

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 17/12/2019</b>	<b>Item No: 5.4</b>
<b>Report Originator</b>	<b>Sean Bennett Senior Development Officer</b>	<b>Application No: KET/2019/0353</b>
<b>Wards Affected</b>	<b>Slade</b>	
<b>Location</b>	<b>Hawthorn Avenue (land off), Mawsley</b>	
<b>Proposal</b>	<b>Full Application: Development of over 55s accommodation comprised of 29 no. apartments, access, parking, communal facilities and associated works</b>	
<b>Applicant</b>	<b>Clayson Country Homes Ltd</b>	

### 1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### 2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be REFUSED for the following reason(s):-

1. The application has failed to make affordable housing provision either on-site or toward off-site delivery or otherwise has failed to demonstrate that by providing affordable housing this would render the proposal unviable. Thereby the proposal provides a poor mix of dwelling type and tenure and therefore is harmful to the objectives of creating mixed and balanced communities. The proposed dwelling type is not exempt from providing affordable housing. The application therefore is contrary to Policy 30 (d & e) of the North Northamptonshire Joint Core Strategy and is inconsistent with paragraphs 61-64 of the NPPF.

2. The proposal has failed to provide a mechanism for improved facilities at 'The Centre at Mawsley' (TCAM). A contribution toward TCAM improvements would include provision of a food offer commensurate with the offers associated with a public house which would off-set the loss of the proposal site for that purpose. The lack of such a provision would harm the sustainability of the village by not having a public house use with a significant food offer available (or otherwise have the application site available for that use). The application is therefore in conflict with policy 7 (a & c) of the North Northamptonshire Joint Core Strategy and is inconsistent with paragraph 92 of the NPPF.

3. By virtue of the failure of the submission to show that safe and suitable access arrangements can be achieved (including vehicle visibility) and the relationship of the access to the surrounding road network the proposal has failed to demonstrate that the development would not have an unacceptable impact on highway safety. The

application is therefore in conflict with Policy 8 (b) of the North Northamptonshire Joint Core Strategy and is inconsistent with paragraph 108-109 of the NPPF.

4. Policy 10 of the North Northamptonshire Joint Core Strategy (JCS) is concerned with infrastructure and developer contributions and states that 'Developers will either make direct provision or will contribute towards the provision of infrastructure required by the development'. In the absence of a signed legal undertaking the local planning authority cannot be satisfied that the development proposal would make necessary provision for library infrastructure and contribution toward the provision of an off-peak village bus service. In addition, the application has not been accompanied by a Travel Plan. The application is therefore contrary to Policy 10 of the JCS and inconsistent with paragraph 57 and 110 (a) and 111 of the NPPF.

## Officers Report for KET/2019/0353

This application is reported for Committee decision because of a request by Ward Councillor Hakewill irrespective of officer recommendation

### 3.0 Information

#### Relevant Planning History

**KET/1995/0016** – Proposed new village comprising 750 dwellings, school, shop, public house, village hall, church and open space and ancillary roads, services and works – APPROVED – 11/05/1995 – The composite masterplan for the entire site indicates that the application site land was reserved as a 0.72 acre ‘Pub Site’.

**KET/2005/0916** – Change of use: of land from agricultural to commercial (Public House) – APPROVED – 13/12/2005

**KET/2010/0253** – 8 dwellings – REFUSED – 16/09/10 and was subject to an appeal under Planning Inspectorate reference: APP/L2820/A/10/2142675 and was subsequently dismissed on the 12<sup>th</sup> July 2011 for the following reason:

*“...the appeal proposal would result in the loss of a site identified for the provision of a community facility and that an alternative location which would result in a commensurate facility does not exist...”*

**KET/2019/0022** – 31 apartments for 55’s including access, parking, communal facilities and associated work – Withdrawn

#### Site Visit

Officer's site inspection was carried out on 19/06/2019

#### Site Description

The 0.24ha site consists of an area of rough grassland and hedgerow to the south-east boundary with open space (including play area) beyond and ‘The Centre at Mawsley’ (TCAM) to the south. The other boundaries are formed by timber post and rail fences and enclosed by The Green, School Road and Hawthorn Avenue roadways.

#### Proposed Development

The application seeks full planning permission for 29 apartments, consisting of 17 one-bed and 12 two-bed units to be used for over 55’s accommodation together with 30 car parking spaces, communal facilities and associated works.

The apartments consist of a building with a continuous frontage facing the gently curving School Road and Hawthorn Avenue broken up into sections with varying heights ranging from low two-storey to high three storey in stone and brick. The main access is proposed to be taken off The Green.

### **Pre-application Advice**

Pre-application advice was given in late-2018. The Officer advised that whilst there was a way forward for the proposal the key issues regarding the loss of the site's community use should be robustly justified and the scale and form of the proposal should respect the surrounding character of the village.

Subsequent advice and recommendations followed the withdrawn application together with the invitation for further information to be provided during this application. This additional information included the provision of photomontages, a transport statement, a draft head of terms (including £50k toward TCAM improvements) and a supplementary statement which included a letter of opinion from a commercial agent.

Following a re-consultation exercise based on the additional information provided the applicant was subsequently invited to provide further key information with respect to highway arrangements. In addition, the applicant was given the opportunity to engage in an independent viability study, associated with the deliverability of affordable housing. Despite some early signs of a willingness to provide this information and to engage in a viability exercise, there has been no true movement on these matters by the applicant since the Officer request on the 10<sup>th</sup> of October 2019. The decision has now been taken to move this application forward for determination on the basis of the information currently available in the submission.

### **Any Constraints Affecting the Site**

None

## **4.0 Consultation and Customer Impact**

**Mawsley Parish Council:** Say that they have *"no specific applicable objections to the proposed development"* with no further comments

**The Centre at Mawsley (TCAM):** Say that *"The Centre is neither supporting or objecting to the planning application. However, should planning permission be granted the directors wish to ensure that The Centre benefits from [the applicants] proposal to invest in Mawsley, specifically the proposed funding of developments to the Centre"*.

**KBC – Environmental Protection Department:** No objection subject to the imposition of conditions to control construction working hours, the requirement for a construction method statement, contaminated land and refuse arrangements.

**KBC – Housing Strategy:** Provide the following summarised comments:

- No evidence provided to support the applicants view that providing affordable housing would render the scheme unviable

- An 'open-book' assessment on viability should be carried out
- The proposal is not considered to be specialist housing for the elderly, consisting of extra care, and therefore would be expected to provide a proportion of affordable units (or a commuted sum)
- This scheme would generate an affordable housing requirement of 12 units
- It is unlikely that these units could be provided on-site and therefore request an off-site *in-lieu* contribution

**NCC – Local Highway Authority (LHA):** Object based on the proposal failing to meet standards regarding access, visibility and parking, failure to provide public transport contribution (£1k per unit) and to demonstrate safe access and egress.

**NCC – Development Management:** Say that the provision of a fire hydrant should be required by planning condition and the requirement for a sprinkler system explored. A sum of £3,965 is also requested for library provisions.

**NCC – Lead Local Flood Authority (LLFA):** No objection subject to the imposition of conditions requiring full details of the surface water drainage scheme, details of its ownership and maintenance and a Verification Report.

**NCC – Ecology:** No objection subject to the imposition of conditions requiring a detailed soft and hard landscaping plan, biodiversity enhancement measures and a landscape and ecological management plan.

**Natural England:** Refer to their standing advice and the availability of other bodies who can provide environmental advice.

**Anglian Water:** Make the following summarised comments:

- They have Assets within or close to the site and would like an informative added to highlight this to the applicant
- Measures to deal with wastewater shall be provided if the application is approved
- Would like a series of notes added if the developer wishes to connect to their sewerage system
- Prefer a sustainable drainage system to deal with surface water disposal and provide recommended infiltration rates and the need for an infiltration test to be carried out
- Request provision of a condition requiring a surface water strategy to be agreed by condition

**Northamptonshire Police – Crime prevention design advisor:** Provide the following summarised comments:

- The estate fencing should adjoin with the building around the car park and communal area
- The garden should be private and secure

- Communal doors should have a controlled entry system
- Mail delivery should be secure with no 'trade-access' permitted within the building or communal areas
- Security details should be provided for the mobility scooter storage
- All doors and windows should meet Building Regulation requirements

**Northamptonshire Adult Social Services (NASS):** Say that there is a shortfall of accommodation for older people across the County including purpose-built accommodation living as part of a community. There is likely to be a high demand for specialist 'older persons' housing such as this.

**Neighbours:** Thirty-nine third party letters have been received from Mawsley residents including thirty-six letters from separate dwellings; their reasons for objection are summarised:

- Loss of biodiversity – particularly the hedgerow as a habitat
- Unclear as to how refuse collection would be provided
- Design bulky, development too high and inappropriate density and layout
- Poor village bus service
- Village is not sustainable
- Impact on highway safety – including safety of pedestrians
- Loss of the site's pub use – 2010 appeal is relevant
- Parking under-provision
- Concerns with how the Parish considered the proposal in their meeting
- Noise impacts from the proposal could compromise use of the TCAM and the adjacent open space for functions such as village fun days and 'Bonfire Night'
- Loss of light and overbearing
- Crime and anti-social behaviour issues
- No need for this type of housing in the village
- Loss of open space and transition land between the built-up village and the adjacent sports pitch compromising views of the open countryside as experienced by villagers
- Overshadow play area and TCAM
- Concerns as to how the ownership of the site changed and therefore was made available for this development

Three letters of support were also received.

## **5.0 Planning Policy**

### **National Planning Policy Framework (NPPF):**

2. Achieving sustainable development
5. Delivering a sufficient supply of homes
6. Building a strong competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport

11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change
15. Conserving and enhancing the natural environment

### **Development Plan Policies**

#### **North Northamptonshire Joint Core Strategy (JCS):**

1. Presumption in favour of sustainable development
4. Biodiversity
6. Development on brownfield land and land affected by contamination
7. Community facilities
8. Place shaping
9. Sustainable buildings
10. Provision of infrastructure
11. The network of urban and rural areas
22. Delivering economic prosperity
25. Rural economic development and diversification
28. Housing requirements
29. Distribution of new homes
30. Housing mix and tenure

#### **Saved Policies in the Local Plan (LP) for Kettering Borough:**

7. Environment: Protection of the open countryside
- RA5. Rural Area: Housing in the open countryside

## **6.0 Financial/Resource Implications**

As the proposal is a 'major' development as defined by The Town and Country Planning (Development Management Procedure) (England) Order 2015 the application would be expected to provide community infrastructure contributions that off-sets its impacts. The provision of such contributions is generally secured in a Section 106 Agreement.

These contributions include a request of £3,965 toward library provisions and £29,000 toward a weekly shopper bus service for a three-year period by Northamptonshire County Council.

The proposal will also be expected to provide 40% affordable housing within the development or otherwise payment *in lieu*.

In addition, a Heads of Term has been provided by the applicant indicating a willingness to contribute £50,000 towards the provision of improved facilities at TCAM for the following:

- Provision of new kitchen facilities
- Extension to existing building to house new kitchen area
- Provision of air conditioning to the main hall (to prevent noise pollution during the summer when doors are opened to cool the hall)

These requirements may not be exhaustive and would be subject to negotiation if the Planning Committee resolve to approve the application. In that case final wording of the Section 106 would be delegated to the Head of Service.

## 7.0

### **Climate Change Implications**

Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. The National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. National planning policy and guidance is clear that effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, local planning authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. The adopted Development Plan for Kettering Borough is consistent with and supports these national policy aims and objectives.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprising the North Northamptonshire Joint Core Strategy, Local Plan and Kettering Town Centre Action Plan makes clear the importance of climate change and seeks to create more sustainable places that are naturally resilient to future climate change. This will be further amplified by the emerging Site Specific Part 2 Local Plan once adopted which is being prepared within this context. Policies contained within the Part 2 Local Plan will help contribute towards a reduction in greenhouse gas emissions and will secure that the development and use of land contributes to the mitigation of, and adaption to, climate change.

## 8.0 **Planning Considerations**

The key issues for consideration in this application are: -

1. The principle of the development
2. Disposal of the 'pub site' use
3. Impact on character and appearance
4. Impact on residential amenity
5. Impact on highway safety
6. Sustainable building implications
7. Impacts of possible contamination

8. Impact on the water environment
9. Impact on biodiversity
10. Affordable housing and housing type and mix
11. Community infrastructure
12. Public Benefits
13. Planning balance

#### 1. The principle of the development

Mawsley currently has no defined village boundary and thereby is technically subject to open countryside constraints overseen by Saved Local Plan policies 7 and RA5 and JCS policy 11 which seek to severely restrict development in the open countryside.

Sensibly, however the village was developed at this location as a strategic decision for housing delivery and therefore its boundary for development management purposes is considered to be defined by its built extent and enclosing boundaries, which at this edge of the village consists of post and rail fencing and hedgerow.

In addition, whilst the emerging Site-Specific Local Plan Part II (SSLPP2) is not currently at a stage where any notable weight can be applied its currently demarked village boundary does encompass the main built elements of the proposal as defined by the hedgerow. In light of the absence of a defined village boundary the SSLPP2 is a consideration in this respect in the absence of anything better.

Moreover, and drawing upon the findings of the Appeal Inspector in this regard in relation to the 2010 application they considered that “...*Although no settlement boundary has been established for the village the appeal site is clearly within the settlement and it is common ground in principle that the site is suitable for some form of development...*”.

The proposal therefore in its broadest terms is acceptable in principle.

#### 2. Disposal of the ‘pub site’ use

Policy 7 and 22 of the JCS looks to support and enhance community facilities and employment sites unless they are (i) no longer viable (and no prospect of being so), (ii) no longer needed by the community and (iii) the facility is being relocated and improved elsewhere.

This development plan approach is consistent with Chapter 6 of the NPPF which, amongst other things, seeks to retain commercial facilities.

The site had been set-aside for use as a pub-site since approval of the Outline consent for the Village in 1995 in its associated Masterplan. Planning permission was subsequently granted in 2005 for that use. The site was purchased in late 2005 by ‘Mawsley Taverns Limited’. For the sale to have occurred it is reasonable to assume that the site was considered to be viable

for development as a public house with the price paid reflecting its value. The site was put back on the market at some point in 2006 until at least February 2007. On this basis and in the absence of a viability appraisal the Appeal Inspector found that loss of the site for its pub use is not justified. The appeal was dismissed largely on the strength of this issue and in the absence of a comparable pub facility in the Village.

Since the time of the 2010 Appeal the Applicant states in the provided 'Supported Planning Statement' that the site had been marketed up to a point when the Applicant bought the site in 2017. Whilst the applicant has not been able to provide information available at the point of interest during that time a letter of opinion has been provided by the Director of 'TDB Real Estate'. TDB are a local commercial agent experienced in the sale of commercial buildings and land. Whilst evidence of actual marketing literature is lacking the commercial agent does say that since 2006 '*...a succession of experienced commercial property agents have been appointed, including those locally based, and specialist national agents too.*'

TDB go on to say that whilst there were enquiries and an 'expression of interest' in 2014/2015 in the site the prospective local operator did not progress matters due to viability. The site was then offered for sale by Auction (precise time unknown) but no offers were received. TDB then offers the view that; '*...in my opinion and experience... pub operators will [n]ever attract a pub development for the location and viability issues, that have been resulted in it still remaining a vacant site after 13 years of extensive marketing.*'

The absence of marketing information to justify these views is not clear, however the opinion of a local commercial agent is persuasive especially when considering that the site has been vacant and seemingly available for sale as a pub site since the dismissed appeal in mid-2011, a period of 8 years since the Appeal. During that time the national economy has fluctuated and includes some years of notable confidence in the market-place. The site was therefore available to pub developers during a period where its sale and development was likely to have occurred, in the event that there was interest.

TDB conclude by saying that '*The other important consideration is that the local community have in the adjacent TCAM building, applied for, and been granted a licence to sell alcohol, and this has become I understand, for a small part of the local community, an important social hub, which would be severely compromised, in the unlikely event that a development on this site could actually be instigated. Indeed, the likelihood is that it would be forced to close as a result.*'

That therefore brings focus to the TCAM as a facility. The Appeal Inspector on the 2010 appeal considered this matter and concluded that there were no other realistic alternatives in the village for a public house. In coming to his conclusion, he considered the 'Community Centre' offer and said, "*given that the village has significantly expanded since it was designed, and it does not*

*serve food, it no longer appears to me to be large enough to cater for the social needs of the village".* Since that time the village has increased further to the north.

Whilst the precise TCAM offer at the time of the Appeal is not known to the Officer it would appear that the TCAM's offer has improved and has become a well-used and valued community asset. Notably it's 'TCAM Bar' functions in the same way as a normal PH including 11:00 – 23:00 (22:30 on Sunday) opening hours and an outside area and is able to make use of the other rooms within the Centre for private and social functions and village events. The Bar stocks a good selection of bottled and draught beers and ales as well as wines and gins and shows football and other sporting events on a large screen. The TCAM website provides an in sight as to how the TCAM functions as a facility that has grown to full-fill a need at the heart of the community; the following extract is lifted from their 'about' web page:

*Welcome to The Centre at Mawsley website! The place where you can find out all about your community centre, including what events are being held here, what sports are being shown on our Big Screen, what promotional activity is happening, what facilities are on offer to you and how to get involved with our many village groups.*

*Our community centre is truly unique and a fantastic facility that we should all be proud to call our own. It is run by the community for the community and it is unique because there is no another village in the country that has such a wonderful building, fully staffed at all times for the sole purpose of a better village life for us all.*

*The Centre at Mawsley is an attractive venue that offers superb value for money. It is modern and comfortable, with under floor heating throughout.*

*Whether you wish to hold a Wedding, Birthday party, Christening celebration, a conference, interviews, seminars or training, The Centre at Mawsley is your perfect venue.*

*We have the flexibility to meet your needs, with two meeting rooms and a large main hall. There is also a comfortable lounge and bar. The playing fields alongside The Centre are available for outdoor training and team building activities etc...*

Importantly however the size of the TCAM does not appear to have increased since the Appeal and there would still not appear to be any notable food offering. The lack of a food offer in the TCAM together with its size was one of the key reasons why the TCAM was not considered to be a commensurate facility in the Appeal Inspectors assessment.

The applicant acknowledges this issue and for that reason in the 'Heads of Terms' and discussed in the submitted 'Supporting Planning Statement' states a willingness to provide, in a Section 106 Agreement, up to £50,000 towards the cost of providing an extension, kitchen and air conditioning at the TCAM. Whilst, it is not clear whether this amount could provide all the facilities

mentioned it would likely be able to provide a basic kitchen and a reasonably sized extension with the potential for the Parish Council and the TCAM together with any additional funding streams that may be secured to feed in to a scheme. These monies could be secured in a Section 106 Agreement with Kettering Borough Council likely to act as the responsible authority to release funds when requested by the TCAM to undertake the works. Critically and offered in a way that is non-prejudicial the TCAM have indicated a willingness to accept investment aimed at improving facilities at the Centre. Therefore, whilst it would not be reasonable for a condition to be attached to a permission to secure the provision of the TCAM facilities, as the developer is not in control of the TCAM, the contribution could be sought prior to commencement in the Section 106.

Bringing the above threads together and relating them back to the JCS Policy 7 and 22 and its criteria:

- The length of time that has passed since the Appeal, including at least six years where the site was available to market, together with the opinion of the commercial real estate agent results in the view that on the basis of probability the site is not viable for development as a pub.
- The TCAM currently provides a well-used community facility with its size and food offer proposed to be enhanced through the applications associated community infrastructure contributions. The provision thereby of a vacant pub site, where a commensurate facility is available on an adjacent site, would no longer be needed by the community.
- There is no reason to believe that the land is required for any other community use and the adjacent TCAM shall be enhanced to meet the needs of the existing facility.

Moreover, if the application site was developed as a pub this could have ramifications to the TCAM and potentially its continuance, particularly in the way it currently operates. The TCAM is also likely to have been a consideration dissuading pub operators from developing the site.

Notwithstanding the above immediate discussions and the acceptable approach that could prevail, in the absence of a signed Section 106 Agreement to secure improved facilities at the TCAM the proposal has failed to mitigate the loss of the PH site. To the dis-benefit of the local community. The application therefore is inconsistent with policy 7 and 22 of the JCS, which would count against the proposal.

### 3. Impact on character and appearance

Policy 8 (d) of the JCS, consistent with Chapter 12 of the NPPF, seeks development to respond to an areas local character and wider context.

The current undeveloped nature of the site contributes to the green character and openness to this edge of the village. It has been acknowledged in the Appeal decision and through grant of the 2005 planning permission that the site is suitable for development.

The site is in the part of Mawsley where large community buildings on spacious plots are located. The site also faces houses to the east and north which are characterised by smaller buildings on smaller plots and is notably more dense than other parts of the village. Consequently, the fine grain of the proposed housing development would not be out of keeping with the mixed pattern of development in the area.

Yes, the proposal, when compared with its development as a pub site, would result in a more prominent form of development to the edge of the village however this is not considered to result in demonstrable harm that would count severely against the proposal.

The height, scale and design of the proposal, including its approach to materials takes its cue from the nearby line of dwellings to the west which follows the curving 'The Green'. In particular, the proposal includes a short three storey element as part of a continuous frontage with the overall scale and mass of the proposal broken up with the use of contrasting materials (brick and stone), varying heights and gables. The proposal is read more as a series of separate buildings rather than as one. This is considered to result in a sympathetic form of development consistent with others in the area and would not look out of place in its surrounding context and create interest in the streetscape. In addition, consistent with the design approach for the village the design is simple and respects a general leaning to a rural domestic vernacular form of architecture including corbelling to the gables, chimneys, casement windows with headers and footers and a traditional stone and brick material palette. Whilst some of the windows are over-sized, they are considered to give a mixed arrangement to the fenestration that adds interest and strikes a balance between providing light and airy rooms internally and design. A condition could be attached requiring approval of the materials and architectural detailing.

The layout allows planting to the site boundary including the provision of a defensible space to the highway frontage and includes some trees which helps to soften the hard-standing expanse of the car park. Notably, instant landscape maturity is provided through retention of part of the existing hedgerow and therefore together with its areas of community garden creates a green and pleasant environment within the development and as perceived from beyond its boundary. A landscape (including hardstanding) condition could be attached requiring a detailed landscape plan to be approved, which could be put in place within the first available growing season following occupation and to be retained for a five-year period. A condition requiring approval of a boundary treatment plan could also be imposed.

The comments provided by the Police revolve around secured by design issues and the need to provide internal and external spaces that resist access to persons other than those who are supposed to be there. Whilst some of these matters would be picked up through building regulation provisions a condition could be attached requiring the recommendations of the Police to be shown in approved details.

It is considered that the proposed development would sit relatively comfortably within the area consistent with its character and appearance and would result in a safe and respectful form of development. The proposal therefore is consistent with policy 8 (d) of the JCS and NPPF guidance in this regard.

#### 4. Impact on residential amenity

JCS Policy 8 (e), consistent with NPPF paragraph 127(f), seeks development to protect the amenity of all future and surrounding users of land and buildings.

Looking at neighbours first; the proposal has been sensitive to surrounding dwellings and has proposed the lowest parts of the development closest to existing residential receptors. The closest existing dwelling is 4 The Green to the west and is approximately 15m from the western extent of the proposed building. This separation distance together with the orientation and relationship of the proposed building to neighbours would not give rise to concerns with respect to their light and privacy. Whilst views of the countryside currently experienced at some dwellings in Hawthorn Avenue and The Green may change, the separation distances involved would mean that there is no harm to outlook. Loss of a view is enshrined within planning law as not being a material planning consideration.

There is no reason to suppose that this nature of residential accommodation would be materially different from impacts associated with a normal residential development in a domestic situation, including highway movements. The proposal would therefore not result in harmful impacts to residential amenity as a result of nuisance or disturbance.

Any significant impacts arising as a result of construction work associated with the proposal could be controlled via provision of condition requiring approval of a construction method statement (including piling if required) as recommended by the Council's Environmental Protection Department. A restriction to working hours condition could also be attached as a further safeguard.

Moving on to future occupiers living conditions. The proposal has been designed to broadly meet National Space Standards required by policy 30 (b) of the JCS with respect to single-person occupation requirements for the 1-bed apartments and three-person occupation requirements for 2-bed apartments. The apartments consist of an open plan kitchen/dining and living room arrangement with separate bedrooms and shower rooms. The sizes of the accommodation vary with each habitable room having at least one double casement window with unrestricted views. There is also provision of a decently sized social room for use by occupiers as well as smaller incidental rooms including a manager's office, treatment room, laundry and bin storage area. Externally there is a cycle, bin and mobility scooter store as well as a good-sized communal outside area which has been divided through retention of the existing hedgerow which results in a good level of privacy for its users.

The ground floor occupiers could experience some degree of privacy infringement particularly those directly facing the communal outside space. The nature of this type of use for the over 55's involves the creation of a community rather than simply consisting 29 apartments for independent living and therefore a closer relationship between occupiers is to be expected and to a degree; enjoyed. As such and as the community garden would not likely be used constantly year-round the arrangements associated with the ground floor flats are acceptable.

The Appeal Inspector considered what impacts associated with the adjacent TCAM and recreation ground (including play area) would have to the amenities of future occupants. The Inspector found that in the absence of data regarding the level of existing noise generated by the neighbouring community uses, that the proposal could not be supported. The significant difference between the Appeal proposal and this proposal is the proximity of the residential accommodation and private garden to the noise source. In particular, the immediate application and the closest rear face of the building is located 35m from the TCAM's outside area with intervening car park whereas the Appeal scheme had a dwelling less than 10m from the TCAM outside seating area with its garden on the shared boundary.

The relationships considered by the Appeal Inspector in the 2011 Appeal therefore were a lot closer than those proposed here. The proximity of the proposal to the play area is however largely the same. Nevertheless, and adopting a precautionary approach, despite no issues raised by the Council's Environmental Protection department, a condition could be imposed requiring a noise survey to be carried out and mitigation measures provided if necessary. The provision of mitigation measures, in this case, are likely to be achievable given the extent of land available within the development between the proposed building and the recreation area and also the provisions promoted in the 'Heads of Terms' to contribute toward air conditioning units at the TCAM which would reduce the need to have doors open (source of noise) in the Centre to control temperature. The proposed measures, if necessary, would be expected to comply with Defra's 'Noise Policy Statement for England' as required by paragraph 180(a) of the NPPF.

In turn; this means that suitable arrangements and safeguarding measures are in place to protect the continued unrestricted operation of the TCAM business and the recreation area.

It is therefore concluded and that in the absence of objection from the Council's Environmental Protection Department and in all foreseeable probability, future occupiers would experience acceptable living conditions in terms of the suitability of the internal and external provisions and impacts arising from nearby sources of noise. Hence, the development accords with Policy 8 (e) of the JCS which, amongst other things seeks to ensure quality of life.

This objective is also consistent with paragraph 127 (f) and paragraph 182 of the NPPF, with the latter dealing with the successful integration of new noise

sensitive development amongst existing community facilities. The development shall therefore secure a good standard of amenity for all existing and future occupants of land and buildings and is acceptable in this regard.

#### 5. Impact on highway safety

JCS Policy 8 (b), consistent with chapter 9 of the NPPF, seeks satisfactory means of access and provision for parking and resist development that would prejudice highway safety.

To address this matter a 'Transport Statement' (TS) has been compiled by a transport planning and highways engineer and submitted in support of the proposal by the applicant. The application proposes thirty car park spaces, which effectively amounts to one space per unit (29), including three disabled spaces, six cycle spaces and space for 3/4 mobility scooters. The TS acknowledges that this provision is significantly less than Northamptonshire County Council (NCC) Parking Standards and in the case of vehicle parking provides 14 spaces less than standards (44).

Notably, however; KBC has not adopted NCC – Parking Standards as a planning document.

The NPPF at paragraph 105-106 seeks to steer a-way from the setting of broad parking standards unless there is clear and compelling justification to do so. This is to acknowledge differences in site locations and varied nature of development and accessibility to public transport options. In effect the NPPF advocates a site-specific approach for a developments parking requirement when assessing the impact of development on highway safety.

The TS discusses three main topics to make its case in support of the proposed departure from Highway parking standards. These points include (a) sustainability; (b) vehicle trips; and; (c) comparable sites and shall be discussed in turn below:

##### a) Sustainability

The site is located approximately 200m easy walking distance from Mawsley commercial centre which includes a convenience store, hairdresser, beauty salon, coffee shop, Indian takeaway and ATM. The Community Centre and the recreation ground is closer and includes a public house with many activities held in the centre including Zumba, Short Mat Bowls, Pilates and WI events, amongst a variety of other community activities.

A health centre is also located within easy walking reach of the site and includes an optician, dentist, doctor's surgery, pharmacy as well as access to a physiotherapy and massage service. The doctors service is currently accepting patients and thereby has capacity available to future occupiers of the proposal. Many of these services and facilities will be attractive to future occupiers in the over 55's age bracket and would provide for their day-to-day welfare and shopping needs.

The site is also within a couple of minutes walking distance of the number 10 stagecoach bus service which operates a morning and evening bus service six days a week (excluding Sunday) to/from Kettering and Northampton.

The availability of these services and facilities would reduce the need of future occupiers to travel by private car although some level of private car use would be likely for large shopping trips, clothes shopping and evening entertainment. The amount of car use however would likely be lower for this nature of development than compared with a standard housing development.

It is the claim of the Local Highway Authority (LHA) that as there is currently no off-peak bus service available in the village then this counts against the sustainability of the proposal. The LHA recommend that to deal with this matter the proposal should contribute toward the provision of a weekly off-peak shopper service. The lack therefore of such a contribution would, in the LHA's view result in failure of the application to meet aspired sustainable thresholds. This LHA view must be considered with weight.

b) Vehicle trips

The expected number of trips likely to be generated by the proposal was reached in the TS by using the industry accepted 'Trip Rate Information Computer System' (TRICS) database on the basis of the considered 'best-fit' use being retirement flats (not a care home) in a suburban edge of town location. This is a sensible approach.

Using TRICS the proposal would generate movements associated with the use of the site by 25 cars; approximately equating to 1 car per flat. The number of car parking spaces proposed is 30 and thereby slightly overprovides.

c) Comparable sites

This undertaken exercise simply looked at other planning decisions for similar proposals and the amount of parking spaces provided and then compared it to this proposal. This exercise shows that the number of car parking spaces proposed here is consistent with similar schemes and in most cases provides more.

It does not, however, demonstrate whether in practice the amount of parking provided at those other sites is enough once the site is occupied. This 'comparison' exercise thereby has limited value by itself, although it does show that the amount of car parking proposed is consistent with similar development. This is probably due to adherence to the TRICS database figures discussed above (b).

The TS ends by concluding that the provision of slightly more than 1.0 spaces per apartment (30) is acceptable to meet the demands of the development.

It is therefore considered, with no convincing information provided from scheme opposers that would justify coming to a different view, that the amount of parking provision proposed is acceptable and therefore would not cause significant levels of demand for on-street spaces. Highway safety on the local road network would thereby not be compromised by the additional movements.

The proposal makes adequate bin storage arrangements close to the access where it is stated, within the submission, that a site manager would collect the refuse from a drop-off point within the building and move to the external bin area. From there the refuse bins will be moved to the kerbside on collection day, whether that be by a private collection firm or the Council's collection service.

The LHA object partly based on the lack of information provided on the access arrangements. No details have been supplied to show the relationship of the proposed access in the context of other accesses or junctions and therefore whether there would be any conflict. In addition, there has been no evidence provided showing that acceptable vehicular visibility can be achieved. These types of evidences should be relatively easy to produce (if acceptable) and their omission is a fundamental failing of the submission that must be considered as a failure to demonstrate highway safety. The application therefore is inconsistent with Policy 8 (b) of the JCS and advice at Chapter 9 of the NPPF which seeks development to promote sustainable transport opportunities and safeguard highway safety.

#### 6. Sustainable building implications

Policy 9 of the JCS says that all residential dwellings should incorporate measures to limit water use to no more than 105 litres per person per day and in its pre-text encourages low carbon energy development and a limited cost passive approach.

To deal with the water saving matters a suitable condition could be imposed.

To deal with energy conservation a brief section has been dedicated in the submitted 'Design and Access Statement' and says that the following measures will be explored: low emissivity argon filled double glazed windows, low energy lighting and use of efficient gas condensing boiler system. It is also noted that the long elevations and most windowed elevations of the proposal would receive passive light for some parts of the day due to the orientation of the building on the site not facing directly northwards.

This intent together with imposition of the mentioned condition is consistent with the requirements of JCS Policy 9 and therefore the proposal is acceptable in this regard.

#### 7. Impacts of possible contamination

Policy 6 of the JCS seeks proposals to deal with contamination.

To deal with this matter and consistent with the advice of the Council's Environmental Protection Department a suitable safeguarding condition can be attached requiring approval of a phased environmental risk assessment.

#### 8. Impact on the water environment

Policy 5 of the JCS looks for development to have regard to the water environment and make appropriate arrangements for flood risk management.

To deal with this matter a 'Flood Risk Assessment (FRA) and Drainage Strategy' has been provided including provision of a wastewater plan and micro-drainage calculations. The FRA concludes by saying that *'...the proposed development can be accomplished without presenting an unacceptable flood risk to occupiers, without increasing flood risk elsewhere and without detriment to the existing drainage infrastructure.'*

The Lead Local Flood Authority (LLFA) agree with the findings of the FRA and the overall drainage strategy subject to imposition of conditions requiring approval of a detailed strategy, including its maintenance and ownership arrangements and provision of a verification report. The proposal can be conditioned to be carried out in accordance with the approved FRA.

Anglian Water also accept the FRA and say that the current wastewater and sewerage arrangements are appropriate or otherwise shall be upgraded by them to account for the increased connections arising as a result of the development.

The proposal therefore is considered to have appropriate arrangements in place to deal with any impacts to the water environment consistent with JCS policy 5 and chapter 14 of the NPPF and thus is acceptable on this matter.

#### 9. Impact on biodiversity

Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: *every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.*

To deal with this matter an 'Extended Phase 1 Survey Report' has been provided. The report concluded by saying that *'...implementation of the measures provided within this [the] report enable the proposals to accord with national and local planning policy for nature conservation.'*

The County Ecologist broadly agrees with the findings and recommendations of the Report however would like to see more done in terms of habitat compensation due to the loss of the nesting sites and invertebrate habitat. The County Ecologist recommends biodiversity enhancements that go beyond those mentioned in the provided Report to include the provision of swift, bat

and bee bricks rather than just bat boxes. Also recommended is imposition of a landscaping condition and a landscape and ecological management plan (LEMP) condition. These requests from the County Ecologist are reasonable and would partly off-set the biodiversity lost and as such conditions could be imposed to deal with this matter. The development could also be conditioned to be carried out in accordance with the Biodiversity Report.

The proposal thereby has had appropriate regard to biodiversity and as such subject to the imposition of the discussed conditions would protect species and make suitable provision for biodiversity enhancement. The application therefore is acceptable in this regard.

#### 10. Affordable housing and housing type and mix

Private sector housing of 15 or more dwellings would require 40% affordable housing provision as stated at JCS Policy 30 (d) or otherwise contribute toward off-site affordable housing.

This provision would normally be secured through a Section 106 agreement either at the site or otherwise payment *in lieu* will be required in association with the delivery of affordable homes elsewhere. The submission states in the submitted 'Supporting Planning Statement' that the proposal would not be viable should it include affordable housing provision. Instead the applicant states the intent to make the housing available to local people in the first instance and suggest that this could be secured through a Section 106. Given that the housing would still be available on the open market at no reduced cost it is not considered that a preference to 'locals first' would offset the need for the proposal to contribute affordable housing.

The proposal would not be considered under the affordable housing exemption criteria laid-out at paragraph 64 of the NPPF as whilst intended for older persons is not considered to be 'specialist accommodation'. Specialist accommodation for the elderly would involve the provision of 'care' and thereby fall under use class C2. The proposal relates to the provision of C3 (Dwellinghouses) and therefore it is consistent with the development plan and the Framework to require affordable housing contributions as part of the scheme. This considered C3 use position has the agreement of the applicant as confirmed in the 'Supporting Planning Statement'.

Critically; the application has not been supported by any robust evidences to substantiate claims that the proposal would not be viable with the inclusion of affordable housing provisions. Given that the contributions sought (with no education) are low in the context of proposing a scheme for 29 apartments in a single large building that can be constructed as a whole the prospect of the proposal not being able to provide any (or limited) affordable housing contributions, due to viability, is not considered to be likely. As no convincing evidences have been provided that would justify a departure from JCS policy 30 (d) requirements for affordable housing contributions then this is a significant failure of the application. Notably and during this application, the applicant has been given the opportunity to engage with an independent

viability assessor to substantiate its case although this has not been progressed.

Policy 30 (c) of the JCS seeks dwellings to meeting Category 2 of the National Accessibility (Building Regulations Part M4 (2)) as a minimum and negotiation for a proportion of Category 3 (wheel-chair accessible, Building Regulations Part M4 (3)) housing. In this regard the application proposes in its 'Design and Access Statement' to provide accessibility for all abilities, notably including provision of a lift. As such these provisions are considered to be consistent with the Policy requirements in this regard and shall be conditioned for M4 (2) throughout and M4 (3) for the ground floor apartments.

The proposal thereby, by failing to make affordable housing provision (or a commuted sum) or otherwise make a demonstrable viability case to justify a lack of provision, conflicts with Policy 30 (d) of the JCS.

#### 11. Community infrastructure

As the proposal relates to the provision of a 'major' development as defined by The Town and Country Planning (Development Management Procedure) (England) Order 2015 the application would be expected to provide appropriate community infrastructure contributions that off-sets its impacts. Such contributions will usually be secured in a Section 106 Agreement.

The various contributions sought are discussed above and would include affordable housing provision together with library and bus service contributions.

In addition, the provided Heads of Terms states willingness to provide £50,000 toward improvements at the TCAM.

These contributions are considered to meet the tests laid out at paragraph 56 of the NPPF and set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and therefore are appropriate.

Whilst the application has expressed willingness to provide some of the contributions (excluding affordable housing), there is no signed Section 106 Agreement in place to secure these contributions. In the absence of this there is no assurance that the necessary infrastructure would be secured. As such the application is contrary to Policy 10 of the JCS that seeks the provision of mitigating infrastructure and Policy 30, which amongst other things, seeks to provide affordable housing in the interest of providing a housing mix and tenure.

#### 12. Public Benefits

The proposal would provide 29 apartments, thereby contributing appreciatively towards the supply of housing in an accessible location within a village, with pedestrian access to local shops, some services and public transport links into the centre of Kettering and Northampton. However, this should be considered in the context that the Council can demonstrate a 5-

year supply of deliverable housing land. As such some weight to this consideration is afforded in the overall balance.

The proposed development would provide specialist accommodation for older people, for whom, according to the *Planning Practice Guidance* (PPG), the need to provide housing at a national level is 'critical'. Evidence provided of a need for additional housing for older people in Mawsley is little more than anecdotal, however it is apparent that no such facility currently exists in a village of approximately 750 houses and therefore the proposal would contribute toward Mawsley's housing mix consistent with JCS Policy 30 (a), national guidance and the NASS. As such there is no sound basis to challenge this need.

As one of the main public benefits of the scheme is its contribution towards the provision of accommodation for older people, it would be necessary to impose a condition restricting the occupation of the development to persons over 55 years old only. The provision of such a condition is compliant with CiL Regulation 122 with its use in recent Planning Appeal; such as in the case associated with 'Clockhouse, Wolverhampton (ref: APP/D4635/W/15/3131263).

The construction of the proposed apartments would generate employment for a significant number of people and the expenditure associated with the provision of 29 new units would benefit local shops and services. In addition, paragraph 59 of the Framework also seeks to boost significantly the supply of housing. Some weight is attached on such considerations.

### 13. Planning balance

There have been no material levels of harm found with respect to the character and appearance of the area or residential amenity.

There is a significant need and policy requirement for the provision of affordable housing in the Borough. The proposal would be expected to contribute to affordable housing but has failed to do so. The proposal also fails to put the necessary legal agreement in place to secure improved facilities at the local Community Centre. This Community Centre provision is an integral consideration to the acceptability of the proposal as it means that the TCAM could then provide a food offer commensurate with the offers associated with a pub which would off-set the loss of the proposal site for that purpose. Failure to provide these contributions, which are considered to accord with the 3 statutory tests in Regulation 122 of CIL, are a significant failing of the application apportioned with substantial weight.

The proposal also fails to provide contributions toward library and bus service provisions and fails to demonstrate that the proposal would not harm highway safety. Loss of the site's biodiversity value would also have limited harm. All the harm weighed together is more than substantial.

The benefits that would accrue from the development are set out above and whilst some weight can be afforded to the economic and social dimensions of the NPPF, this weight is not considered to be over-riding in any balance especially where there would be substantial harm, in allowing a form of development that fails to make its contribution toward affordable housing and toward enhancement of the TCAM. It is the harm that holds the tilt.

### **Conclusion**

As such, having regard to the Framework and the development plan as a whole, the proposal does not constitute sustainable development and therefore is recommended for refusal.

### **Background Papers**

Title of Document:

Date:

Contact Officer:

Sean Bennett, Senior Development Officer on 01536  
534316

### **Previous Reports/Minutes**

Ref:

Date:

