

Application No: 17/5776N

Location: Land to North of Little Heath Barns, AUDLEM

Proposal: Erection of Retirement Living housing (category II type accommodation), communal facilities, landscaping and car parking (re-submission following non-determination of application 17/0339N)

Applicant: McCarthy & Stone Retirement Lifestyles L

Expiry Date: 04-Apr-2018

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 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 scheme will provide up to £305,000 towards identified planning obligations, as set out in this report. Whilst there is a shortfall of what is required to fully meet the contributions in lieu of on-site affordable housing, the applicant has agreed to provide the amount requested by the Council following an independent viability appraisal.

As a result it is considered that it has been demonstrated that the proposal complies with the exception noted in Policy CS5 which requires any shortfall in the required contribution to be fully evidenced by a viability report which has been independently assessed.

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 considered that the benefits outweigh the adverse impacts. As such, on balance, it is considered that the development constitutes sustainable development and should therefore be approved.

RECOMMENDATION

APPROVE subject to conditions and the completion of a s106 legal agreement

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 .

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

17/0339N – Erection of retirement living housing (category II type accommodation), communal facilities, landscaping and car parking – **Minded to refuse (currently subject to non determination appeal to take place 21st – 22nd March 2018)**

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

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

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

16/6085N – 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

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

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

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

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

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 construction environmental management plan, electric vehicle charging points, working hours and contaminated land

CEC Housing: Objection as the proposal would require x8 affordable units and no financial contribution has been offered

CEC ANSA: No comment received however comments from the earlier application raised no objection subject to provision of green gym facilities

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

NHS England: Contribution of £17,352 required to fund an extension to existing medical centre in Audlem

United Utilities: No objection subject to the development being carried out to the principles set out in the submitted Foul & Surface Water Drainage Design Drawing NW-2215-SE-03-004, Rev A - Dated 19.01.2017 which was prepared by SWF Consultants

VIEWS OF AUDLEM PARISH COUNCIL

Objection on the following grounds (full comments available on the planning file):

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

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 27th 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 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

12 letters of objection received regarding the following:

- Insufficient parking for residents and visitors
- Contrary to the ANP and Local Plan
- No affordable housing
- No guarantee any commuted sum would be spent to provide housing in Audlem
- 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
- Traffic generation has been understated
- No need for this type of accommodation
- Loss of privacy, noise, light pollution
- Open space inappropriately sited

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.

It is important to note that the same proposal is currently due to be determined by appeal under application ref. 17/0339N. The point of contention in the current appeal is set out below following the resolution of Southern Planning Committee:

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.

Since that decision the Council has commissioned an updated position on viability in support of the forthcoming appeal. The updated position has confirmed that, predominantly due to increasing costs of development, there is now less money in the scheme available to meet planning obligations and for the development to remain viable. As a result, the applicant is now proposing to provide contributions that meet with the Council's independent viability appraisal. This sum equates to £305,000. As such, it is now considered that the change in circumstances have overcome the previous reason for refusal. This is the new position that the Council's officers will be obliged to present at the forthcoming appeal hearing.

With a robust viability position that has been met by the applicant's submission, and with all other policy and site planning considerations unchanged, planning permission should now be granted.

Audlem Neighbourhood Plan

Audlem Parish Council has submitted a comprehensive objection to the proposals. These points are addressed in bold text below.

Policy H1 relates to the number of new homes and advises that development in the settlement boundary in excess of those approved 27th 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 full 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. **The proposal now meets the Council's independently assessed viability appraisal.**

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 Council's 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 is 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 is 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 or 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, medical provision and open space are required and can be secured by Section 106 agreement.**

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, medical provision and open space which can be secured by section 106 agreement.**

Housing Land Supply

On 27 July 2017, the Council adopted the Cheshire East Local Plan Strategy. This followed an extensive public examination led by an independent and senior Planning Inspector.

The Inspector's Report on the Local Plan was published on 20 June 2017 and signalled the Inspector's agreement to the Plan's policies and proposals. The Local Plan Inspector confirmed that, on adoption, the Council was 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”

The Inspector’s conclusion that the Council had a 5 year supply of deliverable housing land was based on the housing land supply position as at 31 March 2016.

Following the adoption of the Local Plan Strategy, the Council released its annual Housing Monitoring Update, in August 2017. It sets out the housing land supply as at 31 March 2017 and identified a deliverable housing land supply of 5.45 years.

On 8 November 2017, an appeal against the decision of the Council to refuse outline planning permission for up to 400 homes at White Moss Quarry, Alsager (WMQ) was dismissed due to the scheme’s conflict with the Local Plan settlement hierarchy and its spatial distribution of development.

However, in his decision letter, the WMQ Inspector did not come to a clear conclusion whether Cheshire East had a five year supply of deliverable housing land. His view was that it was either slightly above or slightly below the required 5 years (4.96 to 5.07 years). In this context, the Inspector engaged the ‘tilted balance’ set out in the 4th Bullet point of paragraph 14 of the National Planning Policy Framework (NPPF). This introduces a presumption that planning permission is granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

On 4 January 2018, an appeal against the non-determination of an outline planning permission for up to 100 homes at Park Road, Willaston was dismissed due to conflict with Local Plan policies that sought to protect designated Green Gap, open countryside and rural character. The Inspector also took the view that the housing land supply was either marginally above or below the required 5 years (4.93 to 5.01 years). On this basis, he adopted a ‘precautionary approach’ and assumed a worst case position in similarly engaging the ‘tilted balance’ under paragraph 14 of the Framework.

The Council is continuing to update its evidence regarding housing land supply to ensure that decisions are taken in the light of the most robust evidence available and taking account of recent case law. The Council believes it can demonstrate a five year supply and will accordingly be presenting further updated evidence at the forthcoming Stapeley Inquiry.

For the purpose of determining current planning applications it is therefore the Council’s position that there is a five year supply of deliverable 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 Council's 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 the full financial contribution.

To provide the required 8 units in full compliance with Policy CS5 a contribution of £665,900 would be required. However both viability reports of the applicant and the Council have established that the scheme would never be able to deliver this contribution.

Before discussing the viability conclusions for the current application it is worth noting the viability conclusions of the previous scheme that is currently under appeal for non determination

Application 17/0339N (recommended for refusal and is subject of a non determination appeal)

A viability appraisal was submitted in support of the above application which concluded 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 concluded 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.

As a result the applicant subsequently revised their offer to providing £250,000 towards off-site affordable housing & 9k towards open space. This would have equated to delivering circa 4 units (2 x affordable rent and 2 x intermediate - 1 beds).

However whilst it was accepted that the scheme could not deliver the full contribution of £665,900, the independent viability report highlighted a significant shortfall between what contribution the applicant claims could be provided and that which the Council considered could be provided. Therefore it was concluded that the shortfall in the required contribution towards affordable housing had not been adequately justified and the application was recommended for refusal.

Actions since the last application

As a result of the previous refusal there was a significant difference between what the applicant had offered (£259,000) and what the Council considered was available (£556,699).

Since this decision discussions have been on-going between the Council, their independent consultants and the applicant. These discussions have been to focus on the issues of disagreement which were mainly the land value and construction costs.

These discussions have resulted in both parties reviewing their prospective stances in light of new/updated evidence and brought a need for updated appraisals to reflect these changes. Given the length of time passed since the initial decision, construction costs have also increased which further emphasised a need for both parties to provide updated calculations (this process would also prove useful information for pending appeal for non determination as this would help to form the statement of common ground to focus issues at the appeal).

The Department for Communities and Local Government (DCLG) have also released a consultation document titled "tackling unfair practices in the leasehold market". This would mean that ground rents on new long leases for both houses and flats would be set to zero. This is relevant to the current appeal as part of the applicant's ability to provide the required contributions relies on finance from the grounds rents.

Revised viability

Taking into account the revised costings the Council's independent assessment advises that the proposal could provide a financial contribution of £305,000 based on including profit from ground rents in the calculations. If ground rent was removed the figure would be £162,000.

The applicant has indicated that they do not agree with how the £305,000 figure has been derived and their own viability appraisal allows for less than £90,000 towards planning obligations. However they have advised that in the interest of commercial expediency, are prepared to offer the £305,000 on the condition that the figure is reduced proportionately if new legislation is introduced that restricts their ability to charge grounds rents.

The Council accept that the ground rent issue would impact on the level of profit available to the applicant to meet the required contributions and therefore the contributions should be reduced to £162,000 in the event the legislation is introduced prior to occupation of the first unit.

Conclusion

In order to fully meet the financial contribution based on a scheme to provide x8 affordable units, a contribution of £665,900 would be required. However both parties acknowledge that the scheme would never be able to deliver this contribution.

Both parties have amended their calculations following the changes in circumstances and to reflect the additional evidence provided by both parties. The offer put forward is now consistent with that as recommended/evidenced in the Council's independent viability assessment.

As a result it is considered that it has been demonstrated that the proposal complies with the exception noted in Policy CS5 which requires any shortfall in the required contribution to be fully evidenced by a viability report which has been independently assessed. It is considered that the overall benefits of delivering the development outweigh the shortfall in planning obligations and that the shortfall has been robustly justified in terms of viability.

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. Initially as part of the previous application a contribution of 9k was requested towards green gym equipment to be provided on the wider site to the north. However as the applicant does not own this land, it would not be possible to secured this by 106 therefore the requirement has changed to provide the green gym on site for use by residents of the apartments which should be controlled by a management company

The above contribution can 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

The South Cheshire Commissioning Group (SCCG) have devolved powers to act on behalf of the NHS. In this instance they have requested a contribution of £17,352 towards an extension to the existing medical centre in Audlem.

Having considered the contents of the response from the SCCG, officers are satisfied that the requested contribution of £17,352 is CIL compliant. This is because the NHS plan is at an advanced stage. The comments from the SCCG also provides calculations of how the requested contribution was

derived and a specific scheme has been noted as to where the money will be spend which is to extend the existing medical practice.

As a result the contribution is considered to be both reasonable and necessary and should be secured by way of section 106.

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 ben 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 again 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 £305,000 towards off-site affordable housing if ground rents are included or £162,000 if ground rents are not included. 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 a green gym for use by residents of the apartments which should be controlled by a management company. This is considered to be necessary and fair and reasonable in relation to the development.

The proposal would result in increased demand for medical care usage in Audlem village. Evidence has been put forward by the SCCG that a contribution of £17,352 is required to fund an extension to existing medical centre in Audlem. The NHS plan is also at an advanced stage and calculations of how the requested contribution was derived has been provided and this is linked to the proposed extension Audlem medical practice. 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

It is considered that all issues raised by representations have been addressed in the report.

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 exist as the principle of residential development of the site has already been established by approval of 13/2224N.

The main adverse impact of the proposal is the failure to provide full contributions in lieu of on-site provision of affordable housing. However it is accepted by the Council that the scheme would never be able to deliver the required £665,900 contribution. The Council have procured an independent viability assessment which considers that the scheme could provide a contribution of £305,000. The applicant has indicated that they do not agree with how the £305,000 figure has been derived however they have advised that in the interest of commercial expediency, are prepared to offer the £305,000 on the condition

- £162,000 towards **all planning obligations** to be paid prior to the first occupation of any of the apartments
- An additional £143,000 towards off-site affordable housing will be payable of the appropriate legislation to restrict ground rents being charged has not been enforced prior to the occupation of any of the apartments

It is considered that the health contributions should be met first (£17,352) and the remainder of the contributions (£287,648) allocated to affordable housing. Based on the estimated requirement this represents about a 13% affordable housing contribution.

As a result it is considered that it has been demonstrated that the proposal complies with the exception noted in Policy CS5 which requires any shortfall in the required contribution to be fully evidenced by a viability report which has been independently assessed. It is considered that the previous reason for refusal has now been overcome.

The benefits of the proposal would be the provision of housing for the elderly to meet a national shortfall and economic benefits through the usual economic benefits during construction 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 considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development constitutes sustainable development and should therefore be refused.

RECOMMENDATION:

APPROVE SUBJECT TO THE FOLLOWING HEADS OF TERMS SECURED AS PART OF ANY S106 AGREEMENT:

- 1. A contribution towards affordable housing in the following manner**
 - £144,648 towards all planning obligations to be paid prior to the first occupation of any of the apartments**
 - An additional £143,000 towards off-site affordable housing will be payable of the appropriate legislation to restrict ground rents being charged has not been enforced prior to the occupation of any of the apartments**
- 2. Provision of a green gym for use by residents of the apartments to be controlled by a management company**
- 3. A contribution of £17,352 to fund an extension to Audlem medical centre**

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

