

APPLICATION NO: 24/4223/FUL

LOCATION: Land Off Peter De Stapleigh Way, Stapeley

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.

APPLICANTS SUBMISSION

The applicant has provided several comments in response to the committee report:

- The CEMP has been updated to change the site working hours in line with environmental protections request. Under Condition 9 the amended CEMP can be treated as a document for approval.
- The Comments raised by Stapeley Parish Council have been previously addressed (in a letter dated 13 February 2025) and summarised below:
 - *The ecology and arb reports have been updated to align tree/hedgerow referencing. (NB there are trees on this site)*
 - *A condition will be secured in relation to a lighting plan which is sensitive to bats and other ecological receptors.*
 - *A large SUDS feature was created as part of the original permission on the site. This was designed to accommodate surface water for the approved residential elements as well as the local centre and employment uses. Therefore, sufficient storage capacity has been created in the water feature to the west and these schemes should be seen as part of a wider masterplan which is in the process of being delivered to the west. A holistic approach to planning is sensible in this case and the Council's attention is drawn to the overall context.*
 - *The site is in a sustainable location, on the edge of the settlement with extensive services in walking and cycling distance of the site.*
 - *The S106 contributions for the previously consented development will be paid by the development partner (DWH) delivering the contributions secured as part of that scheme. This includes the delivery of pedestrian crossings.*
 - *There will be no construction works on weekend or bank holidays, unless prior agreed with CEC in exceptional circumstances.*
 - *The capacity of local services has been identified as part of the planning process.*
 - *Trees, verges and play areas within communal areas will be managed via a management company. Any trees or verges within highways land will be adopted by CEC as part of S38 procedures.*

- *Vehicular movements actually reduce significantly between the consented commercial uses and the proposed developments, the levels of traffic flow differences have been highlighted in application documents. Therefore, the impacts to local air quality would actually reduce when comparing the fallback position and the proposals.*
- Policy SC5 'Affordable homes' allows Applicants to present a viability assessment if a scheme is unable to provide a policy compliant level of affordable housing. There is no conflict with Policy SC5.
- Highlighted design matters can be addressed by suitably worded planning conditions.
- The applicant's position in relation to viability is stated in full as follows :

"Alder King, on behalf of McCarthy and Stone, have prepared a rebuttal to Keppie Massie's viability review. This has reduced the deficit in their appraisal by circa £350,000 from £418,000 to £70,000. The revised appraisal includes compromises on 2 out of the 3 main areas of difference, namely the land value and professional fees. To close these two points off, Keppie Massie's figures have been used. The other outstanding difference is build costs where McCarthy & Stone must retain with the use of median quartile BCIS. The Keppie Massie figure is from their internal QS and is in line with the lower quartile BCIS. The narrative in the rebuttal addresses this.

In summary, McCarthy and Stone's position remains that the scheme is unviable to make any S106 contributions.

However, the application is made in joint names and the landowner, Muller Property Group, are willing to act reasonably with CEC on this matter and are willing to offer a gesture of goodwill on the basis of commercial expediency to reach the proposed S106 request of £328,500 and a settlement in the matter on the basis that there is no requirement for an overage calculation (given the absence of an agreed viability position to base any future reassessment upon). This offer is available for Planning Committee next Wednesday and should the Council refuse the planning application then the joint applicants reserve their right to review the viability situation through any appeal process".

- Ecology : The BNG metric has been provided to address officer comments.
- There is a need to deliver the access road as soon as possible once a decision is released and wording of pre-commencement conditions need to permit construction of the access road and enabling works.

OFFICER COMMENT

The comments from the applicant's agent are noted, and where necessary are addressed below further to the consideration of additional information and consultee responses.

KEY ISSUES

Ecology

Updated comments have been received from the Council's Ecologist following consideration of revised BNG information being submitted in support of this application and that amphibian exclusion fencing is in place around the site.

Mandatory Biodiversity Net Gain

The application is subject to Mandatory Biodiversity Net Gain. The revised BNG metric submitted in support of the application indicates that the proposed development would result in a net gain of 18.15% in respect of Area Based habitats and a net gain in respect of hedgerows.

The Council's Ecologist advises that although no condition assessments have been submitted in respect of the existing habitats on site., the condition of the existing site is however likely to be accurate.

The proposed landscape plan and proposed habitats entered into the BNG metric includes the planting of a number of 'individual trees' trees within areas also proposed to be planted with scrub. However, the Council's Ecologist considers that at in reality the proposed individual tree planting will be rapidly lost within the surrounding scrub planting as it matures and unrecognisable as individual trees. Substituting the proposed native scrub planting for 'other neutral grassland' in moderate condition, delivers the same BNG benefits as scrub, but avoids the conflict between the tree planting and scrub. The Councils Ecologist therefore advises that then submitted landscape plan be revised to include this change and this can be secured through the recommended planning condition requiring the submission of hard and soft landscape details .

The Council's Ecologist recommends that two further conditions be attached. The first of these conditions being the mandatory BNG condition introduced through the Environment Act. The second is required to secure the submission and implementation of a detailed habitat management plan and the recommendation will be amended accordingly.

Great Crested Newts

This protected species is known to breed at a number of ponds within close proximity of the proposed development.

The applicant's ecological consultant has confirmed that the site is covered by an extant Natural England protected species licence and that amphibian exclusion fencing is in place around the site. the Councils Ecologist advises that the proposed development would not be likely to result in an offence in respect of this species.

NHS

Further comments have been received from the NHS Cheshire and Merseyside ICB in response to the issues raised by the Legal Opinion disputing the justification for the requested NHS financial contribution.

The NHS reaffirms its position that the calculated contribution is required for improving the physical infrastructure of the primary care services within the patient catchment area of this development to ensure the needs of the increased population are met. In particular, the NHS response set out that the contribution is required to ensure GP Practices that are at capacity with their patient provision, such as in the amount of sessions and appointments which can be accommodated within their existing space, are improved to mitigate the impact of this development. The NHS maintain that the requested capital funds will therefore be utilised to reconfigure and redevelop the Nantwich Heath Centre and Wrenbury Medical Centre as previously detailed and set out in the report.

It therefore remains the position that the requested healthcare contribution is considered fair and reasonable in mitigating the impact of the proposed residential development on local health care provision.

Flood risk/Drainage

The submitted surface water drainage strategy proposes to capture surface water within each parcel and discharge it into the drainage system which was approved to serve phases 1 and 2 of the mixed-use development. The LLFA and United utilities raised no objections in principle to the and the proposed Drainage Strategy supporting Reserved Matters Approvals.

The LLFA acknowledge this site is part of a larger scheme at Maylands Park and elements of SuDS provision are included elsewhere within the designed scheme. However, it is considered that SuDS features should still be provided within this residential site as part of the drainage system and could include rain gardens or tree pit planters in addition to parking spaces being permeable.

Condition 12 is recommended to require the submission and approval of SuDs features within the scheme. It is however recognised by the LLFA that Suds provision will be subject to the ground conditions and what is feasible based on these. Therefore, as proposed by the applicant, it is recommended that condition 12 will require that a revised drainage strategy must be provided which incorporates SuDs, subject to their suitability based on detailed ground investigations.

Environmental Protection – CEMP

The submitted Construction Environmental Management Plan (CEMP) has been amended to ensure site working hours accord with those required by the Council's Environmental Health Officer. It is recommended that Condition 9 is amended to require the development to be implemented in accordance with the approved CEMP.

Viability / S106 Contributions

Further to the independent review of the submitted financial viability appraisal by Keppie Massie, a rebuttal prepared by Alder King on behalf of the applicants has been received. This disputes Keppie Massie's findings and concludes that the "proposed scheme continues to be non-viable with a deficit of c £70,000". It is also

McCarthy & Stones position that scheme remains unviable and cannot sustain any S106 contributions.

Notwithstanding this, the Muller Property Group (joint applicant) states that on the “basis of commercial expediency” it is willing to accept the findings of the Keppie Massie review that the application scheme can support a Section 106 financial contribution of £328,500. This is also subject to there being no requirement for an overage calculation due to the “absence of an agreed viability position to base any future reassessment upon”.

The recommendation will therefore require a S106 contribution of £328,500 being obtained from the development, with following amounts being secured upon the occupation of the 20th Apartment of the approved scheme.

- Off-site Affordable Housing (in lieu of on-site provision) £229,095.00
- NHS healthcare £44,296.00
- Outdoor sport facilities £55,108.90

Conditions

Further to the applicant's request, pre-commencement conditions have been kept to a minimum. These conditions are recommended to address fundamental matters in relation to the development of the site and include;

- Condition 12: Approval of a contaminated land remediation strategy-
- Condition 7: Revised drainage strategy to incorporate Sustainable Drainage Systems measures
- Condition 8: Details of levels
- Condition 19: Submission of updated badger survey prior to commencement
- Condition 20: Submission and implementation of a detailed habitat management plan

In accordance with the NPPF (paragraph 57) the use of these conditions is considered necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

CONCLUSION

As set out above, the recommendation has been updated to clarify the contributions to be secured by the S106 Agreement, and also the inclusion of additional and amended planning conditions.

RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to Secure:

S106	Amount	Trigger
Affordable Housing - In lieu of on-site provision	financial Contribution of £229,095 towards off-site Affordable housing provision	Upon occupation of 20 th Apartment
NHS Healthcare	<p>A financial contribution of £44,296</p> <p>(£904 per apartment)</p> <p>TBC</p> <p>Calculated on following basis:</p> <ul style="list-style-type: none"> - 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 <p>TBC</p>	Upon occupation of 20 th apartment
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</p>	Upon occupation of 20 th Apartment

	Playing Pitch and outdoor Sports Strategy.	

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. Revised drainage strategy to incorporate Sustainable Drainage Systems measures, subject to their suitability based on detailed ground investigations.
8. Details of levels
9. Implementation of approved 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 verification report
14. Soil tests for contamination
15. Measures to deal with unexpected contamination
16. Submission of an ecological enhancement strategy.
17. Details of lighting to safeguard bats
18. Implement Hedgehog and Brown Hare Mitigation measures
19. Submission of updated badger survey prior to commencement
20. Submission and implementation of a detailed habitat management plan

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.