



## Appeal Decision

Inquiry held on 27 and 28 June 2023

Site visit made on 28 June 2023

**by A Parkin BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 September 2023**

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**Appeal Ref: APP/R0660/W/23/3317173**

**17 & 19 Holly Road South, Wilmslow, Cheshire SK9 1NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Churchill Retirement Living against the decision of Cheshire East Council.
  - The application Ref 22/2347M, dated 6 June 2022, was refused by notice dated 15 February 2023.
  - The development proposed is the demolition of existing buildings and erection of 34 Retirement Living Apartments including Lodge Manager's office and reception, communal facilities, guest suite, car parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Churchill Retirement Living against Cheshire East Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The site address has been entered incorrectly as 17 Holly Road South on the application form. Furthermore, the description of the proposed development has changed since the planning application was made. I have used the details contained on the appeal form and the Council's Decision Notice, which accord with the submitted evidence, in the banner heading above.
4. A Case Management Conference (CMC) was held on 2 May 2023 to discuss procedural matters in relation to the Inquiry. At the CMC, the main parties advised me that following the submission of the appeal, their representatives were continuing to discuss the matters of dispute, in order to try and reach a resolution. Further work was being undertaken by both parties with regard to the viability of the proposed scheme and by the Council's Highways officers with regard to car parking provision and associated effects.
5. As a result, on 15 May 2023 the Council advised that it had withdrawn reasons for refusal No.1 (Viability) and No.3 (Parking) and so would not be defending them at appeal. Furthermore, on 8 June 2023 the Council stated that it would no longer defend its second reason for refusal (insufficient information regarding the effects on trees), following the submission of further information by the appellant.
6. The appellant also submitted an almost identical, parallel planning application for 34 retirement living apartments at the appeal site, which sought to address

the three previous reasons for refusal<sup>1</sup>. This application was refused planning permission by the Council on 8 June 2023.

7. Various pieces of late evidence were submitted before, during and after the close of the Inquiry. With reference to *Section 11.14. Late documents* of the Procedural Guide: Planning Appeals – England (13 June 2023), I accepted some late evidence and rejected some.
8. The agreed Core Documents list submitted by the main parties was updated to include a partial Costs application from the appellant, as well as a Flood Risk Assessment (FRA)<sup>2</sup> and associated documents. I will deal with the flood risk matters later. The lists of documents submitted (with my agreement) during the Inquiry and after the Inquiry had closed, is at Annex 2 to this Decision.

### **Main Issues**

9. From the evidence, the main issues in this case are the effect of the proposal on:
  - Affordable housing, local health services and open space;
  - Parking provision, highway capacity and safety;
  - Character and appearance;
  - Drainage and flood risk; and,
  - Living conditions of nearby occupiers, with particular regard to privacy and construction disturbance.

### **Reasons**

*Affordable housing, local health services and open space*

10. The development plan advises that in Key Service Centres (KSCs) such as Wilmslow, for developments of 15 or more dwellings 30% of units should be affordable<sup>3</sup>, and that this affordable housing should normally be provided on-site.
11. For the appeal proposal to comply with the 30% requirement contained in the development plan some 10 affordable housing units would be needed. The appellant initially considered the proposal would be unviable were any allowance to be made for affordable housing, whilst the Council considered that some £708,000 was available from the proposed development for planning gain, including affordable housing contributions.
12. However, following discussions between the viability specialists for the Council and the appellant, some revisions to some of the viability assessment assumptions were agreed, particularly for likely construction costs, sales rates and values. It is now common ground between the main parties that a contribution of £260,000 would be available for planning gain contributions<sup>4</sup>, of which the Council has determined that just over £240,000 should be spent on affordable housing.
13. With regard to on-site affordable housing provision, such a contribution would be sufficient to provide for one unit, with some surplus funds remaining. The provision of just over one unit of affordable housing would be substantially below what the development plan requires from housing developments of this

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<sup>1</sup> LPA Ref. 23/0853M

<sup>2</sup> AWP 1304 – dated 31 March 2022

<sup>3</sup> Policy SC5 (Affordable Homes) – Cheshire East Local Plan Strategy 2010-2030 (CELPS)

<sup>4</sup> Viability Statement of Common Ground - June 2023

scale. However, I note that this requirement is subject to viability and there is no compelling evidence that causes me to question the findings of the agreed viability assessment for the proposal.

14. Furthermore, the Council accepts that the provision of a single unit of affordable housing within a block otherwise comprising retirement living apartments would not be of interest to a Registered Provider. I note the comments regarding the different management arrangements for retirement living apartments and affordable housing units. Again, there is no compelling evidence that causes me to question the approach of the main parties in this regard.
15. The Council's Community Infrastructure Levy (CIL) Statement includes reference to the 2021/22 Annual Monitoring Report and the number of affordable housing completions since 2010/11. This shows that across Cheshire East, good progress is being made with regard to affordable housing delivery to meet the objectively assessed need, which is referenced at paragraph 12.44 of the supporting text to Policy SC5 (affordable homes) of the Cheshire East Local Plan Strategy 2010–2030 (CELPS). The Council has also provided the current policy basis for using financial contributions, such as is proposed, to deliver affordable housing<sup>5</sup>.
16. I am satisfied that the approach of a financial contribution towards off-site affordable housing provision would not be unreasonable in this case, including with regard to affordable housing delivery rates and to the type of specialist housing proposed.
17. The proposed development would increase the number of older people living in this part of Wilmslow, with a consequent effect on demand for health services. To address this, the local NHS Clinical Commissioning Group (CCG) has requested a financial contribution of £19,977 to be used to increase capacity at Wilmslow Health Centre, which is some 400 metres from the appeal site.
18. I note the concerns of existing residents that the proposed funding contribution to local health services would be inadequate, that there is a high demand for health services at present, and that the elderly residents of the proposed development would be more likely to require health services than other age groups.
19. However, I also note the comments from the appellant regarding the layout and design of the proposed development, which seeks to reduce the risk of accidents amongst residents, and so the demand for health services. Moreover, the sum of money requested by the CCG is based on a formula to meet the expected increased demand for health services. There is no compelling evidence that would cause me to question this approach.
20. The Council initially considered that a contribution towards open space enhancements would be necessary to make the development acceptable in planning terms. However, the Council determined that contributions towards affordable housing and local health services were a greater priority. Following some discussions at the Inquiry the Council accepted that a financial contribution towards open space provision would not be necessary to make the development acceptable in planning terms, and no contribution was sought.

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<sup>5</sup> Policy for allocation of financial contributions (commuted sums) in lieu of affordable housing funding (version 2)

21. Financial contributions towards affordable housing and local health services would need to be controlled by way of a s106 planning obligation. Prior to the Inquiry a draft planning obligation was submitted in the form of a Unilateral Undertaking by the appellant (and those with an interest in the land) under s106 of the Town and Country Planning Act 1990. This draft Unilateral Undertaking replaced a draft Planning Agreement between the appellant (and those with an interest in the land) and the Council; it was produced given a disagreement between the appellant and the Council regarding a viability review mechanism for the proposal.
22. With reference to the Government's Planning Practice Guidance (PPG)<sup>6</sup> the development plan should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development. PPG also notes that such review mechanisms are not mandatory.
23. Policy SC5 of the CELPS states that 'overage' payments may be required following a review at set point(s) in the future. This is again not a mandatory requirement, and very limited guidance is provided with regard to the terms of engagement for a viability review.
24. The draft Unilateral Undertaking included a viability review mechanism for affordable housing contained at Section 1 of the Schedule, which would be triggered if practical completion of the development has not occurred within three years. Whilst I note the Council's concerns that the trigger of three years is insufficient, and that a trigger of 50% occupation would be preferable, there is no compelling policy basis for this.
25. My attention has also been drawn to appeal decisions at Cypress House in Handforth, elsewhere in Cheshire East. These concerned broadly similar proposals from the appellant where it is said that a viability review mechanism for affordable housing, similar to that proposed in the draft Unilateral Undertaking, was considered to be acceptable by the respective Inspectors. It is also common ground between the parties that the development plan has not changed since these appeals were determined. However, I am not familiar with these schemes or any accompanying planning obligations and so I can give them only very limited and non-determinative weight.
26. Nevertheless, I am satisfied that the viability review mechanism in the draft Unilateral Undertaking is not unreasonable in this case. In addition, I am satisfied that the measures contained in the Unilateral Undertaking would be necessary to make the proposed development acceptable in planning terms, would be related directly to the development proposed and would be fairly related to it in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations at paragraph 57 of the National Planning Policy Framework 2023 (the Framework).
27. A signed version of the Unilateral Undertaking was submitted after the Inquiry had closed, in accordance with the timescale I specified. However, despite directly raising this issue at the Inquiry, no evidence of title has been provided by the appellant to accompany the planning obligation. Consequently, I am not satisfied that the submitted planning obligation is legally sound or complete and so would be effective. It therefore carries no weight in my determination.

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<sup>6</sup> Viability - Paragraph: 009 - Reference ID: 10-009-20190509 - Revision date: 09 05 2019

28. For these reasons, the proposed development would have an adverse effect on affordable housing and local health services. It would, therefore, conflict with Policies IN2 (developer contributions) and SC5 of the CELPS and with the Framework, in this regard.

*Parking provision, highway capacity and safety*

29. Holly Road South is a residential street that is also said to serve as part of a designated cycle route, and as a vehicular and pedestrian route for children travelling to and from Wilmslow High School to the northeast. The road is subject to parking restrictions but has some designated short-term parking bays as well, including in the vicinity of the appeal site.
30. The appeal site is a short distance from Alderley Road, and a bus stop with a regular bus service between Wythenshawe and Macclesfield<sup>7</sup>. Wilmslow town centre is served by this bus route and is located some 800 metres to the north, whilst Wilmslow Railway Station is some 1.3km to the northeast of the appeal site and has good connections both locally and nationally.
31. The appellant's Transport Statement was produced when 33 retirement living apartments were proposed rather than 34 and, amongst other things, assessed the likely vehicular trip rates from the two existing dwellings on the appeal site in comparison with this scale of development, using a TRICS assessment model<sup>8</sup>.
32. The TRICS results indicate that the two existing dwellings generate some 12 trips per day in comparison to the 53 trips per day that a 33 unit proposal would generate. Given 34 units are now proposed, it is very likely that more trips would be generated, although a modelled increase of 41 trips per day is significant in itself. Furthermore, I note that weekend trips are not included in the TRICS assessment model; given the proposed development I would expect there to be some difference between weekday and weekend trips, particularly in terms of increased visitors at weekends.
33. The appellant's Transport Statement categorises the proposed use as a C2 Residential Home and concludes that only 11 parking spaces would be required to accord with the parking standards contained in the development plan. However, despite this, and despite references to the proposal being *Sheltered Accommodation* by both main parties, it is common ground between them that the proposed development would be for C3 dwellinghouses<sup>9</sup>; such a use in a KSC such as Wilmslow would require 45 parking spaces to be provided (23 for 1-bed apartments and 22 for 2/3-bed apartments)<sup>10</sup>. The appellant's proposal is for 16 car parking spaces in total, very considerably below the adopted parking standards in the development plan.
34. From the evidence and my observations on site, the application of parking standards for the proposed development would be clearly necessary to manage the road network in this case. This is with regard to the scale of the proposal and likely number of vehicular trips generated; the nearby residential and non-residential uses; and the existing parking restrictions on Holly Road South and other roads nearby.

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<sup>7</sup> 130 bus service – Hourly (Monday – Friday); Every 2 hours (Saturday); No service (Sunday)

<sup>8</sup> Appendices G and H of the May 2022 Transport Statement for the appeal proposal

<sup>9</sup> Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO)

<sup>10</sup> Table C.1 of Appendix C – Parking Standards of the CELPS

35. However, departures from these standards are allowed if suitable evidence is provided to justify this<sup>11</sup>. The appellant relies upon parking ratios for *similar* retirement living apartment developments that they control to justify the provision of car parking spaces well below what the adopted parking standards require for a C3 use. Reference is made to research into demand for parking spaces undertaken at some of the appellant's other sites in 2016<sup>12</sup>, which concluded that in this respect only 9 spaces would be needed at the appeal site, and that the proposed 16 spaces would be sufficient to avoid any overspill parking on the local road network.
36. A more limited survey in 2020<sup>13</sup> at two of the appellant's other sites is considered by the Transport Statement to support this level of demand for parking spaces. However, few details are provided with regard to this research. The two 2020 surveys are specified by day and time, and I note that no surveys were undertaken at weekends, when residents are more likely to receive visitors. However, no such details are provided for the 2016 surveys. It is also unclear whether the 2020 surveys considered on-street parking associated with these developments, as the 2016 surveys are said to do.
37. Few details are provided about the surveyed sites, such as their accessibility by public transport or their proximity to public car parks or any parking restrictions on nearby streets; such factors could affect on-site parking demand, particularly for visitors. I further note that despite the stated parking demand figures for the 2016 surveys, parking was exceeded at one of the eight sites for 'short periods of time'. Finally, the number of sites surveyed is a small proportion of the 59 sites operated by the appellant according to the list at Appendix F of the Transport Statement. It is unclear whether the ten sites surveyed are an adequately representative sample.
38. I note the Council's Highways Department did not object to the proposed development and following the refusal of planning permission, undertook further work on this issue. This compared the proposed parking provision and ratios with parking provision and ratios at other similar approved schemes in Cheshire East and other schemes by the appellant nationally. Consideration was also given to age profiles for car ownership nationally and the likely age profiles of future residents.
39. This work resulted in the Council resolving not to defend its third reason for refusal. However, the Council accepted that the sites were not fully comparable, and the Technical Note produced to inform the Council's position does not directly address either the conflict with the parking standards in the development plan, or the effects of visitors on parking provision.
40. Moreover, in the Technical Note the six sites listed as examples for sheltered housing in the UK seem to have been taken from Table 4.1 of Appendix D of the appellant's Transport Statement, albeit the figures for *Mitchell Lodge Bitterne* are inaccurate. I also note that two of the referenced schemes<sup>14</sup> had not been constructed, which would make an assessment of the effects of the parking provision there impossible.
41. In terms of car ownership, the Council refers to national data from the census showing that 77% of households containing people aged between 65-74 and

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<sup>11</sup> Paragraphs C.1 and C.2 of Appendix C – Parking Standards of the CELPS

<sup>12</sup> Appendix D of the May 2022 Transport Statement for the appeal proposal

<sup>13</sup> Appendix E of the May 2022 Transport Statement for the appeal proposal

<sup>14</sup> Cypress House, Handforth, Cheshire East and Centennial Place, Knutsford, Cheshire East

- 54% of households containing people over the age of 75 owned one or more cars. Whilst it is clear that there are fewer households with people over the age of 75 that own one or more cars than the younger cohorts, more than half still do, and this would be in excess of the parking spaces to flats ratio proposed.
42. I note the comments regarding the average age profile of residents in other *similar* developments by the appellant, that the Council also refers to in its Technical Note. Again, there is very limited substantive evidence to support this position, and even if this were accepted, it does not mean there would be a similar profile for future residents at the appeal site.
43. Notwithstanding the stated age profile of residents, the appellant is very clear that units can be occupied by a person aged 60 years or older, or by a person aged 55 who lives with a person aged 60 years or older as part of a single household, or who lived with a person aged 60 years or older as part of a single household who has since died. It is likely that car ownership in this cohort would be significantly higher than for households containing people over the age of 75.
44. Furthermore, regardless of the age profile of residents, the proposed development would almost inevitably attract visitors, and the age profile of visitors is likely to be somewhat younger than the age profile of residents with a higher level of car ownership likely. The figures from the other surveyed sites do not differentiate between residents, visitors or staff and there is no clear assessment of likely visitor numbers or the transport modes they would use.
45. Reference was also made by interested parties to a nearby retirement living development at *Lawson Grange* on Holly Road North, which is run by a different operator, and which has a much higher parking space provision and ratio than is proposed.
46. The appellant is content that the level of car parking proposed for residents and visitors is sufficient, based on their experiences elsewhere. The appellant has also stated that they would not build flats that were not attractive to people in terms of accessibility. The proposed car park would be managed by the Lodge Manager, and this role could include directing visitors to alternative car parking spaces, such as the spaces on Holly Road South, which are short term and restricted at certain times, or to car parks in the town centre, some ten minutes' walk away.
47. Nevertheless, there would be a significant difference between on-site parking, and short-term parking on Holly Road South or parking in Wilmslow town centre, which would partly explain why there are parking standards for new developments in the development plan.
48. The Transport Statement does not consider the parking requirements for a C3 development as proposed. I do not consider the Transport Statement or the Technical Note to be robust or wholly accurate documents. Furthermore, I am not satisfied that the limited number of developments referenced by the appellant are sufficiently similar to the appeal proposal, such as in terms of location, on-street parking capacity, nearby public car parking or public transport accessibility, to be meaningfully comparable. In any event, there is no mechanism that would ensure a similar profile of residents or visitors for the appeal proposal.

49. I am not, therefore, satisfied that the limited evidence provided by the appellant and the Council demonstrates that such a significant departure from the parking standards contained in the adopted development plan is justified. With reference to paragraph 111 of the Framework, I am not satisfied the proposed parking provision and increased level of trips would not have an unacceptable impact on highway safety in the area.
50. Policy CO1 (sustainable Travel and Transport) of the CELPS, seeks to deliver a high quality integrated transport system that encourages a modal shift away from car travel. I also note the referenced approach to parking provision with regard to recent appeals by the appellant at Handforth, and that have been accepted elsewhere in Cheshire East. I am not familiar with these schemes, or their locations, and neither the schemes nor Policy CO1 of the CELPS cause me to reach a different conclusion with regard to this issue.
51. For these reasons, the proposal would adversely affect parking provision, highway capacity and safety. It would therefore, conflict with Policies SD1 (sustainable development in Cheshire East) and CO2 (enabling business growth through transport infrastructure), and the parking standards contained at Table C.1 of Appendix C of the CELPS; and with Policy TA1 (residential parking standards) of the Wilmslow Neighbourhood Plan 2019 (WNP), and with the Framework, in this regard.

*Character and appearance*

52. The appeal site is located in a predominantly residential area, containing a mix of dwelling types and sizes, and generally of traditional designs and materials. Along Holly Road South, a winding two-way street, the dwellings are generally quite large and are set back from the road behind mature trees, bushes and hedges, with paved driveways and off-street parking areas.
53. Nos 21, 19 and 17 are set within spacious plots, as are the properties opposite on the northern side of Holly Road South, with substantial areas of private amenity space to their rear. No 17A is set within a much smaller plot, with much more limited private amenity space.
54. To the south, on Paxford Place, are dwellings in much smaller plots, and of a significantly smaller scale and massing. Towards the appeal site there are traditional pitched-roofed bungalows and 2-storey detached dwellings with small front gardens and larger private spaces to the rear.
55. The existing dwellings at the appeal site are of quite different designs but are positioned a similar distance from Holly Road South to the front and Paxford Place to the rear. No 19 is a 2-storey dwelling with a converted loft space, whilst No 17 is also a 2-storey dwelling with a pitched roof, albeit a very different design to No 19. The dwellings are screened by vegetation in some views from Paxford Place, particularly towards the west, and to a lesser extent from Holly Road South.
56. The proposed development would entail the demolition of these two dwellings and ancillary outbuildings, the design, scale, massing and siting of which are not out of keeping with the character and appearance and urban grain of the area. Various Grade C (low quality) trees, groups of trees and hedges would also be removed.
57. The existing access points to Holly Road South would be retained and enhanced to serve the proposed development, which would include a three storey

- building containing 34 dwellings of various sizes, a 16 space car park to the front and a shared amenity space to the sides and rear.
58. The front elevation of the proposed building would be a similar distance from Holly Road South as the front elevations of the two existing dwellings. However, the rear elevation of the proposed 3-storey building would be significantly closer to Paxford Place than the rear elevations of the existing buildings. Whilst 19 Holly Road South does contain a domestic garage in its rear garden, close to Paxford Place, this is a single storey out-building that is largely screened from view by the existing vegetation.
59. Various Grade A and B (high and moderate quality) trees and groups of trees, generally around the perimeter of the appeal site would be retained and further landscaping and planting is proposed. Some of the retained trees and groups of trees are subject to Tree Preservation Orders (TPOs) and the mature trees and other vegetation are characteristic of this area.
60. The Council was initially concerned that the proposal could result in harm to some of the TPO protected trees. However, following the submission of further information by the appellant as part of the appeal process, including an Arboricultural Assessment, a Tree Protection Plan and an FRA prepared for the parallel application, I am content that there would not be a significant risk of harm to any TPO tree during construction or occupation, were the appeal to be allowed.
61. In views from the front, the proposed building would have three distinct components; two broadly similar sized 3-storey 'blocks' each with three projecting gable features on the front elevation, and a smaller central 'link' block between them, constructed of different materials. The intention behind this design was to give the impression of two large, detached dwellings, such as may be found along Holly Road South. In views from the rear, there would be less differentiation between the three elements due to the design and materials used for the 'link' block.
62. The main roof ridgeline heights that are proposed would be higher than the existing ridgelines, with the proposed ridgelines of the two central projecting gables at the front higher still. These would be higher than the ridgelines of the next door properties on Holly Road South, and significantly higher than the roof ridgelines on the nearby single and 2-storey dwellings on Paxford Place.
63. I note the design evolution of the proposal contained in the Design and Access Statement (DAS), and the regard that is said to have been had to national and local design guidance, as well as to the residential character and urban grain of the area.
64. The design of the proposed building has changed somewhat following initial comments from the Council. The main difference is the design of the central 'link' in views from Holly Road South, which, whilst still three storeys high, would be recessed above first floor level with flat roofs and greater fenestration. Despite the limited amendments to the front elevation, and the overall scale, footprint and rear elevation of the building being unchanged, the Council considers the amended design to be acceptable.
65. However, whilst an improvement on the original design, I do not consider the amended design succeeds in its intention of creating the impression of two substantial detached dwellings in views from the front. Despite the changes to

the central 'link' providing greater differentiation in height on the front elevation, the proposal would still appear as a single, very large 3-storey building spanning almost the full width of the appeal site, in views from Holly Road South.

66. The design of the rear elevation is unchanged from the original design, with significantly less differentiation between the three elements. This means that in views from Paxford Place, and to a greater extent than in views from the north, it would appear as a single, very large, 3-storey building.
67. Whilst there is some articulation on the north and south elevations and at roof level, the design, scale and massing of the proposed building would be substantially out of keeping with the other dwellings in the area, particularly those on Paxford Place and significantly more so than the existing dwellings. This would detract from the urban grain of the area and would be harmful to its character and appearance.
68. Whilst I note the comments from the appellant regarding the height of *The Beeches*, opposite the appeal site, it is the combination of the significantly larger scale, footprint and massing of the proposal which would make it an incongruous and over-dominant feature in this area.
69. I have had regard to the visually verified montages and I note that they are limited in spatial scope. I have considered the effects of the proposal from along Holly Road South and from Paxford Place, including to the southeast of the appeal site, in my assessment.
70. Despite the retained and proposed levels of planting, the proposed building would be readily visible in views from Holly Road South and Paxford Place. From the eastern parts of Paxford Place, and from Holly Road South, the scale, massing and siting of the proposal would be visually prominent and obtrusive, particularly in late autumn, winter, and early spring.
71. There are similar sized buildings, also used for retirement living, within a few hundred metres of the appeal site. The appellant's DAS makes reference to a number of 3/4-storey buildings nearby, and when I visited the area I walked past the *Lawson Grange* development on Holly Road North, and the *Chapelwood* development on Alderley Road.
72. I am satisfied that the visual context for these developments is quite different to the appeal site. Alderley Road is a busier and functionally more important road than Holly Road South, with some larger scale buildings and a roundabout close to the *Chapelwood* site. Holly Road North contains a substantial and older 3-storey block of flats next to the *Lawson Grange* site, by the junction with Holly Road South. In any event, each proposal should be considered on its individual merits, which is what I have done in this case.
73. I also note that few details of the design, scale or massing of the proposed buggy store, sub-station, were it to be needed, or cycle store are in the evidence. The buggy store and the sub-station would be positioned forward of the main front elevation of the proposed building, close to Holly Road South. Even with screening vegetation these would be likely to be visible from the street, yet they are not shown on the contextual northern elevation drawing<sup>15</sup>.

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<sup>15</sup> Ref.50008WL/PL06 A

74. For these reasons, the proposed development would detract from the character and appearance of the area. It would, therefore, conflict with Policies SD2 (sustainable development principles) and SE1 (design) of the CELPS, with Policy GEN1 (design principles) of the Cheshire East Site Allocations and Development Policies Document 2022 (CESADPD) and Policy H2 (residential design) of the WNP, and with the Framework, in this regard.

*Drainage and flood risk*

75. The appeal proposal was accompanied by a Flood Risk and Drainage Note (FRDN) dated 18 February 2022, which included a preliminary drainage layout drawing at Appendix G. This drawing showed that surface water was intended to be managed by two soakaways to the north and south of the proposed building, and with a combined capacity of 98.2 m<sup>3</sup>.
76. However, it was not clear that the soakaways would be effective, and there were some concerns that the Root Protection Areas (RPAs) of TPO trees could be affected by the proposed surface water management arrangements.
77. Prior to the Inquiry the appellant submitted an FRA dated 31 March 2022. This had been prepared to accompany the parallel planning application at the appeal site that was refused planning permission by the Council on 8 June 2023, together with the consultation comments of the Lead Local Flood Authority (LLFA) and United Utilities.
78. The FRA proposed a different approach to the management of surface water, through a single attenuation tank with a capacity of 58.1m<sup>3</sup> instead of the two soakaways, with residual surface water discharging into United Utilities' existing combined sewer in Holly Road South, at a rate no greater than 4.2 litres per second. This is shown on an updated preliminary drainage layout drawing<sup>16</sup> at Appendix G of the FRA.
79. At the Inquiry, the appellant sought to replace the FRDN with the FRA and to include the consultation comments in the evidence. The differences between the two approaches were discussed, including with reference to the reduced attenuation capacity and residual flood risk, the effect on the RPAs of TPO trees, and whether United Utilities would be prejudiced by the approach contained in the replacement FRA. I am satisfied that this late evidence can be accepted and that no one would be significantly disadvantaged as a result.
80. United Utilities consultation response refers to the drawing in the FRDN rather than the FRA and states that 'no surface water will be permitted to drain directly or indirectly into the public sewer.' However, whilst this is unhelpful, I am satisfied that United Utilities has had the opportunity to comment on the FRA, and that an appropriately worded condition would give them a further opportunity to comment on the final design.
81. The updated preliminary drainage layout drawing in the FRA shows an overland flow route for surface water towards the proposed buggy store building. The potential implications of this for the surface water drainage of the site are unclear. Whilst such an overland flow is likely to be a rare event, the effects of climate change mean its frequency could increase.
82. However, on the basis of the FRA and the comments of the LLFA, I am satisfied that there would be an acceptable level of flood risk at the appeal site and that

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<sup>16</sup> Ref. 01-PDL-1001 Rev B

through a suitably worded pre-commencement condition, surface water at the appeal site could be satisfactorily controlled, were the appeal to be allowed.

83. For these reasons, the proposed development would be acceptable in terms of drainage and flood risk. It would, therefore, accord with Policy SE13 (flood risk and water management) of the CELPS and Policy ENV16 (surface water management and flood risk) of the CESADPD, and with the Framework, in this regard.

*Living conditions of nearby occupiers - privacy and construction disturbance*

84. This is a predominantly residential area, where a degree of reciprocal overlooking is to be expected. The appeal site is reasonably well screened by vegetation and whilst some of this will be removed as part of the proposed development, further landscaping is proposed.
85. With regards to separation distances between habitable rooms, the main parties are in agreement the proposal would not conflict with the minimum standards contained in Table 8.2 of the CESADPD. For residents of Paxford Place there would be increased scope for being overlooked from the number and position of windows and balconies on the rear elevation of the proposed building. However, given the separation distances, I do not consider this would cause unacceptable harm to their living conditions.
86. These separation distances do not apply with regard to side elevations. However, the first and second floor windows in the main eastern and western elevations would be obscured glazed and non-opening, unless positioned at least 1.7metres above the internal finished floor level, to protect the privacy of the residents of the next door dwellings. This could be controlled by way of a suitably worded condition were the appeal to be allowed.
87. The proposed development would include balconies at first and second floor levels on both the front and rear elevations. The position of some of these balconies would be likely to allow for harmful overlooking of either private amenity space or of habitable rooms at Nos 17A and 21 Holly Road South.
88. However, the western edges of the proposed balconies to apartments 12a, 14, 25 and 26 and the eastern edges of apartments 20, 21, 31 and 32 could include permanent privacy screens at least 1.7metres high, the details of which could be controlled by condition were the appeal to be allowed. In this case, I am satisfied that this approach, which was agreed between the Council and the appellant, would reduce any harm from overlooking to acceptable levels.
89. With regards to disturbance, including noise, dust, increased traffic and the storage of materials during construction, this could be satisfactorily addressed by way of a suitably worded construction management condition. This is a common means of dealing with such issues in the development process.
90. For these reasons, the proposed development would not cause unacceptable harm to the living conditions of nearby occupiers, with particular regard to privacy and construction disturbance. It would, therefore, accord with Policy SE1 (design) of the CELPS and Policies HOU12 (amenity) and HOU13 (residential standards) of the CESADPD, and with the Framework, in this regard.

**Other Matters**

91. The benefits of the proposal include the provision of 34 units of residential accommodation in an area where development is constrained by the Green Belt;

meeting national and local housing needs including specialist accommodation for elderly people and the consequent release of under-used housing stock to the market. These are significant benefits.

92. The appellant also makes reference to the redevelopment of Previously Developed Land (PDL) in a sustainable location and making effective and efficient use of land.
93. However, the Annex 2 Glossary to the Framework excludes land in built-up areas such as residential gardens from the definition of PDL, meaning that much of the appeal proposal would not be on PDL. Whilst the appeal site is in a generally sustainable location, I have also found the effects of the proposal on the character and appearance of the area and in terms of parking provision to be harmful, and so I do not consider this to be an optimal use of the land.
94. The appellant has drawn my attention to local economic benefits during both construction and occupation; to social benefits from more suitable accommodation for elderly people, reducing the risk of accidents and demand for health services; and, to environmental benefits of redeveloping a site with a vacant building on it<sup>17</sup>, with a building designed to incorporate energy and water efficiency measures, photovoltaic panels and the provision of electric vehicle charging points. There would also be some biodiversity benefits through native planting and measures to support birds, bats and hedgehogs.
95. I agree there would be economic and some social benefits as a result of the proposal. However, both the appellant and the Council consider the proposal would detract from local health service provision, hence the intention to submit a s106 planning obligation that would provide funds to enhance Wilmslow Health Centre, to offset this adverse effect.
96. Furthermore, neither of the existing dwellings on the site are vacant, and they are not out of keeping with the character and appearance of the area. Whilst there would be some environmental benefits of the proposal, on balance I do not consider these would be significant.

## **Conclusion**

97. The proposal would be acceptable in terms of drainage and flood risk and the living conditions of nearby occupiers. However, neither these matters, nor the benefits of the proposal set out above, would outweigh the harm I have found in relation to affordable housing provision and local health services, to parking provision, highway capacity and safety, and, to the character and appearance of the area.
98. For the reasons given above, and taking into account all matters raised, I conclude the appeal is dismissed.

*Andrew Parkin*  
INSPECTOR

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<sup>17</sup> Paragraph 8.33 of the appellant's Proof of Evidence

## **ANNEX 1 - APPEARANCES**

### **FOR THE APPELLANT:**

Mr Ben Fullbrook of Counsel

Instructed by Planning Issues Ltd.

*He called:*

Mr Matthew Shellum

Planning Issues Ltd.

Mr Harry Cross

Paul Basham Associates

Mr Nick Wood

Churchill Retirement Living

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Jack Smyth

Instructed by Mr Andrew Poynton of  
Cheshire East Council

*He called:*

Mr Nick Hulland

Cheshire East Council – Planning

Mr Chris Hudson

Cheshire East Council – Trees

Mr Neil Jones

Cheshire East Council – Highways

Mr Andrew Worsdale

Cheshire East Council – Flood Risk

Mr Andrew Poynton

Cheshire East Council – Legal

### **INTERESTED PARTIES:**

Mr James Bradley

Local Resident

Cllr David Jefferay

Ward Councillor

Mr Roger Bagguley

Chair of 'Residents of Wilmslow'

Mr Pankaj Takiar

Local Resident

Ms Angela Westington

Local Resident

Mr Martin Kinsey

Local Resident

Mr Srichand Hinduja

Local Resident

Mr Paul McLean

Local Resident

## **ANNEX 2 – DOCUMENTS**

### **DOCUMENTS SUBMITTED AT THE INQUIRY:**

- ID1 Letter of objection from Mr Martin Kinsey
- ID2 Visually Verified Montages - Summer 11208-015-NPA-XX-XX-RP-Y-4600-P01  
- Winter 11208-015-NPA-XX-XX-RP-Y-4601-P01
- ID3 Photographs from 21 Holly Road South from Mr Pankaj Takiar
- ID4 Appellant's Opening Statement
- ID5 Proposed First Floor plan 50008WL/PL04 Rev A, with corrected legend
- ID6 Barrel Tree Consultancy - Manual for managing trees on development sites
- ID7 Bat Conservation Trust - Guidance Note 08/18 Bats and artificial lighting in the UK
- ID8 Cheshire East Council policy for allocation of financial contributions (commuted sums) in lieu of affordable housing funding (version 2)
- ID9 Closing Statement of the Local Planning Authority for an appeal at Cypress House, Handforth (5 July 2022)
- ID10 Council's Cost Response
- ID11 Appellant's Closing Statement

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY HAD CLOSED:**

Closing Statement from Cllr David Jefferay

Council's view of the list of directly relevant plans and technical documents

Suggested conditions agreed by the main parties were the appeal to be allowed

Signed Unilateral Undertaking planning obligation