of 40 dwellings.
- 10.82. The report concludes that a detailed assessment into the impacts of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> during the operational phase is not required in accordance with EPUK and IAQM criteria based on the predicted development flows, and overall, the impact on local air quality will be not significant.
- 10.83. The Council's Environmental Protection Officer accepts the findings of the air quality assessment of the report, but to still ensure that local air quality is not adversely impacted for existing and future residents, conditions are recommended requiring the implementation of the residents travel plan and use of ultra-low emission boilers. In addition, electric vehicle

infrastructure will be required to be provided on site in accordance with the specifications set out in The Building Regulations.

## **11. PLANNING BALANCE/CONCLUSION**

11.1. The proposed development would result in residential development located beyond the Nantwich Sandbach Settlement Boundary in conflict with policies PG6 of the CELPS and GS1 and H5 of the SBNP and the development plan as a whole . However, the Council is unable to demonstrate a five-year supply of housing and paragraph 11d of the NPPF is engaged.

11.2. The NPPF seeks to boost significantly the supply of housing unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This is with particular regard to directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

### Disbenefits

- The proposed development would result in residential development with the open countryside located beyond the Nantwich Settlement Boundary
- On site policy compliant affordable housing is not being provided due to scheme viability (albeit as a result of the viability review a financial contribution will be made towards the provision of off-site affordable housing)
- loss of approved mixed-uses including employment within Maylands Park development

### Benefits

- The proposal would result in the creation of 49 dwellings which will contribute towards the Council's 5-year housing land supply.
- The proposal would also go some way to help the Council meet the significant identified need for retirement living units (Class C3) .
- The proposed development will have indirect economic benefits including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.
- Social and health benefits resulting from the provision of retirement living apartments.
- The site is sustainably located given its location on the edge of a Key Service Centre with good accessibility to local services and facilities
- The application site benefits from full consent for commercial development which remains extant. The alternative development of the site for residential development represents an effective use of land.
- The scheme is of a good overall design at this prominent gateway site into the Maylands Park development. Given the urbanised context of the site in this edge of settlement location, this scheme would be of not be out of character with recent development in locality and at Maylands Park
- Reduction of vehicle movements in comparison to those generate by commercial mixed uses of the approved fallback position (Maylands Park Phase 2 – mixed uses)
- The proposed development will have indirect economic benefits including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

### Neutral

- The layout and design of the scheme would not harm residential amenity
- The development is considered to be acceptable in terms of its impact upon the highway network.

- The proposals do not result in any significant ecological impacts and is acceptable subject to the imposition of planning conditions
- The proposal would not result in any significant flood risk/drainage issues
- The proposal would not result in an unacceptable impact on air quality with mitigation secured through planning conditions.

11.3. Given the findings of the independent viability review, contributions towards healthcare provision, off-site sport/recreation and off-site (in lieu of on-site) affordable housing should be secured through a S106 Agreement.

11.4. In summary, the development would significantly contribute towards the 5-year housing land supply, including significant identified need for retirement living units, and the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposals when assessed against the policies within the NPPF.

11.5. Subject to financial contributions being secured towards mitigating the impact on local services/facilities and towards off-site affordable housing, the proposed development would benefit from the presumption in favour of sustainable development which weighs heavily in support of the proposed development. Therefore, the application is recommended for approval.

## 12. CIL REGULATIONS

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

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fair and reasonably related in scale and kind to the development.

12.2. It is considered that the contributions required as part of the application are justified meet the Council's requirement for policy compliance. All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development. On this basis the scheme is compliant with the CIL Regulations 2010.

## 13. RECOMMENDATION

**Approve subject to a Section 106 Agreement and the following conditions**

S106	Amount	Trigger
Affordable Housing	Financial Contribution towards off-site Affordable housing provision TBC	Upon occupation of 20 <sup>th</sup> Apartment
NHS Healthcare	A financial contribution of £44,296 (£904 per apartment) TBC  Calculated on following basis:  - Population served by surgery = 7,000	Upon occupation of 20 <sup>th</sup> apartment

	<ul style="list-style-type: none"> <li>- Equivalent number of dwellings (at an average of 2.3 persons per dwelling) = 3,043</li> <li>- Total cost of required primary care floorspace = £2,752,367</li> <li>- Contribution cost per dwelling = £904</li> </ul> <p>TBC</p>	
Contribution to outdoor sports facilities	<p>£55,108.90</p> <p>The financial contribution is calculated at £782.27 per bed space in apartments (to a maximum of £1,574.54 per apartment). The funds would be required on commencement of development and used in line with the Council's adopted Playing Pitch and outdoor Sports Strategy.</p>	Upon occupation of 20 <sup>th</sup> Apartment
Overage calculation	<p>Reassessment of the viability position at a future point in the development programme.</p> <p>TBC</p>	Prior to commencement of development

And the following conditions.

1. Standard 3-year consent
2. Approved Plans
3. Materials
4. Full hard and soft landscape details
5. Implementation of landscaping
6. Submission of details for the treatment of verges of brick gabled elements and design of entrance (North east corner)
7. Details for the incorporation of Suds features
8. Details of levels
9. Submission of amended Construction Environmental Management Plan (CEMP)
10. Use of Ultra-low emission boilers
11. Implementation of Residents travel plan
12. Approval of a contaminated land remediation strategy
13. Contaminated land - Submission of updated Phase II ground investigation and risk assessment and remediation strategy if necessary.
14. Contaminated land verification report
15. Soil tests for contamination
16. Measures to deal with unexpected contamination
17. Submission of an ecological enhancement strategy.
18. Details of lighting to safeguard bats
19. Implement Hedgehog and Brown Hare Mitigation measures

20. Submission of updated badger survey prior to commencement.

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

