

Application No: 17/0339N

Location: Land to the north of Little Heath Barns, Audlem Road, Audlem

Proposal: Erection of retirement living housing (category II type accommodation), communal facilities, landscaping and car parking

Applicant: McCarthy & Stone Retirement Lifestyles Ltd

Expiry Date: 05-Jul-2017

## **SUMMARY**

On 27th July the Council adopted the Cheshire East Local Plan Strategy therefore the Council have demonstrated that they have a 5 year supply of deliverable housing sites.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.” The National Planning Policy Framework, which is the Secretary of State’s guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means “approving development proposals that accord with the development plan without delay”

In this instance the proposed development would be technically contrary to Policies PG6 of the Adopted Cheshire East Local Plan and saved policy RES.5 of the Crewe and Nantwich Local Plan given that the development would result in a loss of open countryside. However material considerations exists as the principle of residential development of the site has already been established by approval of 13/2224N.

The main dis-benefit of the proposal is the failure to provide the required contribution towards affordable housing. Although the applicant has provided a viability report suggesting that the scheme would not be able to provide a contribution and would see a deficit of -£218,664, the Council have had this independently assessed which concludes that the scheme could in fact could provide a contribution of plus £586,727.

The benefits of the proposal would be the provision housing for the elderly to meet a national shortfall and economic benefits through the usual economic benefits during contraction and through the spending of future occupiers.

The development would have a neutral impact upon protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

Applying the tests within paragraph 14 it is not considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development does not constitute sustainable development and should therefore be refused.

## **RECOMMENDATION**

### **MINDED TO REFUSE**

The applicant has applied for non determination of the planning application. Therefore as part of the appeal process, the Local Planning Authority has to inform the inspector what their intended recommendation would have been. The purpose of the following report is therefore to consider what decision the Council would have been minded to recommend.

## **REFERRAL**

The application has been referred to Southern Planning Committee because it is a major development and a departure from the development plan as it is situated outside of the settlement zone line for Audlem.

## **PROPOSAL**

This is a full application for the erection of retirement living housing (category II type accommodation), communal facilities, landscaping and car parking.

The proposal includes a cluster of buildings in an L shaped design with car parking to the west and a landscaped garden to the east.

Vehicular access would be taken from an existing access point Audlem Road with a pedestrian access also taken off Audlem Road to the south-eastern boundary.

Existing hedging is being shown as retained on the eastern boundary.

## **SITE DESCRIPTION**

The proposed site is former agricultural land, situated on the northern edge of the village of Audlem. It forms part of a wider site to the north and west which has gained planning permission for the erection of 120 dwellings and construction works have now commenced.

A row of four recently constructed terraced properties at Little Heath Barns, are orientated side on to the site boundary. A combination of garden fences and mature vegetation form the boundary at the south of the site.

The wider site to the north and west is now under construction.

## **RELEVANT HISTORY**

13/2224N - Proposed residential development of up to 120 dwellings, highway works, public open space and associated works – Appeal against non-determination – Appeal Allowed 7th January 2015

13/3746N - Proposed residential development of up to 120 dwellings, highway works, public open space and associated works. (Resubmission) – Refused 6th March 2014

16/1131N - appearance, landscaping, layout and scale of outline permission for up to 120 dwellings (outline ref: 13/2224n) – approved 21st October 2016

16/5503N – Non material amendment to 16/1131N to move the affordable units – Planning permission required 13-Dec-2016

16/6085N – Variation of Condition 1 (approved plans) of 16/1131N appearance, landscaping, layout and scale of outline permission for up to 120 dwellings – approved 10-Mar-2017

16/6077D – Approval of conditions 2 (lighting), 3 (landscape), 4 (landscape), 5 (boundary treatment), 6 (materials), 7 (play equipment) & 8 (bins) on approval 16/1131N - appearance, landscaping, layout and scale of outline permission for up to 120 dwellings (outline ref: 13/2224N) – approved 06-Mar-2017

16/6152D – Discharge of Conditions 5 (contaminated land), 6 (drainage), 8 (arboriculture method statement), 9 (habitat management), 10 (Environmental management plan), 11 (levels) & 12 (bus stop) on approved application 13/2224N - Residential development of up to 120 dwellings, highway works, public open space and associated works – approved 02-Mar-2017

17/0243D – Discharge of condition 13 (affordable housing) on application 13/2224N – approved 27-Mar-2017

Variation of the approved planning layout from ah066/01 rev 25 to ah066/01 rev 29 on existing permission 16/1131n; approval of reserved matters appearance, landscaping, layout and scale of outline permission for up to 120 dwellings (outline ref: 13/2224n) – Not determined at the time of writing the report

## **IMPACT ON THE APPROVED SCHEME**

The wider site has gained planning approval for the erection of 120 dwellings including 36 affordable units. This included 11 dwellings (3 of them affordable units) on the location of the current application site.

The current application seeks consent for the erection of 25 apartments in place of the approved 11 dwellings (including 3 affordable units). This would result in a net increase in the number of units proposed by 14.

The number of units would be reduced on the wider site by 11 (including 3 affordable units) resulting in a development of 109 dwellings which requires 33 affordable units, which still equates to 30% affordable housing and thus the approved scheme would remain policy compliant, despite the loss of units.

However as the application has been submitted with its own site edged in red, including just the area to be developed, the application needs to be assessed independently on its own individual merits.

## **NATIONAL & LOCAL POLICY**

## **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

Development Plan

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

The following are considered relevant material considerations as indications of the Adopted Local Plan Core Strategy:

PG2 – Settlement Hierarchy

PG6 - Open Countryside

PG7 – Spatial Distribution of Development

SC4 – Residential Mix

SC5 – Affordable Homes

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE3 – Biodiversity and Geodiversity

SE5 – Trees, Hedgerows and Woodland

SE 1 - Design

SE 2 - Efficient Use of Land

SE 4 - The Landscape

SE 5 - Trees, Hedgerows and Woodland

SE 3 - Biodiversity and Geodiversity

SE 13 - Flood Risk and Water Management

SE 6 – Green Infrastructure

IN1 – Infrastructure

IN2 – Developer Contributions

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

NE.5 (Nature Conservation and Habitats)

NE.8 (Sites of Local Importance for Nature Conservation)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

BE.6 (Development on Potentially Contaminated Land)

RES.5 (Housing in the Open Countryside)

## **Audlem Neighbourhood Plan (ANP)**

The Audlem Neighbourhood plan was made on 12th April 2016 and the following policies are relevant to this application;

H1 – Number of New Homes  
H2 – Redevelopment of Infill Land and Brownfield Land  
H3 – Scale of New Development  
H4 – Size of Homes  
H5 – Type of Homes  
H6 – Affordable Housing  
H7 – Tenancy Mix  
D1 – Character and Quality  
D2 – Size and Space  
D3 – Position and Topography  
D7 – Efficiency and Sustainability  
D8 – Retaining Green Space and Encouraging Nature Conservation  
D9 – Planting  
D10 – Drainage  
D11 – Residential Parking  
D12 – Road Widths  
D13 – Safe Access  
D14 – Storage Space

**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  
Development on Backland and Gardens  
Cheshire East Design Guide

**CONSULTATIONS**

**CEC Highways:** No objection

**CEC Flood Risk Manager:** No objection subject to condition requiring a drainage strategy

**CEC Environmental Health:** No objection subject to conditions/informatives regarding lighting, travel pack, electric vehicle charging points, working hours and contaminated land

**CEC Housing:** Objection as the proposal would require x8 affordable units or a contribution of £665,900 towards local housing schemes

**CEC ANSA:** No objection subject to contribution of £9,000 for green gym facilities

**CEC Public Rights of Way (PROW):** No objection subject to advisory notes to the applicant

**NHS England:** No response received at the time of writing the report

**United Utilities:** No objection subject to foul and surface water drainage and drainage strategy

## **VIEWS OF AUDLEM PARISH COUNCIL**

Objection on the following grounds:

### Affordable housing policies in the Local Plan

The proposal would result in a loss of 3 affordable units from the approved scheme at the site thus would be contrary to relevant affordable housing policies

### Errors and omissions in the documentation submitted by the Applicant

Page 7 of supporting statement Location - The photograph narrative says the site is opposite 74 & 76 Heathfield Road. It is actually opposite an open field and not part of the built up area.

Page 8 of supporting statement Local character - There is no 'Little Heath Farm shop or other local independent businesses' along Audlem Road to the south of the proposed site. The area is residential until the village centre is reached. The Little Heath Farm Shop is again - erroneously – as shown on the map on Page 9.

On Page 13 of supporting statement all of the identified buildings are wrongly named, giving a totally incorrect impression of, for example, the distance from the site to Audlem Medical Practice which is said to be 0.3 miles away “just a 15-minute walk”.

Page 4 transport statement disagree with the statement “there is no obvious lack of “much needed family housing”

Page 4 of the transport statement disagree that the site is “in a central location”

### Sustainability/location

Question the accuracy of the sustainability of the site and the distances quoted to local services given that occupants would be slower and less mobile

### Contrary to policies in the ANP

Contrary to Policy H1 Number of New Homes as the proposal is in excess of those granted on 27<sup>th</sup> April 2015 and does not accord with other policies in the plan

Contrary to Policy H3 Scale of New Development as the proposal is greater than 10 dwellings and not commensurate with the village

Contrary to Policy H4 Size of homes as the supply of affordable housing was paramount to ensure that the village continues to retain and attract young families

Contrary Policy H6 Affordable Housing not providing 30% affordable and no viability put forward

Contrary Policy H7 Tenancy Mix as the proposal would result in the loss of affordable homes secured by previous permission and would not provide required tenancy split

Contrary Policy D1 Character and Quality as the proposal is urban in appearance and material do not match the area, does not retain views or provide required privacy distances

Contrary Policy D10 Drainage as the area is known for flooding and the drainage report was carried out at the wrong time of year

Contrary Policy D11 Residential parking as not enough parking is provided

Contrary Policy D13 Safe Access as residents would have to walk to Audlem and bus stops, reliance on cars would reduce sustainability of the village as users would shop elsewhere

Contrary Policy CW3 Infrastructure Support as the proposal would put pressure on the existing medical centre

Contrary Policy CI1 Infrastructure as the proposal would put pressure on existing medical facilities therefore a financial contribution is required

## **REPRESENTATIONS**

31 letters of objection received regarding the following:

- Insufficient parking for residents and visitors
- Contrary to the ANP and Local Plan
- No affordable housing poor design/not in-keeping with the village/visually dominant
- Too far from the village/not sustainable/not taking into account older people would take longer to reach local services
- Pavements inadequate/no safe pedestrian route to the village
- Impact on existing infrastructure such as medical centre
- Contrary to the appeal decision
- Traffic generation has been understated
- Will increase the number of dwellings to 135
- No need for this type of accommodation

10 letters of support received regarding the following:

- This type of accommodated is needed in the village
- High standard of living provided
- Generally good standard of finish

4 letters that are neutral offering no objection

South Cheshire Clinical Commissioning Group

The proposal will put further pressure onto Audlem Medical Practice therefore a 106 Contribution of £14,100 is sought which would part fund an extension to the existing practice.

## **APPRAISAL**

## **Principle of Development**

The site lies largely in the Open Countryside as designated by the Adopted Cheshire East Local Plan, where policy PG6 states that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Exceptions may be made where there is the opportunity for limited infilling in villages; the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere, affordable housing or where the dwelling is exceptional in design and sustainable development terms.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “in accordance with the plan unless material considerations indicate otherwise”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

In this instance a material consideration exists as the principle of residential development of the site has already been established as part of approved application 13/2224N which gained consent for the erection of 120 dwellings.

## **Audlem Neighbourhood Plan**

Audlem Parish Council has submitted a comprehensive objection to the proposals.

Policy H1 relates to the number of new homes and advises that development in the settlement boundary in excess of those approved 27<sup>th</sup> April 2015 will be permitted where it accords with other policies within the ANP. The proposed development is sited within the settlement boundary therefore the development is acceptable in principle in terms of the ANP subject to meeting other policies which are assessed below.

Contrary to Policy H3 relates to the Scale of New Development and advises that proposals will normally be limited to 10 properties on a scale commensurate with the village. Exceptions include development significant benefit to the community such as social housing or village centre car parking. In this case whilst the proposal is over 10 properties it is considered an exception as it provides significant community benefit by providing much needed retirement housing to help fill a national shortage.

Contrary to Policy H4 Size of homes advises that development should favour smaller dwellings unless independent viability study or other considerations offer justification for a different mix. In this case the proposal provides 3x one bedroom and 22x two bedroom retirement living apartments. These are not considered to constitute large dwellings and thus comply with this policy.

Contrary Policy H6 Affordable Housing advises that proposal for net gain of 3 dwellings should provide minimum of 30% affordable housing unless a financial viability assessment or other material considerations demonstrate justification for a different percentage. Policy H7 Tenancy Mix also requires



the affordable housing mix to be based on 35% intermediate housing. Based on the 25 units proposed, x 8 units would need to be affordable. In this instance the applicant has provided a viability report suggesting that the scheme would not be able to provide a contribution and would see a deficit of £218,664. The Council have had this independently assessed which concludes that the scheme could in fact could provide a contribution of plus £586,727. Therefore it has not been adequately justified why the required contribution could not be provided and is contrary to this policy.

Contrary Policy D1 Character and Quality relates to the design of the proposal to reflect local context. The proposal has been subject to various discussions with the Councils Urban Design Officer at both pre-application stage and during the application itself which have resulted in the design/appearance of the scheme being altered in such a way that the scheme is now supported by the Urban Design officer. The build line of the proposal has been amended to ensure that it respects the build line of the development sites to the north to ensure a natural transition with this development and to prevent the building being overly prominent. The height has been amended to include a stepped design from both the north and south to ensure a continuation of ridge heights, whilst this increase to the middle section this is less prominent given the stepped approach. Materials could be secured by planning condition. As a result it is considered that the proposal would integrate well with the existing environment given the mix of modern and traditional property types.

Contrary Policy D10 Drainage requires parking areas to be permeable to allow water drainage. This can be secured by condition.

Contrary Policy D11 requires properties with 2 bedrooms or more to provide at least 2 parking spaces. The Head of Strategic Infrastructure has assessed the development and as satisfied that the parking provision is acceptable and complies with Cheshire East requirements.

Contrary Policy D13 Safe Access requires developments to be safe for pedestrians and cyclists from the site to village centres, schools and recreational areas. The Head of Strategic Infrastructure has assessed the development and as satisfied that the proposal would provide safe and suitable access.

Contrary Policy CW3 Infrastructure Support requires proposals for more than 6 houses to include an infrastructure evaluation to quantify the likely impact on the community infrastructure and if impacts are identified the proposal shall make improvements are offer a financial contribution towards such improvements. The proposal would not require any contribution towards education given the market the proposal is aimed at. Contributions relating to affordable housing and open space are required and can be secured by Section 106 agreement. In terms of the impact on the existing medical centre, the NHS choices website advises that the closest medical centre is in Audlem village located 0.4miles away and is current accepting patients.

Contrary Policy CI1 Infrastructure requires new development to address impacts and benefits it will have on community infrastructure. In this instance the proposal requires contributions towards housing and open space which can be secured by section 106 agreement.

## **Housing Land Supply**

Paragraph 49 on the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

The Inspector's Report published on 20 June 2017 signalled the Inspector's agreement to the plans and policies of the Local Plan Strategy, subject to the modifications consulted on during the spring of 2016 and 2017. On adoption, all of these sites and policies will form part of the Statutory Development plan. In particular sites that were previously within the green belt are removed from that protective designation and will be available for development. Other sites also benefit from the certainty that allocation in the development plan affords.

In the light of these new sources of housing supply, The Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his Report he concludes:

"I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years"

Given this conclusion from the examining Inspector, the Council now takes the position that it can demonstrate a 5 year supply of housing land.

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

The Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of less than 3,000 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 10 dwellings or more or a combined housing floor space including garages larger than 1000sqm 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 25 apartment units therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 8 dwellings to be provided as affordable dwellings with the above 65/35 split.

In this instance no affordable units are to be provided on site. 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 is seeking to justify that the scheme is unable to deliver either on site provision or financial contribution.

To provide the required 8 units a contribution of £665,900 would be required.

A viability appraisal was submitted in support of the application which concludes that the development would not be able to provide the required contribution and would result in a deficit of -£218,664. The Council had this independently assessed which concludes that the scheme could in fact could provide a contribution of plus £586,727.

In response to the findings of the independent report, the applicant submitted a further viability report which altered the initial land values and concluded that the scheme could deliver a contribution of £61,485. This updated report was also independently assessed which concluded that the scheme could deliver a contribution of £556,699.

After further negotiation, the applicant committed to provide £250,000 towards off-site affordable housing & 9k towards open space. This would have helped to deliver circa 4 units (2 x affordable rent and 2 x intermediate - 1 beds). However this contribution has since been withdrawn by the applicant following their decision to appeal against non determination and they have made it clear that they wish to revert to the initial viability appraisal which identified that the proposal would see a deficit of - £218,664 and would not therefore provide any financial contribution.

Whilst it is accepted that the scheme could not deliver the full contribution of £665,900 the independent viability report has highlighted a significant shortfall between what contribution the applicant claims could be provided and that which the Council consider could be provided.

Therefore it is not considered that the shortfall in the required contribution towards affordable housing has been adequately justified.

## **Public Open Space**

There is an unquantified area of POS fronting Audlem Road however this seems more suited to a communal open space specifically for the residents rather than Public Open Space. The submitted site plan shows segregation of the retirement properties and "POS" from the wider development. ANSA have requested the redesign of the "POS" giving it a more open feel with an opportunity to combine the area with the wider development.

Amended plans have been received which now include a sitting out area in the landscaped garden for use by the residents of the proposed scheme and a direct pedestrian access from the gardens to Audlem Road. Whilst this will not be available for public use, it will provide a public interface between this proposal and the wider housing development. The applicant has also advised that given that security is one of the main reasons for the residents (who are on average 78 years old on entry to this form of accommodation) to move to this form of housing, it will not be possible to make this area available to the wider public. Given that the plans have been amended to allow users to connect the landscaped garden to Audlem Road thus is considered a suitable compromise.

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. The proposal seeks to provide 25 apartments therefore the proposal requires 875sqm of public open space.

New housing developments with more than 20 dwellings (except sheltered housing) require 15sqm of shared recreational open space and 2 or more bed an addition 20sqm play space. Whilst the proposal seeks retirement homes and are aimed at older people, it is providing 2 bedroomed properties which require play space. This may not be "play space" as we think of swings, slide etc, however this could be a green gym, there are many items on the market for older people to keep active. Policy RT.3 allows for small developments to provide contributions towards equipment rather than on site provision therefore a contribution of £9,000 is required based on real costs which will be held for 10 years should the wider side come forward to be used specifically for green gym equipment.

The above contribution can be secured by section 106 agreement.

## **Education**

No contribution for education is required for a development bearing in mind the housing is aimed at older people seeking retirement living. It is however considered necessary to attach a condition to any planning approval restricting the occupancy.

## **Health**

Although no consultation response has been received from the NHS there is a medical centre in Audlem village within 0.4 miles of the site and according to the NHS choices website this practice is currently accepting patients indicating that they have capacity.

## **Location of the site**

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue.

In this instance no such assessment has been provided with the application. The site is located outside the Audlem settlement boundary and therefore could be argued to be locationally unsustainable. However outline consent has been allowed on appeal at the site to the north/west for the erection of 13/2224N where the inspector *concluded "The range of facilities and services in and around the village, along with ready access to public transport are factors which have influenced the classification of the village by the Council as being capable of supporting new residential development. Albeit that the appeal site lies on the edge of the settlement, it is within walking distance of many of these facilities. Therefore, in respect of location and a movement to a low carbon economy, the sustainability of the appeal site is positive"*

Given that the application site is directly across the road from the appeal site, it is considered reasonable to conclude that the application site is also locationally sustainable.

Nevertheless locational sustainability is not the determinative factor in its own right but does weigh against the proposal in the overall planning balance.

## **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 weight in favour of the proposal.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Residential Amenity**

The main residential properties affected by this development are Little Heath Barns and plots 1, 11, 12 & 22 of the wider development site.

The proposal would introduce side facing windows at a distance of 14.6m to the side elevation of plot 1 which contains windows serving a first floor bathroom window. This complies with Council interface distances to prevent harm through overlooking/loss of privacy.

The proposal would introduce side facing windows at a distance of between 21.5-22.8m to the front elevations of plots 11 & 12 which contain windows serving primary/habitable rooms. This complies with Council interface distances to prevent harm through overlooking/loss of privacy.

The proposal would introduce side facing windows at a distance of 11m to the side elevation of No11 Little Heath Barns which contains windows serving a first floor bedroom and ground floor kitchen. The kitchen window is not a habitable room and therefore can only be attributed limited protection and the bedroom is a secondary window with the main window being sited on the front elevation. Therefore this distance is considered acceptable subject to condition requiring the proposed first floor living room window on apartment 10 to be fitted with obscure glazing to prevent harm through overlooking/loss of privacy.

The proposal would introduce side facing windows at a distance of 9m to the side elevation of plot 23 which contains ground floor lounge windows. This is short of the recommended interface distance contained in the SPG therefore a condition will be attached to any planning approval requiring the first floor living room windows of apartment 16 to be fitted with obscure glazing to prevent harm through overlooking/loss of privacy.

Environmental Protection have raised no objections subject to condition regarding lighting, travel pack, electric vehicle charging points, working hours and contaminated land which can be attached to any decision notice.

### **Contaminated Land**

As the application is for new residential properties which are a sensitive end use and could be affected by any contamination present a contaminated land condition will be attached to the decision notice of any approval.

### **Public Rights of Way (PROW)**

The Councils Public Rights of Way Team have been consulted regarding the application and have not raised any objections. They have however offered advisory notes to the applicant which can be added to any decision notice as an informative.

## **Highways**

The proposal is for 25 apartments aimed at retirement living. The development will replace 10 houses approved under application 13/2224N and will be accessed from within the approved site layout.

The Councils Highways Department have been consulted who advises that the net impact of the proposal over the existing, in terms of pedestrian and vehicle movements, is considered to be minimal. The proposal would provide 25 car parking spaces. Car ownership data and data from comparable sites demonstrate that this will be enough to accommodate the parking demand of this proposal.

As a result the proposal will not result in any significant harm to the existing highway network.

## **Landscape**

This is an application for the erection of retirement living housing, communal, facilities, landscaping and car parking. The application site has been subject to an Appeal which has already established the principle of development on this site.

The application includes a Landscape Planning Layout Drawing. The Councils Landscape Architect has considered the proposal and concludes that the application site could accommodate the proposed additional development subject to condition requiring a landscaping scheme.

As a result it is considered that the proposal could be accommodated into the existing landscape without causing significant harm to its character/appearance.

## **Trees**

The principle of development on this site has been established with the extant permission associated with application 16/1131N. This prevails in respect of access into the site and the Audlem Road hedge (H1) which has been identified as being important under the Archaeological and Historical criteria criterion 5 of the 1997 Hedgerow Regulations.

The retirement living accommodation and the associated landscaping including car parking establishes no direct or indirect impact in relation to trees including those protected as part of the Cheshire East Borough Council (Audlem - Land west of Audlem Road) Tree Preservation Order 2015 with development occupying the open field aspect.

As a result it is not considered that the proposal would cause significant harm to the existing tree stock.

## **Design**

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

The area is characterised by a mixture of modern properties to the south of the site and more traditional property types to the east and further south to the village, all predominantly 2 storey in character and finished in red brick/render. The site has received planning permission for the erection of 120 houses, the design of which has also been deemed acceptable. The current proposal seeks to remove 11 of the approved dwellings and replace with a 25 unit apartment block but remaining 2 storey in height and finished in red brick.

As a result it is considered that the site could accommodate the proposed apartments given the mixed property styles and would therefore be viewed in context of this wider development rather than stand along built form.

The proposal has been subject to various discussions with the Councils Urban Design Officer at both pre-application stage and during the application itself. These discussions have resulted in the build line of the proposal being amended so that it respects the build line of the development approved to the north to ensure a natural transition with this development and to prevent the building being overly prominent. Whilst it would be sited forward of the build line to Little Heath Barns a visual gap would remain between the properties to soften this impact. The height has also been amended to include a stepped design from both the north and south to ensure a continuation of ridge heights, whilst this increases to the middle section this is less prominent given the stepped approach. The Urban Design officer has suggested some minor changes to fenestration details and exact finish materials which can be secured by planning condition.

As a result it is considered that the proposal would integrate well with the existing environment given the mix of modern and traditional property types and would be viewed in the context of the development to the north and west of the site.

## **Ecology**

The application is supported by an ecological assessment. The site was last surveyed in April 2013. The Councils Ecologist has reviewed the report and has advised that whilst, this survey is now out of date, he considers the habitats on site, with the exception of the hedgerows, are of limited nature conservation value and have limited potential to support protected species/priority species, therefore no further ecological surveys are required.

No hedgerows appear to be lost as part of this application, but sections of hedgerow will be removed to facilitate site access points under the adjacent scheme. New hedgerow planting is proposed as part of the proposed development which should be secured by planning condition.

As a result the proposal will not result in any significant harm from an ecological perspective.

## **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 condition requiring a drainage strategy.

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

## **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing for the elderly as well as bringing direct and indirect economic benefits to Audlem including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

## **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 8 affordable units. However after the submission and assessment of a viability report and further negotiation, the applicant has committed to provide £250,000 towards off-site affordable housing. This would help to deliver circa 4 units in the local area (2 x affordable rent and 2 x intermediate - 1 beds). This is considered to be necessary and fair and reasonable in relation to the development.

The proposal would result in a requirement for the provision of public open space which would be provided as a commuted sum of £9,000. This is considered to be necessary and fair and reasonable in relation to the development.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

## **Other**

As a result of the consultation process members of the public and South Cheshire Clinical Commissioning Group have requested a contribution towards medical care within the village.

However such a request would not be CIL compliant and such a request was rejected by the planning inspector when dealing with the application for the wider site. The NHS strategic plan has a wider remit than specific projects. The NHS plan is also well behind the Cheshire East Local Plan and until the full



allocation process has been completed, localised detail of the NHS plan cannot be finalised. Therefore no mechanism to secure funding exists and the NHS do not have any specific projects in to justify any contribution.

## **PLANNING BALANCE**

On 27th July the Council adopted the Cheshire East Local Plan Strategy therefore the Council have demonstrated that they have a 5 year supply of deliverable housing sites.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.” The National Planning Policy Framework, which is the Secretary of State’s guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means “approving development proposals that accord with the development plan without delay”

In this instance the proposed development would be technically contrary to Policies PG6 of the Adopted Cheshire East Local Plan and saved policy RES.5 of the Crewe and Nantwich Local Plan given that the development would result in a loss of open countryside. However material considerations exists as the principle of residential development of the site has already been established by approval of 13/2224N.

The main dis-benefit of the proposal is the failure to provide the required contribution towards affordable housing. Although the applicant has provided a viability report suggesting that the scheme would not be able to provide a contribution and would see a deficit of -£218,664, the Council have had this independently assessed which concludes that the scheme could in fact could provide a contribution of plus £586,727.

The benefits of the proposal would be the provision housing for the elderly to meet a national shortfall and economic benefits through the usual economic benefits during contraction and through the spending of future occupiers.

The development would have a neutral impact upon protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

Applying the tests within paragraph 14 it is not considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development does not constitute sustainable development and should therefore be refused.

## **RECOMMENDATION:**

### **MINDED TO REFUSE**

**Whilst the application has been supported by a viability report, the findings conflict significantly with the independent report carried out on the Councils behalf which concludes that the scheme could provide a higher contribution towards affordable housing than that being proposed. As a result it has not been justified as part of the application process why the proposal is unable to**

provide the required contribution towards affordable housing. The proposal is therefore Contrary to Policies SC5, SD1 & SD2.

Should the application be the subject of an appeal approval is given to enter into a S106 Agreement with the following Heads of Terms;

1. Commuted sum of £556,699 towards affordable housing in the local area
2. Commuted sum of 9k towards a “Green Gym” for use by the occupants of the proposed apartments

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