

# **Southern Planning Committee**

## **Agenda**

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<b>Date:</b>	<b>Wednesday, 15th July, 2009</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ</b>

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To receive apologies for absence.

2. **Code of Conduct - Declarations of Interest/Pre-Determination**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Minutes** (Pages 1 - 4)

To approve the minutes of the meeting held on 24 June 2009.

4. **Public Speaking**

Please contact Julie Zientek on 01270 529641  
E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk) with any apologies, requests for further information or to arrange to speak at the meeting

A total period of 5 minutes is allocated for each of the planning applications for Ward Councillors who are not Members of the Planning Committee.

A period of 3 minutes is allocated for each of the planning applications for the following individuals/groups:

- Members who are not Members of the Planning Committee and are not the Ward Member
- The Relevant Town/Parish Council
- Local Representative Groups/Civic Society
- Objectors
- Applicants/Supporters

5. **P09/0095 Use of Agricultural Land as Rugby Pitches, Land off Wybunbury Lane Stapeley for Crewe & Nantwich RUFC** (Pages 5 - 20)

To consider the above planning application.

6. **09/0650N Extension to Create En-suite and Dressing Room, 8, Green Lane, Willaston, Nantwich, Cheshire, CW5 7HY for Mr R Booth** (Pages 21 - 26)

To consider the above planning application.

7. **09/0809C Outline application for the demolition of a dwelling house (numbers 3 & 5) and redevelopment of the site. Together with the adjoining haulage yard for up to 93 dwellings and the provision of public open space together with associated highway and landscaping works. The application seeks specific approval of the site access from Holmes Chapel Road, all other matters being reserved, Land off Jersey Way, Middlewich for Daniel Kershaw, Russell Homes** (Pages 27 - 40)

To consider the above planning application.

8. **09/1325N Demolition of Existing Buildings and Erection of New Buildings and Redevelopment of Link House to Provide 35 Apartments and Two Retail Units with Associated Infrastructure, Land at 2 & 4 Heathfield Avenue and 29, 29A & 31 Hightown Crewe** (Pages 41 - 56)

To consider the above planning application.

9. **09/1515N The Installation of a Radio Base Station Consisting of a 10m Replica Telegraph Pole, Cannon Type D and G Cabinets and Development Ancillary Thereto, Land at the junction of Valley Road, Readesdale Avenue, Crewe, Cheshire for O2 UK Ltd** (Pages 57 - 64)

To consider the above planning application.

10. **09/1589N Proposed Extension on Rear of Dwelling, 4 Fulbeck Close, Wistaston, Crewe for Mr Sutton** (Pages 65 - 70)

To consider the above planning application.

11. **09/1598C Construction of one two-storey dwelling with detached double garage and new access. Construction of new access for existing dwelling, Beech House, Twemlow Green, Holmes Chapel Cheshire, CW4 8BN for Mr J Hindley** (Pages 71 - 78)

To consider the above planning application.

12. **Judicial Review of Decision to Grant Planning Permission, Bryancliffe, Wilmslow Park South, Wilmslow** (Pages 79 - 84)

To notify members of the result of the Judicial Review proceedings brought against the decision of Macclesfield Borough Council to grant planning permission for the development at Bryancliffe, Wilmslow Park South, Wilmslow.

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 24th June, 2009 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor B Dykes (Chairman)  
Councillor G Merry (Vice-Chairman)

Councillors T Beard, M Davies, L Gilbert, B Howell, S Jones, S McGrory,  
R Walker and J Weatherill

**OFFICERS PRESENT**

Rachel Goddard (Senior Lawyer), David Malcolm (Development Control  
Manager – Sandbach Office) and Paul Moore (Principal Planning Officer –  
Sandbach Office)

**Apologies**

Councillors D Bebbington, S Furlong, J Jones, A Kolker and A Richardson

**30 CODE OF CONDUCT - DECLARATIONS OF INTEREST/PRE-  
DETERMINATION**

Councillor S McGrory declared that, with respect to application number  
09/0809C, he had been involved in discussions regarding previous  
planning applications for the site but had expressed no opinion with  
respect to the current application.

**31 MINUTES**

RESOLVED – That the minutes of the meeting held on 3 June 2009 be  
approved as a correct record and signed by the Chairman, subject to the  
addition of Councillor Mrs B Howell to the list of those who had sent  
apologies for absence.

**32 09/0809C - OUTLINE APPLICATION FOR THE DEMOLITION OF A  
DWELLING HOUSE (NUMBERS 3 & 5) AND REDEVELOPMENT OF  
THE SITE. TOGETHER WITH THE ADJOINING HAULAGE YARD FOR  
UP TO 93 DWELLINGS AND THE PROVISION OF PUBLIC OPEN  
SPACE TOGETHER WITH ASSOCIATED HIGHWAY AND  
LANDSCAPING WORKS. THE APPLICATION SEEKS SPECIFIC  
APPROVAL OF THE SITE ACCESS FROM HOLMES CHAPEL ROAD,  
ALL OTHER MATTERS BEING RESERVED, LAND OFF JERSEY WAY,  
MIDDLEWICH FOR DANIEL KERSHAW, RUSSELL HOMES**

Note: Mr J Scott (on behalf of the local residents group), Mr P Blair, Dennis Wilson Consulting (on behalf of the objectors) and Ms A Freeman, Emery Planning Partnership (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application.

RESOLVED – That the application be DEFERRED for a Committee site inspection so that Members can assess the impact of the proposed development on neighbouring amenities and assess the suitability of the access.

**33 09/0961C - CHANGE OF USE TO GROUND FLOOR FROM CLASS A1 (SHOP/FORMER CERAMIC TILE SHOWROOM) TO CLASS A5 (HOT FOOD TAKEAWAY), 12 ROOD HILL, CONGLETON FOR MR FEREIDOUN KOLAH**

The Committee considered a report regarding the above planning application.

RESOLVED

- A. That the application be APPROVED subject to the following conditions:
  - 1. Standard time
  - 2. Hours of operation, 11.30 to 23.30 Monday to Saturday and 11.30 to 22.30 Sundays and public holidays.
  - 3. Details of noise insulation to be submitted for approval
  - 4. Details of cooking odour extraction equipment to be submitted for approval
- B. That the Development Control Manager be requested to write to the applicant regarding the provision of a rubbish bin for customers' use.

**34 P08/0865 - CHANGE OF USE FROM PUBLIC HOUSE TO A3 INDIAN RESTAURANT AT THE CHESHIRE CHEESE PUBLIC HOUSE, 56 CREWE ROAD, NANTWICH.**

The Committee considered a report regarding two planning applications for change of use at the Cheshire Cheese Public House, 56 Crewe Road, Nantwich, which had been considered by Crewe and Nantwich Borough Council.

Planning application P08/0498 for the change of use of the public house and manager's flat to one dwelling and the erection of 9 apartments was approved, subject to conditions, on 27 July 2008.

On 11 September 2008, planning application P08/0865 for change of use from a public house to A3 Indian Restaurant and extensions to the rear of the premises was approved, subject to conditions. As it was considered that the proximity of the apartments to the proposed restaurant would be detrimental to residential amenities, planning permission was also subject to the applicant first signing a Section 106 Agreement which ensured that if construction of the apartments commenced, the change of use with extensions to form a restaurant would not be implemented, and vice versa.

Planning permission had been issued for the application for the apartments (P08/0498), although no details had been submitted under the conditions of this permission. However, the Section 106 Agreement in relation to application P08/0865 had not been signed, as, despite a number of requests, no correspondence had been received.

RESOLVED – That the planning application for the change of use to an A3 Indian restaurant at the Cheshire Cheese Public House, 56 Crewe Road, Nantwich, be REFUSED because the applicant has failed to confirm through the use of a Section 106 Agreement, that if the development which is the subject of this application is implemented then the apartments permitted under the earlier planning permission reference P08/0498 will not be constructed and in the event that the apartments are constructed the applicant will not implement the development to which this application relates. Without such Agreement, the application fails to ensure that there will be no disturbance to residents in the apartments as a result of the late night opening and activities at the proposed restaurant. To allow the development would be contrary to Policy BE.1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The meeting commenced at 2.00 pm and concluded at 3.20 pm

Councillor B Dykes (Chairman)

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<b>Planning Reference No:</b>	P09/0095
<b>Application Address:</b>	Land off Wybunbury Lane Stapeley
<b>Proposal:</b>	Use of Agricultural Land as Rugby Pitches
<b>Applicant:</b>	Crewe & Nantwich RUFC
<b>Application Type:</b>	Full
<b>Grid Reference:</b>	368019 351048
<b>Ward:</b>	Wybunbury
<b>Earliest Determination Date:</b>	4 <sup>th</sup> March 2009
<b>Expiry Dated:</b>	1 <sup>st</sup> April 2009
<b>Date of Officer's Site Visit:</b>	11 <sup>th</sup> February 2009
<b>Date Report Prepared:</b>	16 <sup>th</sup> March 2009/2 <sup>nd</sup> July 2009
<b>Constraints:</b>	Open Countryside

#### **SUMMARY RECOMMENDATION:**

**Approve with conditions**

#### **MAIN ISSUES**

- The impact upon the character and appearance of the area
- The impact upon neighbouring residential amenity
- The impact upon protected species
- Highways issues

## **1. REASON FOR REFERRAL**

This application was heard at the Development Control Committee for Crewe and Nantwich Borough Council on 26<sup>th</sup> March 2009 with a determination to grant delegated powers to the Head of Planning to approve the application following further consultation with the Environmental Health Department and Ecologist at Macclesfield Borough Council regarding late representations which have been received. Following a review of the additional information submitted and on receiving legal advice, the Head of Planning (now Development Manager) considers it inappropriate for her to exercise the delegated authority given in the committee decision, as it is necessary for the committee to apply its mind to the additional material included in this report at section 8 Officer Appraisal – Protected Species (Addendum) and reach a decision in light of it.

## **2. DESCRIPTION OF SITE AND CONTEXT**

The site is located on the northern side of Wybunbury Lane within the open countryside. The land is currently in agricultural use and is bound by a mix of hedgerows and trees of varying sizes and quality to the northern, southern and western boundaries. A 1 metre high post and rail fence forms the boundary to the eastern boundary of the site. Open drains run along the northern and western boundaries of the site. To the north of the site are the existing Crewe & Nantwich Rugby Club pitches and the Crewe Vagrants Club. Access to the site would be

from the north via the existing access from Newcastle Road with the existing car park at the Crewe Vagrants Club serving the site.

### 3. DETAILS OF PROPOSAL

This is an application for the change of use of the land from agricultural to rugby pitches. The application does not include any buildings, advertising hoarding or floodlights.

### 4. RELEVANT HISTORY

P00/0605 - Renewal of Temporary Permission for Use of Agricultural Land as Rugby Pitches. Approved 6<sup>th</sup> December 2000

P98/0537 - Use of land as rugby pitches as extension to existing sports ground. Temporary approval given until 17<sup>th</sup> September 2000

### 5. POLICIES

The relevant development plan policies are:

#### **Policies in the Local Plan**

NE.2 (Open Countryside)

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

NE.12 (Agricultural Land Quality)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RT.6 (Recreational Uses in the Open Countryside)

#### **Regional Spatial Strategy**

DP2 (Promote Sustainable Communities)

RDF2 (Rural Areas)

L1 (Health, Sport, Recreation, Cultural and Education Services Provision)

#### **Government Guidance**

PPS7 (Sustainable Development in Rural Areas)

PPS9 (Biodiversity and Geological Conservation)

PPG17 (Planning for Open Space, Sport and Recreation)

### 6. CONSULTATIONS (External to Planning)

**Highways Authority:** If the access to the land is taken off Wybunbury Lane the access would need to comply with CCC standards

**Environmental Health:** The hours of use should be restricted to; April – September 09.00 – 20.30; November – February 09.00 – 17.00 and March – October 09.00 – 18.30.

The Environmental Health Department have assessed the first Noise Assessment submitted by residents and make the following comments;

- The use of BS4142 as an assessment method for this type of noise is not appropriate as this method should only be used for the assessment of noise from industrial areas such as factories etc and not sports grounds.
- It is acknowledged that there is no standard specifically covering this type of noise. It is suggested that the preferred method of assessing the noise would have been to compare the ambient noise levels taken at the club (i.e. within 15m of the pitch as taken on the 11/3/2009) with those taken from the Spirrals. Therefore using the noise reading taken on the 11/3/2009 (as these are the only readings taken within a reasonable time of each other) the level at the Spirrals is 51 dBA and the noise taken from the pitch when it is corrected for the difference in distance is 51dBA. This would demonstrate that there should be very little difference between the noise from the club and the noise currently experienced at the Spirrals.
- Unfortunately, it would not be appropriate to use the noise readings taken on the 15/3/2009 as the readings taken from the Spirrals was at a much earlier time of the day when compared with those taken from the Club. In addition, the noise reading taken from the Club are at a distance of about 100m from the pitch which when the correction factor is included this takes the noise level to 63dBA which is significantly above those taken within 15m and hence should better reflect the noise when the pitch is being used.
- With respect to the noise reading taken on the 5/3/2009 it is not possible to compare this against any of the other readings as it has been taken on a different day and hence the ambient noise levels in the area could have been different to the days when the other readings were taken.
- If as is suggested in the report the World Health Organisation Community noise levels are used (which should be based on a 16 hour day time reading and not short term reading of an hour or less) these indicate that the noise level at Spirrals is already in the category of moderate annoyance and this will not change with the noise from the use of the rugby pitches.

Therefore, based on the readings presented in the report it is considered that there will not be any significant increase in the ambient noise levels in the area as a result of the application being approved providing the proposed hours of use, as set out during our previous comments, is a condition of any approval that may be granted.

In terms of the second Noise Assessment submitted by a local resident Environmental Health have raised the following comments;

- From looking at the report, it would appear that further measurements have been taken at The Spirrals but none at the Club. Hence we have no new information to compare. The additional measured ambient noise levels at The Spirrals are similar to those taken previously. Further in-depth comments will be given once the Noise Assessment has been fully considered.

**Natural England:** The Authority should request a mitigation package from the applicant for any impacts that will affect bats directly or areas they might use for shelter. Works should be carried outside the bird breeding season (March to August) or if clearance works are undertaken then a check of the site should be made by a suitably qualified ecologist to ensure that birds are not present. If protected species are found on the site all works should stop until further surveys are carried out and a suitable mitigation package is developed.

Further representation received. Previous correspondence made on this application still stands. It is not for Natural England to decide on the level of the survey required. It is for the Local Authority as the competent authority to decide whether the applicant has sufficiently established whether or not protected species are present or not and the full extent that they may be affected by the proposed development. While Natural England does assess developments for licences and provide licences, it is not our decision as to whether a development will require a licence to proceed; this decision must be made by the applicant (via their ecologist). A licence should be applied for if, on the basis of survey information and specialist knowledge, it is considered that the proposed activity is reasonably likely to result in an offence. No licence is required if, on balance, the proposed activity is unlikely to result in an offence. While the decision for further surveys or not must be made by the Local Authority, if the application is approved without further survey, we would advise that on the basis of all evidence so far received that Reasonable Avoidance Measures (RAM'S) could be incorporated into a condition to avoid any possible disturbance of newts. If protected species are found on the site all work should stop until further surveys for the species are carried out and a suitable mitigation package is developed.

**DEFRA:** No comments received at the time of writing this report

**Macclesfield BC Ecologist (acting as consultant to CNBC):** A full Great Crested Newt survey is not required in this instance. This is based on the assessment that the development is likely to pose only a minor short-term threat to newts, if they were to be present, and that this risk could be reduced by the implementation of simple avoidance measures.

## 7. VIEWS OF THE PARISH / TOWN COUNCIL:

No comments received

## 8. OTHER REPRESENTATIONS:

Letters of support have been received from the occupiers of Oaklea Farm, Wybunbury Lane & Nut Tree Farm, Wybunbury Lane raising the following points:

- Means for competitive sport for young people should be encouraged;
- The development will not affect the character of the area providing that there are no additional floodlights and access is not taken from Wybunbury Lane;
- Vehicular access should be taken via Newcastle Road;

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- The proposal would bring a facility which could be enjoyed by all walks of life and would be a benefit to the community;
- The facility will keep young people fit and reduce obesity.
- The membership of the CNRUFC Juniors and Seniors has outgrown the clubs current playing facilities. The juniors have teams right the way through from under 7s to under 18s (approximately 250 local young people) and the seniors have 4 teams (approximately 85 local adults). Currently there are only 2 pitches for these teams.
- These teams regularly train at the clubs facilities but have had to look for other training facilities to preserve the pitches such as using Reaseheath College, Nantwich Town FC and Brine Leas High School.
- Many volunteers have contributed to the clubs progress and there are approximately 35 volunteers with the juniors and approximately 20 volunteers with the seniors.
- There are a number of local groups and organisations that also use or would like to use the rugby union clubs facilities: primary school rugby festivals, high school rugby leagues, colleges and university games, rugby league club and council projects such as the Cheshire Youth Games.
- The purchase of more land is essential for the club and many other groups to provide better quality activities all on one site, as well as providing even more opportunities for local people.
- Furthermore, purchase of more land is central to the future development of rugby in the local area including providing opportunities for girls and ladies rugby.

Letters of objection have been received from the occupiers The Spirrals & Privet Cottage Wybunbury Lane and Haymoor Green Farm raising the following points:

- Loss of agricultural land;
- Impact upon the open countryside;
- A sequential test is required to consider alternative sites;
- The application is invalid;
- The application does not provide sufficient detail;
- The applications does not indicate how the site is to be set out;
- Impact upon surrounding properties and other countryside users through increased noise and an acoustic survey will be carried out;
- Local residents have seen Great Crested Newts in the area and a full survey with adequate mitigation measures will be required;
- Impact upon Haymoor Green Farm which is a Grade II listed property;
- Residents continue to suffer unauthorised developments of the adjacent caravan storage and overnight parking facility;
- Light pollution.

Additional letters of objection received from the occupiers of Stapeley House & Sunnyside, Wybunbury Lane raising the following points;

- Impact upon the threatened environment at this location
- Impact upon residential amenity
- Light pollution
- Existing light and noise pollution from the Vagrants would be increased

- Flooding/drainage
- Vehicular parking along Wybunbury Lane
- Further urbanisation of Wybunbury Lane which is under threat from an unauthorised caravan development
- The development could be used by others for a precedent if further development is approved
- The Club should approach other land owners and consider a less sensitive site
- Inaccuracies in the applicants habitat survey

A further letter has been received from Planning and Law Ltd. This letter is not to supplement the objections already made but to consider whether the application has been lawfully handled. The letter relates to two aspects of the application;

- Ecological surveys and in particular issues relating to the presence or otherwise of Great Crested Newts
- Acoustic Survey Work and the issue of impact of noise on residential amenity and potential nuisance

One local resident has commissioned a separate Great Crested Newt Pond Appraisal which concludes that a full protected species survey will be required for the following reasons;

- The physical characteristics of ponds 1 & 2 indicated that the ponds potentially offer Great Crested Newts a suitable aquatic habitat;
- The presence of Great Crested Newts (GCN) at 'The Spirals' was supported by;
- The presence of an adult smooth newt (smooth newts are often associated with GCN)
- The presence of sub-adult common frog and toad indicating a likelihood of successful amphibian breeding
- The availability and extent of good terrestrial foraging, shelter and dispersal habitat neighbouring the ponds
- The significant number of ponds within 500 metres of 'The Spirals'
- The known presence of GCN in the wider area
- It is considered that to reliably establish the presence likely absence of GCN within ponds 1 and 2, a full GCN survey should be undertaken on both ponds at the appropriate time of year.

One local resident has commissioned 2 Noise Assessment's in relation to this application and this concludes that;

- The desirable external level of 50dB LAeq is likely to be exceeded if the sports activities occur at the extended site, opposite The Spirals as proposed – Predicted levels 52 - 63 dB. Allowing for a 15dB reduction in open windows the 'reasonable' internal levels for bedrooms are likely to be exceeded. If activities at the sports club are doubled this could increase noise levels produced by these activities by up to 3dB, increasing current levels to between 55-66dB
- The expected wide range of noise levels produced by these activities depend on the number of games being played, how vociferous the

participants are, the frequency of the whistle use, impact noise, spectators and so on and this is reflected in the results of monitoring

- From BS4142 the rating level is estimated to range between +9 and +25dB above the measured background noise level at 'The Spirrals'. From BS4142 this indicates a difference ranged between 'Above Marginal Significance' and 'Indicates that Complaints are Likely'
- WHO Guidelines - current levels suggest that the proposed extension is likely to cause a moderate to serious annoyance to the community in regard to outdoor living areas
- From the above criteria the proposed extension to the Crewe Vagrants site and the activities on this site are likely to result in annoyance to the rural community in this area, indicating that complaints are likely (also above marginal significance at times) and are likely to exceed desirable external and internal domestic noise levels.
- Noise levels at the Spirrals are likely to be around 10 dBA + lower than the levels from sporting activities at around the low to mid 40dB's – L90. Levels from the activities themselves are likely to range from the low to high 50 dB's to mid 60 dB's.
- It is considered that much of the noise from the proposed boundary would be above background noise levels in the area; in addition the character of the "sporting" noise is markedly different from the background noise. Consequently noise from the facility would be clearly audible.
- Noise with information (speech, songs, warning sounds and so on) more distracting than noise with little or no information (waves sound, wind in trees, traffic, boiler-house noise and so on). Most of the noise from this site is human speech with high information content, because the shouts between players are specifically to attract attention (of other players) but would naturally also tend to attract the attention of nonparticipants. The Spirrals faces directly onto the playing fields; therefore, residents would be most likely to be exposed to the noise in their gardens during summer evenings and weekends, i.e. out of doors. The level at which people speak is generally taken as 55 to 65 dBA.
- In addition, if the pitch is used by adults some of the shouts and calls do contain foul and abusive language. From my observations I consider that such language is commonplace when used by adults and appears to be part of the enjoyment of the participants, i.e. it is not likely that participants could be dissuaded from using such language and/or shouting to each other if unsupervised. In summary I consider that noise from the site, as proposed, could cause disturbance to the Spirrals and other residents, especially as it used primarily by adults.

## 9. APPLICANT'S SUPPORTING INFORMATION:

### Phase 1 Habitat Survey

- The habitats within the site are considered to be of only very local nature conservation value, with species present being common and typical of their type. The areas of some nature conservation in comparison were limited to the scrub and trees around the perimeter. If the redevelopment of the site retained much of the boundary vegetation the works would only therefore result in the loss of improved grassland of negligible conservation value;

- <sup>15</sup> - Any new proposed planting, should look to include a higher proportion of native species, of a local provenance, and/or selecting ornamental species that provide known benefits to wildlife as fruit and nectar sources;
- The Oak trees along the western boundary have medium potential for bats. It is recommended that any existing trees and shrubs within the site are retained within the development, (where feasible), as these can provide established foraging and roosting/nesting sites for bats and other wildlife as well as providing stepping stone habitats in to the wider area;
  - In terms of nesting birds; any vegetation clearance should be undertaken outside of the bird breeding season (March to September inclusive);
  - The ditches are considered unsuitable for water vole due to the lack of vegetation and degree of over shading of bank-side hedgerow/trees. Water voles are therefore not likely to pose any constraints to the development at this time;
  - The terrestrial habitat within the site and the surrounding fields offered very limited suitable great crested newt habitat. Great crested newts are therefore not considered to pose any constraints to the redevelopment of the site at this time;
  - The habitats on site are not considered suitable in supporting reptile species. The main body of the site was homogenous in structure providing limited varied vegetation for basking, foraging and cover. Reptiles are not considered to pose any constraints to the redevelopment of the site.

**The applicant's ecologist has also responded to the comments made in the letter of representation regarding the procedural issues of the survey.**

## **10. OFFICER APPRAISAL**

### **Principal of Development**

The site is located within the open countryside and Policy NE.2 allows development which is amongst other things essential for recreation. Policy RT.6 (Recreational Uses in the Open Countryside) allows development providing that it meets a number of requirements including that it does not harm the character or appearance of the countryside. In this instance the applicant has indicated that an extension in the number of rugby pitches is required due to growing numbers of members at the Rugby Club. The requirement for the use is accepted and given that Government Policy aims to support sport, general health and well-being the proposed use is considered to be acceptable and complies with Local, Regional and National Policies subject to an assessment upon the impact upon residential amenity, highways, the character and appearance of the area and the other issues addressed below.

### **Amenity**

The site is located within close proximity to a number of residential properties with the nearest being The Spirals which is approximately 20 metres to the south of the site on the opposite side of Wybunbury Lane. Careful consideration therefore needs to be given to the impact of the proposals upon the residential amenities of The Spirals and other surrounding residential properties.

As no external lighting is proposed the use of the site will be limited to daylight hours only and the applicants have suggested the following hours of use which are



linked to daylight hours throughout the year; April – September 09.00 – 20.30; November – February 09.00 – 17.00 and March and October 09.00 – 18.30.

In terms of noise from recreational and sporting activities PPG24 (Planning and Noise) states that the local planning authority will have to take account of how frequently the noise will be generated and how disturbing it will be, and balance the enjoyment of the participants against nuisance to other people. The existing rugby pitches are not restricted by any hours of operation condition and the only restrictive condition relates to the use of the floodlights (between 8am and 10pm and on 2 days a week only). As a result the proposed hours of operation condition is more restrictive than those conditions currently in place on the existing rugby pitches.

It is accepted that two previous applications for the use of the application site as rugby pitches (which have now expired) were restricted to use on Saturdays and Sundays between the hours of 9am and 4.30pm only. In response to this Environmental Health were not consulted as part of the 2 previous applications and following consultation they have raised no objection to this application. Furthermore given the government emphasis on improving general health and well being it is considered that the proposed hours of use are acceptable.

The use of the land as rugby pitches is likely to lead to noises such as shouting and limited cheering which can have an impact on neighbouring amenity. However this impact is likely to be intermittent and minor in its impact due to the local nature of the games taking place, the timing of the competitive matches/training (matches mainly at weekends and training mainly at weeknights) and the distance to the nearest residential property which is approximately 20 metres. Furthermore there have been no complaints to the Council's Environmental Health Department regarding noise from the existing rugby pitches and the Environmental Health Officer has raised no objection to the application subject to the imposition of a condition restricting the hours of operation at the site. Given these comments a full acoustic assessment of the site will not be required. The proposals are therefore unlikely to have a significant impact on neighbouring amenity that would warrant the refusal of this planning application. Furthermore, The points raised by the Council's Environmental Health Department in relation to the resident's noise survey are accepted and it is not considered that the proposed change of use would result such a significant increase in noise levels that would warrant the refusal of this planning application.

In order to address concerns of rugby balls crossing the southern boundary line onto Wybunbury Lane or The Spirals a condition will be attached to ensure that the layout of the pitches is agreed in writing prior to the first use of the site.

### **Impact upon the Character and Appearance of the Open Countryside**

The application site is improved grassland which is bound by hedgerows and trees of varying quality. The proposed development is for the change of use of the land to rugby pitches only with no associated buildings or floodlighting. The alterations to the character and appearance of the site would therefore be limited to the laying out of the rugby pitches and the associated rugby posts.

All trees/hedgerow will be retained without the need for pruning apart from a small section to the northern boundary of the site where access to the site would be gained. Given that the site is well screened on all sides and the only works would be limited to the laying out of rugby pitches and the associated rugby posts, the proposal would have minimal impact upon the character and appearance of the open countryside. This view is supported by PPS7 which states that 'Planning policies should provide a positive framework for facilitating sustainable development that supports traditional land-based activities and makes the most of new leisure and recreational opportunities that require a countryside location'. PPG17 states that in countryside around towns 'local authorities should encourage the creation of sports and recreational facilities'.

### **Impact upon Listed Buildings**

Haymoor Green Farm is a Grade II Listed Building which is located over 200 metres to the south of the application site. Given this separation distance and due to the fact that the application is for change of use only, it is not considered that the proposal will have a detrimental impact upon the character and setting of Haymoor Green Farm or any other listed buildings.

### **Highways**

The proposed rugby pitches would be accessed via the existing access at the Crewe Vagrants. The Highway Authority has raised no objection to this access point and it is also considered that the proposal would raise no parking issues since there are sufficient existing spaces.

### **Protected Species (Addendum)**

This addendum is written to supplement the committee report and update reports for application P09/0095 in relation to protected species and to inform the decision as to whether planning permission should be granted.

Great Crested Newts (GCN) are protected under the EC habitats Directive. The directive is then implemented by the Conservation (Natural Habitats etc) Regulations 1994. The most pertinent and direct guidance is given by ODPM Circular 06/05 which accompanies and is complementary to PPS9.

Paragraph 98 of Circular 06/05 states that protected species are a material planning consideration and Paragraph 99 states that it is essential that the extent that protected species may be affected should be established before planning permission is granted. However paragraph 99 also states that *'bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development'*. A survey was requested from the applicant in order to ascertain whether there was any reasonable likelihood of Great Crested Newts being present because of the habitat offered by the area surrounding the development site.

In this instance following the consideration of both surveys it is not considered that there is a reasonable likelihood of Great Crested Newts being both present and affected by the development as required by Paragraph 99 of Circular 06/05.

Both Ecologists (Peake Ecology & CES Ecology) would agree that there are certain characteristics of the surrounding ponds which mean that none of the ponds can be considered optimal for the use of breeding habitat for GCN. The field is also isolated from some of the ponds by Wybunbury Lane and a steep sided ditch runs along the Lane which would reduce the habitat connectivity between the ponds and the development site.

The development site is of an agriculturally improved nature and lacks any features which would make it important to GCN for the purposes of shelter or hibernation.

The proposed development is therefore unlikely to result in an offence under Regulation 39 which states that it is an offence to:

- Deliberately capture or kill a great crested newt [Regulation 39(1)(a)]
- Deliberately disturb a great crested newt [Regulation 39(1)(b)]
- Deliberately take or destroy the eggs of a great crested newt [Regulation 39(1)(c)]
- Damage or destroy a breeding site or resting place of a great crested newt [Regulation 39(1)(d)]

The above offences dictate whether a licence is required and no licence is required if on balance the, the proposed activity is unlikely to result in an offence. However the decision on whether to apply for a licence must be made by the applicant (via their ecologist).

The letter of objection refers to the case *R v Cornwall County Council ex parte Jill Hardy*. This concludes where a development poses a likely risk of harm to a protected species, then local planning authorities should ensure that an adequate survey is carried out in advance of a planning application. However it is not considered in this case that a likely risk of harm would arise from this proposed development.

Given the characteristics of the application site and the findings of the applicant's Habitat Survey it is considered that there is not a reasonable likelihood of GCN being present and affected by the development. As part of the update report a condition for Great Crested Newt Mitigation Measures was suggested and the update report stated that *'In terms of the mitigation measures for Great Crested Newts the case officer has contacted Natural England who has confirmed that it will not be necessary to determine the population size of GCN and that the mitigation measures could be based on the worst case scenario'*. This element of the update report and the use of the mitigation condition imply that GCN are present on the site and that the requirements of A16 (1) could be met. However this is not the case due to the characteristics of the application site, the comments from the LPA Ecologist and the findings of the applicants Habitat Survey which all lead to the conclusion that there is no reasonable likelihood of GCN being present and affected by the development. The use of the mitigation measures condition applies to the use of Reasonable Avoidance Measures as suggested by the LA Ecologist and Natural England. The Reasonable Avoidance Measures (RAM) condition is required as a precautionary measure as it is unlikely that GCN will be affected by the proposed development,

Although the use of the RAM condition is precautionary it assumes that the requirements of A16 (1) are met, and as a result an assessment of the requirements of A16 (1) will be required. This element of the European Directive states that providing that there is no satisfactory alternative the derogation is not detrimental to the maintenance of the populations of the species concerned at a status in their natural range, Member states may derogate from the provisions of Articles 12, 13, 14, and 15 (a) and (b): in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment. This effectively gives 3 tests which have been met in the following way;

- There are no satisfactory alternatives as the land which surrounds the Rugby Club is similar in nature and characteristics to the application site. Furthermore the application site benefits from some surrounding barriers (Wybunbury Lane and the flowing drains) which reduce habitat connectivity.
- The derogation is not detrimental to the maintenance of GCN populations. This requirement has been met in the assessment of the site by the applicant's ecologist in the habitat assessment and the assessment of the condition of the site as not being suitable habitat for GCN
- There are imperative social reasons of overriding public interest. This is set out in the supporting information provided by the representation from Crewe and Nantwich Rugby Union Development Forum which refers to the fact that the Rugby Club has outgrown its current facilities which comprises of 2 pitches for 250 local young people and 85 adults, with other local schools and clubs wanting to use the existing pitches.

PPS1: Delivering Sustainable Development, in line with Section 38(6) of the Planning & Compulsory Purchase Act 2004, states that *"where the development plan contains the relevant policies, applications for planning permission would be determined in line with the plan, unless material considerations indicate otherwise"*. PPS9: Biodiversity and Geological Conservation states that *"in taking decisions, local planning authorities should ensure that appropriate weight is attached to...protected species"*. PPS7: Sustainable Development in Rural Areas seeks to promote recreation in and the enjoyment of the countryside, whilst conserving wildlife in accordance with statutory designations.

Local Plan Policy NE.2 (Open Countryside) considers outdoor recreational uses as an appropriate use within rural areas, whilst Policy RT.6 (Recreational Uses in the Open Countryside) also confirms that such uses would be permitted subject to a number of criteria including that the proposal does not harm the character of the countryside or nature conservation, to which the proposed development accords. The Policy justification to Policy NE.5 (Nature Conservation and Habitats) states that wildlife habitats should be conserved wherever possible and that a licence from DEFRA will be required where the proposal would involve the capture, disturbance, damage, or destruction of a European Protected Species or its breeding or resting place. Policy NE.9 (Protected Species) states that development will not be permitted where it would have an adverse impact upon protected species. Given the conclusions of the Habitat Survey, consultation responses from the LA Ecologist and Natural England, and that the proposed development would satisfy the three tests as set out above there would not be a detrimental impact on Great Crested Newts.

Considerable weight has been given to assessing the likely impact that the proposed development would have on Great Crested Newts which are a European Protected

<sup>15</sup>Species, protected under the EC Habitats Directive. The proposed development would not result in the reasonable likelihood of GCN being present and affected as identified by paragraph 99 of Circular 06/05, and the use of a Reasonable Avoidance Measures condition as a precautionary measure would not conflict with the 3 tests required by A (16) of the EC directive. As summarised above, and in the rest of the Committee Report, it is considered that the proposed development, as conditioned, is in line with policies contained within the Development Plan for the area and National Planning Guidance.

## **Trees**

A number of trees surround the site to the northern, southern and western boundaries. These trees are an important feature and are proposed to be retained as part of this application. The only works which may occur would be pruning work to 2 trees to the northern boundary to give access onto the site. A condition will be attached to this permission to ensure that all trees are retained and any pruning works are first agreed in writing with the Local Planning Authority.

## **Other issues**

One letter of representation refers to the loss of agricultural land and Policy NE.12 of the Local Plan applies. There is no evidence to suggest that the application site falls within Grades 1, 2 or 3A of the Ministry for Fisheries and Food Classification and consultation has been carried out with DEFRA in order to address this issue. In terms of the loss of agricultural land, DEFRA has not raised any comments on this application and given that there is no evidence to suggest that the application site falls within Grades 1, 2 or 3A of the Ministry for Fisheries and Food Classification it is considered that the proposed development is acceptable.

One letter of representation requests a sequential test to be carried out. However a sequential test is not required at any level of policy for playing pitch development and this is not considered to be necessary as part of this planning application.

Comments relating to the validity of this application and the lack of supporting information are not accepted and it is considered that the application is valid and the application has been submitted with sufficient information to allow its determination.

This application site lies adjacent to the site which relates to planning application P08/0509 for the change of use of land to use as a residential caravan site for 6 caravans, including construction of hardstanding, erection of fencing and provision of foul drainage. Limited weight should be given to this application as it differs significantly from that which is proposed as part of this application. Both applications will be dealt with under a different set of local, national and regional policies.

The submitted application has not included a plan indicating the layout of the pitches on the site and neither did the previous application where the orientation of the rugby pitches was controlled by condition. A plan has now been submitted which shows an indicative layout of the pitches and this shows that 2 pitches would be located within the site with a further training/junior pitch to the north of the site. No consultation has been carried out with reference to this plan which is indicative only. Residents comments will have been made in relation to the whole site being used as rugby pitches and these will still be considered as part of this planning application. A

Condition will still be attached to ensure that the final layout of the pitches is agreed in writing.

## 11. CONCLUSIONS

The proposal would result in the development of open countryside as Rugby Pitches. The proposal complies with local, regional and national planning policy and the principal of this use which supports sport, general health and well-being is considered to be acceptable. Given the scale of the use it is not considered that the proposal would have a detrimental impact upon neighbouring amenity through noise or in any other way. The proposal would not have a detrimental impact upon the character and appearance of the open countryside or impact upon protected species. Finally the access which is to be taken off Newcastle Road would not raise any highway safety/parking issues and the proposal is therefore recommended for approval subject to the conditions set out below.

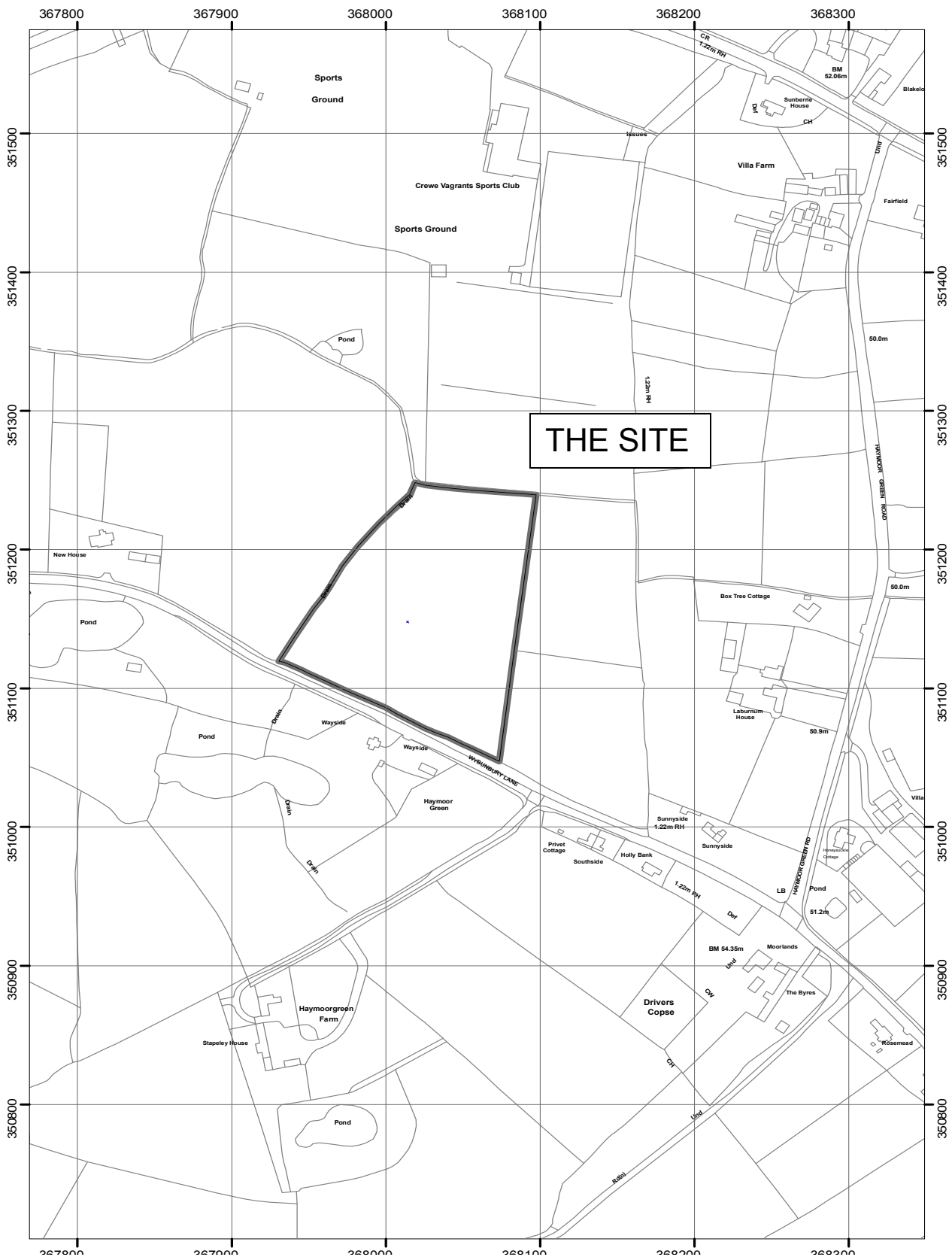
## 12. RECOMMENDATIONS

### APPROVE

### Conditions

- 1 Standard
- 2 Layout of pitches to be agreed
- 3 No floodlights
- 4 Details of access/bridge link to be agreed
- 5 Landscaping to be submitted
- 6 Landscaping to be completed
- 7 Hours of operation
- 8 Works to be carried outside the bird breeding season unless the site is first checked by a suitably qualified ecologist
- 9 Works to stop if protected species found
- 10 Retention of trees all pruning to be agreed in writing with the LPA
- 11 No vehicular access to be gained from Wybunbury Lane
- 12 Reasonable Avoidance Measures - Great Crested Newts

15

**LOCATION PLAN:**

P09/0095 – Land off Wybunbury Lane Stapeley Nantwich

N.G.R; - 368.027 351.152

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<b>Planning Reference No:</b>	09/0650N
<b>Application Address:</b>	8, Green Lane, Willaston, Nantwich, Cheshire, CW5 7HY
<b>Proposal:</b>	Extension to Create En-suite and Dressing Room
<b>Applicant:</b>	Mr R Booth
<b>Application Type:</b>	Householder
<b>Grid Reference:</b>	368151 352096
<b>Ward:</b>	Rope
<b>Earliest Determination Date:</b>	29 <sup>th</sup> June 2009
<b>Expiry Dated:</b>	11 <sup>th</sup> June 2009
<b>Date of Officer's Site Visit:</b>	17 <sup>th</sup> June 2009
<b>Date Report Prepared:</b>	31 <sup>st</sup> June 2009
<b>Constraints:</b>	None

### **SUMMARY RECOMMENDATION: Approve with Conditions**

**MAIN ISSUES:** The main issues of the proposed development are;

- impact on the streetscene,
- impact on the original dwelling in terms of design standards,
- impact on neighbouring amenity.

## **1. REASON FOR REFERRAL**

This application would normally be determined under the Councils Scheme of delegation; however it has been called into Committee by Cllr Silvester on the grounds of negative impact on neighbouring amenity, and the design being out of keeping with the existing dwelling and streetscene.

## **2. DESCRIPTION OF SITE AND CONTEXT**

The site is situated in Willaston within the Crewe settlement boundary as shown on the Crewe and Nantwich Replacement Local Plan Map 2011. The site is situated on Green Lane which is adjacent to Ashlea Drive. The existing dwelling is a semi-detached bungalow located within a group of similar properties. However there are 2-storey dwellings nearby on Green Lane. The rear garden areas are fairly small in size, and the dwelling has an existing conservatory to the rear and garage within the rear garden. The proposed development has already commenced on site.

## **3. DETAILS OF PROPOSAL**

The proposal is for a roof extension to an existing bungalow. The extension will be used as a dressing room and an en-suite to an existing loft bedroom. The proposal will be a wholly first storey extension, building on top of the existing single storey conservatory extension. The extension will be supported on steel poles, with one brick pillar leaving an open but covered area adjacent to No.1 Ashlea Drive (the other part of this pair of dwellings). The proposed extension will have one window at the rear and two rooflights (one on each roof plain). The proposed development will reach a maximum height of 5.3m in height, 2.4m off the rear elevation, and will be 6.4m wide.

#### **4. RELEVANT HISTORY**

No relevant planning history

#### **5. POLICIES**

The development plan includes the North West of England Plan Regional Spatial Strategy 2021 (RSS) and the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

The relevant development plan policies are:

##### **Local Plan Policy**

BE.1 (Amenity)

BE.2 (Design Standards)

RES.11 (Improvements and Alterations to existing dwellings)

##### **Other Material Considerations**

PPS1 Delivering Sustainable Development  
Crewe and Nantwich Borough Council - Extensions and Householder Development SPD

**6. CONSULTATIONS:** None received

#### **7. VIEWS OF THE PARISH / TOWN COUNCIL:**

The parish council objects to the proposal on the following grounds;

- The proposed roof alteration is unacceptable by reason of inappropriate scale and design which would be disproportionately large and would over-dominate the dwelling.
- The proposed design of the extension would be out of keeping with and unsympathetic to the original character and appearance of the property.
- The resulting composition would therefore appear discordant with the original dwelling to the detriment of the visual amenity of the surrounding area, contrary to Policies BE.2 and RES.11 of the Replacement Local Plan 2011.
- A similar application has been refused at No.11 Ashlea Drive planning reference number P07/1167.

#### **8. OTHER REPRESENTATIONS:**

Letters of objection have been submitted from the occupiers of;

1 & 3 Ashlea Drive and 10 Green Lane, Willaston.

The main planning issues raised are

- Overshadowing of the adjacent dwelling's conservatory,
- Overlooking into adjacent dwelling's rear amenity areas,

- Visually overbearing,
- Out of keeping with the neighbouring properties,
- Work has already commenced on site.

**9. APPLICANT'S SUPPORTING INFORMATION: None**

**10. OFFICER APPRAISAL**

**Principal of Development**

The site is situated within the settlement boundary of Crewe and provided that policies BE.1 (Amenity), BE.2 (Design Standards) and RES.11 (Improvements and Alterations to existing dwellings) of the Crewe and Nantwich Replacement Local Plan 2011 are adhered to, an extension to the rear of the dwelling in principal is acceptable.

**Amenity**

The development is to be positioned 0.6m away from the boundary with the adjacent dwelling at 1 Ashlea Drive, which has an existing conservatory a further 0.4m from the boundary. The proposed development will have a small rooflight serving a dressing room on the roof plain facing No.1 Ashlea Drive. From the side elevation, the ridge of the new roof section of the proposed will project a maximum of 6.3m from the existing roof plain of the dwelling. The extension will only project a further 0.4m off the rear elevation of the dwelling than the existing conservatory of No.8 Green Lane.

The extension will create a first storey element to the dwelling. The roof will slope away from the adjacent neighbours at No.1 Ashlea Drive and will not project further from the rear elevation than the conservatory of the adjacent neighbours, and will therefore not significantly overshadow the adjacent neighbour's garden. There is an existing 1.5m boundary wall between No.1 Ashlea Drive and No.8 Green Lane, and the side elevation of No.1 Ashlea Drive's conservatory which faces No.8 Green Lane is faced in brick. The covered but open area created by the extension will be mitigated by the existing boundary treatment and the conservatory wall and therefore will not increase the impact on the amenity of the adjacent neighbours more significantly than already exists. Although the extension will be visible from the adjacent neighbour's rear garden area it is considered that it will not have a significant impact on their amenity.

To the rear there will be a small window in the gable facing No.3 Ashlea Drive, which serves a walk-in dressing room. There is a minimum separation distance of 6m from the proposed window which faces the side elevation of No.3 Ashlea Drive, to the site boundary. No.3 Ashlea Drive has no existing windows, in the side elevation and due to the garden being off-set the window will not directly overlook the rear garden area. It is considered that the proposed window will not have a significant impact on the amenity of the rear neighbouring property due to secondary nature of the window being in a dressing room. The increased bulk and mass resulting from the extension will not overshadow No.3 Ashlea Drive being too far from it.

The side elevation facing No.10 Green Lane, will have a small rooflight serving an en-suite. The adjacent neighbours have a small rear extension and a garage within the garden area. The applicant's dwelling and the dwelling at No.10 Green Lane are separated by their respective driveways. There are several windows in the ground floor side elevation of No.10 Green Lane which serve habitable rooms, however the proposed roof light will not over look these windows due to its orientation and position on the roof slope. The proposal on this side elevation will only include the addition of a pitched roof as the ground floor extension already exists. The roof slopes away from the adjacent neighbour and therefore will not have an over shadowing affect on the neighbours at No.10 Green Lane.

It is therefore considered that the proposed development is in accordance with Policy BE.1 (Amenity) of the Crewe and Nantwich Replacement Local Plan 2011, which seeks to protect residential amenity.

### **Design Standards**

The gable form of the rear roof extension projecting from the hipped roof is in principle a design which is typical of a rear extension to a hipped roof dwelling. However, the gable roof structure differs from that which currently exists in the streetscene and lacks a symmetrical equilateral style gable feature, normally found on the rear elevation.

The extension will be built above the existing conservatory, leaving a covered but open area at ground level adjacent to No.1 Ashlea Drive. The roof extension will be built onto steel columns and a single brick column at the north east corner. Although this is an unusual design and structure the extension will appear subordinate to the original dwelling, as the ridge of the roof is stepped down from the ridge height of the original dwelling, as suggested in the Council's SPD on Extensions and Householder Development. It is therefore considered that the proposed development will not have a detrimental impact on the appearance of the host dwelling and will appear subordinate to the original dwelling in accordance with Local Plan Policy BE.2 (Design Standards) and RES.11 (Improvements and Alterations to existing dwellings).

The proposal is visible from the road frontage of Ashlea Drive where it is seen set back from and above the garden of 1 Ashlea Drive. In its current partially finished state it appears quite prominent in the streetscene. However, it is considered that as the proposed development is to be completed in materials to match the existing dwelling, the proposal will look more in-keeping once the roof materials have been fitted. This is true of a similar two storey extension at 16 Green Lane, four dwellings away. This dwelling has a symmetrical gable extension which differs from the proposal; however it is also fairly prominent from Ashlea Drive, but does not appear as an overbearing or disproportionate feature. Therefore it is considered that the proposed extension will not adversely affect the character and appearance of the streetscene.

It is therefore considered that the proposed development is in accordance with Local Plan policies BE.2 (Design Standards) and RES.11 (Improvements and Alterations to existing dwellings), which seek to ensure that development

respects the pattern, character and form of its surroundings and does not adversely affect the streetscene.

### **Other Matters**

Within the Parish Councils objection is a reference to a former decision made by Crewe and Nantwich Borough Council under planning reference P07/1167 for No.11 Ashlea Drive. The Parish Council state that this was a similar development which was refused, for a two storey extension creating two further bedrooms in the loft space. That application proposed a materially larger dwelling than the existing bungalow. The present application is for a small rear extension creating an addition to a single bedroom in the loft space, which will appear subordinate to the host dwelling, and therefore differs from the refused application. Regardless of this all applications must be considered on their own merits and this application is considered to be acceptable in terms of design and amenity.

### **11. CONCLUSIONS**

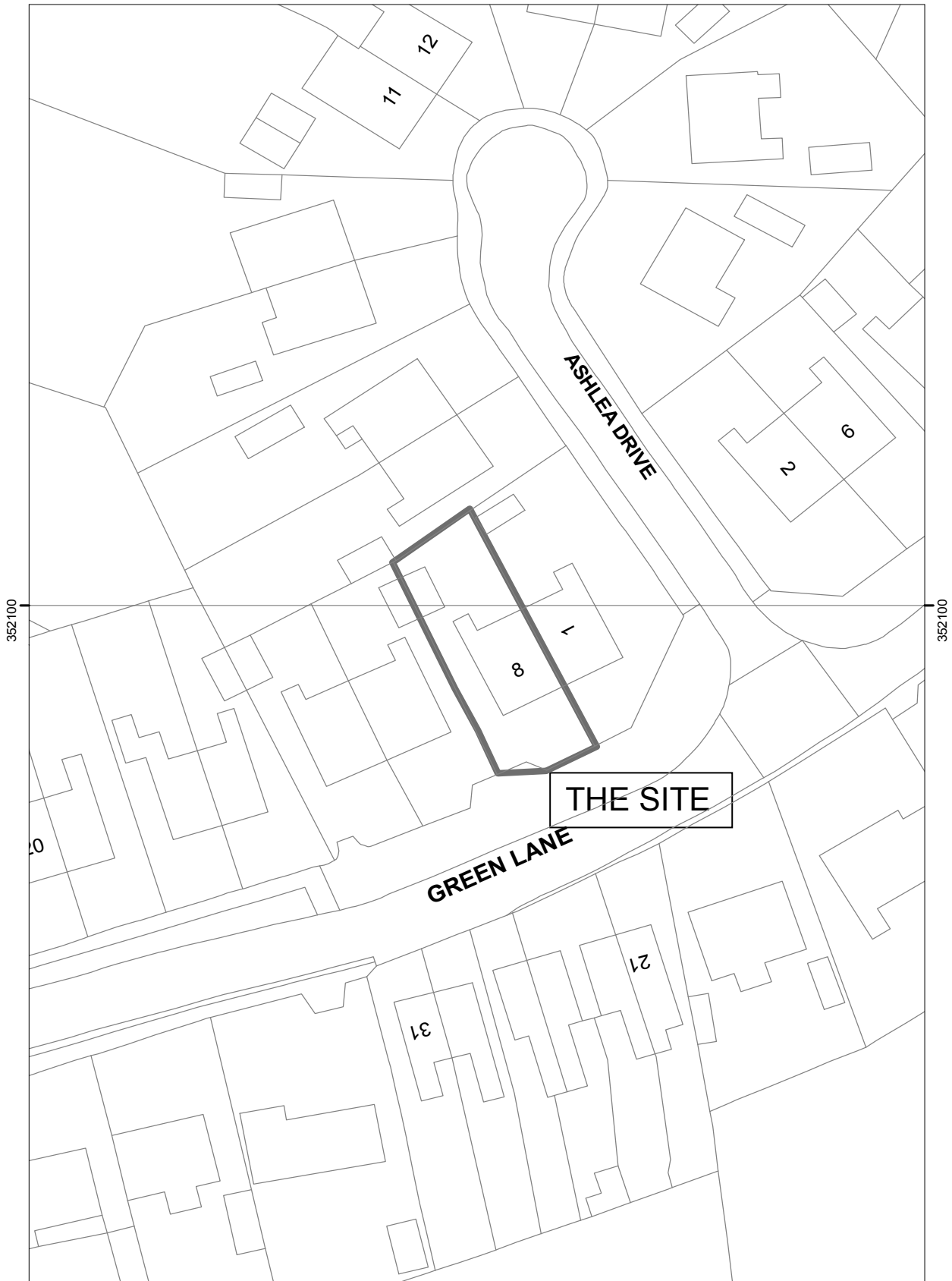
The proposed development is of a scale, size and design which is in keeping with the existing dwelling and the surrounding streetscene. Being set back from Ashlea Drive it is not considered that the first floor extension will significantly impact on the character and appearance of the area. The development will not have a significant impact on neighbouring amenity and is therefore considered acceptable and in accordance with policies BE.1 (Amenity), BE.2 (Design Standards) and RES.11 (Improvements and Alterations to existing dwellings) of the Crewe and Nantwich Replacement Local Plan 2011.

### **12. RECOMMENDATIONS**

**APPROVE** subject to the following conditions:-

- 1. Materials to match existing dwelling**
- 2. Approved plans**

**LOCATION PLAN:**



09/0650N – 8 Green Lane Willaston

N.G.R.; - 368.152 352.094

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Not to Scale

<b>Planning Reference No:</b>	09/0809C
<b>Application Address:</b>	Land off Jersey Way, Middlewich
<b>Proposal:</b>	Outline application for the demolition of a dwelling house (numbers 3 & 5) and redevelopment of the site. Together with the adjoining haulage yard for up to 93 dwellings and the provision of public open space together with associated highway and landscaping works. The application seeks specific approval of the site access from Holmes Chapel Road, all other matters being reserved.
<b>Applicant:</b>	Daniel Kershaw, Russell Homes
<b>Application Type:</b>	Outline
<b>Ward:</b>	Middlewich
<b>Registration Date:</b>	26 March 2009
<b>Earliest Determination Date:</b>	29 May 2009
<b>Expiry Date:</b>	25 June 2009
<b>Date report Prepared</b>	15 June 2009
<b>Constraints:</b>	None

#### **SUMMARY RECOMMENDATION**

Approve subject to conditions and S106 Agreement

#### **MAIN ISSUES**

Principle of Development  
Proposed Access - Highway safety and capacity  
Affordable Housing  
Nature Conservation & Trees  
Flood Risk  
Environmental Health

#### **REASON FOR REFERRAL**

The application is included on the agenda of the Southern Planning Committee as the scheme exceeds 10 residential units and is therefore a major development. It was deferred from the last meeting for Members to undertake a site visit.

#### **DESCRIPTION AND SITE CONTEXT**

The site lies wholly within the Settlement Zone Line for Middlewich and is not allocated in the Local Plan. However, the majority of the site has been identified within the Revised Preferred Options which allocated the site for up to 100 dwellings and public open space

The site is approximately 500m to the northeast of Middlewich town centre and is bounded by Sandbach to Northwich rail freight line along its western

boundary, Holmes Chapel Road to the south, Jersey Way and its wider environs to the east and King Street Industrial Park to the north.

The site measures approximately 2.6ha and is linear in shape running parallel with the railway line in a northwest to southeast direction with relatively even ground levels. A watercourse runs from the southwestern corner of the site along the western boundary into adjacent land which then cuts sharply back across the centre of the site to its eastern boundary and beyond.

Whilst the majority of the site was cleared prior to the submission of the previously approved application, 07/1452/FUL, the additional land included within this application site, i.e. that to the south contains 3 existing residential properties. In this case, the application proposes retention of 1a Holmes Chapel Road with a section of garden area incorporated as part of a visibility splay but that numbers 3 & 5 Holmes Chapel would be demolished entirely to be redeveloped within the wider scheme.

### **DETAILS OF PROPOSAL**

This application is made in outline and seeks permission for demolition of existing dwelling houses at numbers 3 and 5 Holmes Chapel Road and redevelopment of the site for up to 93-dwellings, public open space and associated highway and landscaping works.

The application seeks detailed permission for means of access directly off Holmes Chapel Road and reserves layout, scale, appearance and landscaping reserved for future consideration.

In more detail, the proposed access would involve the following works: -

Creation of a new priority junction directly onto the A54 Holmes Chapel Road.

Widening of A54 to create two 3.25m lanes and 3m wide ghost right turn lane.

Visibility Splays of 2.4m x 70m.

Improvements to the footway width from approximately 0.9m to 2m wide.

Closure of the existing sub-standard access points onto the A54.

### **RELEVANT HISTORY**

08/1933 & 08/1934 Co-joined outline applications for residential development (up to 93 dwellings) proposing access from the A54 Holmes Chapel Road. The applications were withdrawn on the 3<sup>rd</sup> March 2009 following an objection from the highways engineer.

08/1430/OUT Outline application for residential development up to 88 dwellings with associated public open space, highway and landscaping works. Withdrawn following an objection from the then County Highway Engineer.

07/1452/FUL Erection of 82 dwellings, public open space, and means of access.

Approved subject to S106 (signed 9<sup>th</sup> February 2009).



37596/3 Erection of 61 residential units, including 20 apartments, together with 16 office units totalling 1115sq.m B1 floorspace. Refused.

## **POLICIES**

The development plan includes the North West of England Regional Spatial Strategy 2021 (RSS) and the Congleton Borough Local Plan First Review 2005 (LP).

### **Local Plan Policy**

E-10 'Re-Use or Redevelopment of Existing Employment Sites'

GR1 'New Development'

GR2 'Design'

GR3 'New Residential Development'

GR4 & 5 'Landscaping'

GR6 & 7 'Amenity and Health'

GR9 'Accessibility, Servicing and Parking Provision'

GR10

GR21 'Flood Prevention'

GR22 'Open Space Provision'

H1 & H2 'Provision of New Housing Development'

H4 'Residential Development in Towns'

H9 'Additional Dwellings and Sub-divisions'

H13 'Affordable and Low Cost Housing'

NR1 'Trees and Woodlands'

NR2 'Statutory Sites'

RC1 'Recreation and Community Facilities – General'

SPG1 'Provision of Public Open Space in New Residential Developments'

SPG2 'Provision of Private Open Space in New Residential Developments'

SPD6 'Affordable Housing and Mixed Communities'

### **Other Material Considerations**

PPS1 'Delivering Sustainable Development '

PPS3 'Housing'

PPS9 'Planning and Biodiversity'

PPG13 'Transport'

PPG16 'Archaeology and Planning'

PPS23 'Planning and Pollution Control'

PPG24 'Planning and Noise'

PPS25 'Development and Flood Risk'

Design Manual for Roads and Bridges

Manual for Streets

## **CONSIDERATIONS (External to Planning)**

### **Environmental Health:**

No objection to the proposed development subject to the imposition of a number of conditions.

**Environment Agency:**

Representation received 2<sup>nd</sup> July 2009. No objection subject to the imposition of 4 conditions to cover the following areas: -

Flood risk and drainage  
Long-term site landscape management plan  
Development buffer zone adjacent to the brook  
Contaminated land

The Environment Agency has then provided further comments for the benefit of the applicants in relation to construction and waste materials and in relation to permeability and surface water .

**United Utilities**

No objection to the proposed development providing that the site is drained on a separate system with only foul drainage connected into the foul sewer. Surface water should discharge to the watercourse /soak away/surface water sewer and may require the consent of the Environment Agency.

**Network Rail**

No objection in principle subject to the development. However, due to its close proximity to the operational railway, Network Rail have requested a number of issues be taken into consideration, and a number of conditions attached, if the application is recommended for approval.

**Highways:**

The Strategic Highways and Transportation Manager has undertaken a detailed assessment of the applicants Transport Statement and junction design and is satisfied that, on balance, the proposals are acceptable. He therefore recommends approval of the application subject to conditions and subject to the applicants entering into a S106 Agreement to secure a contribution of £10,000 towards off-site bus infrastructure improvements and which secures submission of a travel plan.

**Senior Landscape Officer (SLO):**

The SLO provided comments in relation to impact of the development on protected species, trees and watercourses. The SLO requested that the indicative layout be reviewed prior to determination of the application having regard to protection of existing trees but that remaining issues be addressed by appropriate conditions.

**Nature Conservation Officer**

The Nature Conservation Officer (NCO) noted that the bat survey found no field sign evidence of roosting bats but that the applicant's ecologist adopted a cautious approach in concluding that Common Pipistrelle Bats may roost within the outbuilding. The NCO was satisfied however that the proposed development would avoid adverse impact upon protected species and that the

outline mitigation strategy compiled by the applicant's ecologist is acceptable and should be secured by an appropriately worded condition.

## **Streetscape Section:**

Revised comments were received from the streetscape section on the 2<sup>nd</sup> July 2009.

### *Children and Young Persons Provision*

Streetscape have advised that a surplus in quantity of provision exists having regards to the local standards set out in the open space study. As such, whilst there is no requirement for new children's play facilities, a qualitative deficit has been identified in existing open space accessible to the development. A sum of £98,572.69 (*based on a revised calculations - 93 dwellings at an average 2.4 persons per dwelling*) has therefore been requested in order to increase the capacity of the existing LEAP at Angus Grove and to upgrade the facility at King Street.

### *Amenity Greenspace*

Notwithstanding the proposed on-site amenity Greenspace, Streetscape have identified that a deficit in provision of amenity Greenspace exists. An opportunity has therefore been identified to either enhance the open space at Harbutts Field which, although just outside the 800m zone, is still reasonably accessible to the development, or alternatively, provide a contribution towards enhancements of Middlewich Town Wharf in order to increase its capacity. A sum of £14,199.64 has therefore been requested to cover these enhancements of amenity Greenspace.

Streetscape have also advised that should the quantity of on-site POS is reduced below the proposed 1400m<sup>2</sup> at reserved matters stage, or alternatively increased, then the financial contribution would need to be adjusted accordingly based on a figure of £17.11 per 10m<sup>2</sup> (split appropriately between provision and maintenance if further monies are required).

## **Cheshire County Archaeologist:**

Requests that a condition be attached to any planning permission which would ensure that details of an appropriate archaeological study are submitted to and approved by the council prior to the commencement of any development on the site.

## **Education**

The Education section have confirmed that, in both the Primary and Secondary sector, sufficient surplus places for the 'in-catchment area' to meet the potential 'child yield' generated by the potential building scheme, both currently and anticipated by our pupil place forecasts up to 2013. As such no financial contribution from the developer is required.

## **VIEWS OF MIDDLEWICH TOWN COUNCIL**

Object to the application on the grounds that the proposed access is unacceptable on highway safety grounds, as traffic would be emerging on to the busy A54 in very close proximity to the bridge.

## OTHER REPRESENTATIONS

Representation from occupiers of 38 Jersey Way, Middlewich.

-Query as to whether existing Leylandi trees on the site boundary adjacent to his property are to be retained.

-Also advised that his property has required works under the NHBC Guarantee scheme for subsidence.

Representation from occupiers of Marian House, Middlewich.

- Proposals would exacerbate existing problems with congestion.

- Concerns over the impact of the scheme on highway safety.

- Would make it more difficult to access their property.

- A scheme has already been approved with access from Jersey Way.

- A previous application seeking access from the A54 was deemed unsafe.

Representation from occupiers of Sportsvilla, 2 Holmes Chapel Road, Middlewich.

- Highways; increase in hazards and traffic to Holmes Chapel Road.

- The Middlewich by-pass has not been constructed.

- The scheme would be detrimental to the character of the area as a result of demolition of the two houses.

- Over development of land adjacent to Holmes Chapel Road.

Representation from occupiers of Baile-Na-Cora, Holmes Chapel Road, Middlewich.

- Object as it will make a dangerous congested part of the road even more so.

- The previous application could not be supported and we can see little difference with the new design and a puffin crossing is not shown on the plan.

- Permission has already been granted for this development off Jersey Way so we cannot see the sense in the application as it can only cause even more of a traffic nightmare to local people but also Middlewich as a whole.

- Over development of the worst kind.

Representation from Meronview submitted on the 1<sup>st</sup> June 2009

supplemented by an additional technical appraisal from their transport consultants, Denis Wilson Associates.

Meronviews objection covers the following areas: -

Summary of highway safety concerns identified by their transport consultants.

Concern at the message sent to the developers of Mid-point 18 if the council accepts that further development can be accommodated on the A54. (In relation to construction of the proposed Middlewich by-pass)

Expresses concern that the design and access statement states the junction design had already been approved by Cheshire County Council and that they

are surprised by this having regard to the previous refusal. Meronview supplement this by merging a number of text extracts from the previous 08/1934/OUT committee report in support of their argument.

They also raise 3 further points: -

1. Absolutely no junction detail works because of prevailing traffic conditions
2. The council don't need to compromise because a good solution has already been approved – why take the risk.
3. That nothing has changed since the previous committee report was written less than 3-months ago.

Finally they question whether a statement within the design and access statement (referring to the statement by the applicants that the easement precludes access off Jersey Way) is a material consideration because private property rights/breaches of covenant are not considered to be material.

*Supplementary letter from Denis Wilson on behalf of Meronview*

The supplementary letter provides a detailed technical assessment of the proposed access focusing on two main areas of concern: -

- That the junction modelling does not reflect likely conditions – as standing queues are present.
- That standing traffic queues through the proposed access area at peak times will create an unacceptable highway risk.

The main concern is that vehicles leaving the proposed site access joining westbound traffic during peak flow would be forced to wait in the carriageway for a gap in traffic thus causing standing traffic in an eastbound direction (from Middlewich). They argue that vehicles travelling eastbound out of Middlewich, and over the rail bridge, would therefore encounter the tail end of standing traffic and this would increase the risk of accidents.

They support these points by focusing on perceived deficiencies in relation to the applicants transport statement and junction design having particular regard to link capacity (i.e. the capacity of a road to carry traffic) and junction capacity and the resulting queue lengths waiting to egress the proposed junction.

They then summarise as follows. Whilst they consider the applicants have moved to address some of the previous objection points by reworking the transport statement and redesigning the proposed site access they still have a number of concerns; most noticeably: -

That the applicant's assessment and conclusion that the access is acceptable do not take account of the fact that at peak times there will be a standing queue of traffic stretching along Holmes Chapel Road through the junction.

That the presence of a standing queue and the practice of traffic merging from the site to join the queue will create highway safety risk. They argue traffic heading eastbound from Middlewich over the rail bridge will encounter standing traffic caused by motorists leaving the site and having to wait for a gap in the westbound traffic towards Middlewich.

#### **APPLICANT'S SUPPORTING INFORMATION**

Transport Statement  
Planning, Design and Access Statement  
Protected Species Survey  
Desk Study and Ground Investigation Report  
Tree Survey  
Noise Impact Assessment  
PPS25 Flood Risk Assessment  
Archaeological Survey  
Illustrative Layout

#### **OFFICER APPRAISAL**

##### **Principle of Development**

The majority of the site, more particularly vacant land to the north of 3 & 5 Holmes Chapel Road, already benefits from planning permission for residential development following approval by members of planning application 07/1452/FUL. The principle of residential development has clearly therefore been established and therefore the inclusion of small amount of additional previously developed land within the overall site is considered to be acceptable in principle having regard to PPS3 and policies H2, H4 and H9 of the adopted local plan.

##### **Highways**

Following detailed assessment of the applicants transport statement and junction design, the Strategic Highways Manager (SHM) is satisfied that on balance the design of the proposed junction, and its likely on its operation, to be acceptable and that no sustainable reason for refusal on highways grounds exists. A number of the key issues arising from this response are discussed in more detail below.

In overall terms, members will be aware that a number of applications have previously been submitted and subsequently withdrawn following objections from the highways section. The significant difference with this application however is that the applicants have secured additional land which has allowed for an acceptable design solution to be reached having particular regard to advice contained within the Design Manual for Roads and Bridges (DMRB).

In terms of highway capacity, the applicant's assessment shows good capacity; however it is a fact that peak traffic flows on the A54 often queue past the site frontage and would therefore impact upon the ability of traffic to emerge from the junction. As a result, whilst the left turn out of the site will be less difficult than right turns towards Middlewich, both movements will rely to some extent on other drivers giving way to allow vehicles to egress from the site. In this

regard however, and after detailed consideration, the SHM considers this situation to be similar to conditions experienced at many other congested urban locations and not sufficient to warrant refusal of the application.

Additionally whilst the junction design accommodates refuse and removal vehicles, the SHM recognises that it could not easily accommodate larger but less frequent heavy commercial vehicle movements and will have encroachment into the west bound through lane. Having considered this issue however, the SHM is prepared to accept this deficiency within this junction design and does not consider that it will have a detrimental impact upon highway safety.

On balance therefore, and the SHM would prefer access to be taken from the existing approved access off Jersey Way, it is considered that the proposed access is satisfactory and would preserve highway and pedestrian safety. The proposed development is therefore considered to meet the requirements of PPG13, the DMRB and policies GR1, GR3, GR9 and GR10.

### **Affordable Housing**

The existing approved permission 07/1452/OUT was subject to a S106 which secured 30% affordable housing contribution (split 50/50 between social rented and shared ownership) and 25% low cost housing. The applicants have confirmed that they are willing to provide the same quantity of affordable housing as part of this outline application and the proposals therefore satisfy the requirements of policy H13 'Affordable and Low Cost Housing' of the local plan and SPD6 'Affordable Housing and Mixed Communities'.

### **Ecology - Protected Species & Nature Conservation**

In overall terms the applicant's ecological survey found the site to have little ecological interest with the exception of a dilapidated garage sited within the curtilage of No.3 Holmes Chapel Road which could be utilised by bats as a roost. . The survey therefore contained a mitigation strategy to ensure that the conservation (protected species) status of the bats is not compromised.

Following a detailed assessment, the Nature Conservation Officer (NCO) noted that the bat survey found no field sign evidence of roosting bats but that the applicant's ecologist adopted a cautious approach in concluding that Common Pipistrelle Bats may roost within the outbuilding. The NCO was satisfied however that the proposed development would avoid adverse impact upon protected species and that the outline mitigation strategy compiled by the applicant's ecologist is acceptable and should be secured by an appropriately worded condition.

In terms of protecting commoner breeding birds within the site, it is also considered that these can also be protected by an appropriately worded condition relating to landscape clearance works.

It is therefore considered that, subject to appropriately worded conditions covering further survey work and design of a detailed mitigation strategy, along with a condition to protect breeding birds, that the requirements of the EC

habitats directive, Conservation (Natural Habitats etc) Regulations 1994, PPS9 'Planning and biodiversity' and Circular 06/05 have been satisfied and that the proposals would avoid detrimental impact to protected species. The requirements of policy NR2 'Statutory Sites' of the local plan would also be satisfied.

#### Trees

Whilst the proposed means of access would ultimately result in the loss of a number of the Grade A trees within the southern belt, which separate land within the existing approved site from the additional land within this current application, it is not considered that this would be sufficient to warrant refusal of the application particularly given that many of the trees could be designed into the development at reserved matters stage. It is therefore considered that the proposal satisfies policies GR1, GR2, GR5 and NR1.

#### Flood Risk

Despite being consulted, no representation has been received from the Environment Agency in relation to the proposed development. Notwithstanding this however, the site benefits from an existing full planning permission (07/1452/FUL), which had been subject to a detailed assessment by the Environment Agency and subsequently found to be acceptable.

In addition, the applicants flood risk assessment concluded that the site is unlikely to be affected by fluvial flooding from nearby rivers or from the two watercourses in the vicinity of and flowing through the site. Whilst the site would be at risk from some surface water flooding during storm events with a 1% or 2% annual probability, likely to be caused as a result of surcharging from the drainage system, the FRA suggests that a number of mitigation options exist. This could include use of underground storage or, alternatively, natural flooding of above ground area such as, for example, areas of POS or car parking. The FRA recommends however that these issues are addressed at the detailed design stage and it is therefore considered that a detailed drainage condition be attached to any planning permission which would also allow for further detailed consultation with the Environment Agency.

It is therefore considered that the requirements of PPS25 'Development and Flood Risk' can be satisfied.

#### Environmental Health

##### Noise Exposure Categories and PPG24

As a result of the fact that the sites lies adjacent to a railway line, King Street industrial estate and the A54, the applicants were required to submit a PPG24 Noise Assessment considering the impact of industrial and transport noise on future living conditions within any new residential environment.

The findings of this survey indicate that the in overall terms, noise levels within the site would be acceptable having regard to the noise exposure categories (NEC) contained within PPG24 but that two small areas on the site boundary,



on the northern and southern boundary require noise mitigation measures to protect from industrial and road traffic noise respectively.

In terms of industrial noise, the case is more straightforward. The survey indicates that an acoustic screen would need to be erected along a small section of the northern site boundary to protect against noise from a compressor unit adjacent to units 40- 50 on the indicative site layout which would need to be designed to meet the standards identified within BS8233.

In the case of road traffic noise, the findings are complicated by the fact that the site frontage falls within the daytime NEC C where planning permission should not normally be granted and nighttime NEC D where planning permission should normally be refused. In this case however, it is not considered that planning should not be refused for a number of reasons. Firstly, only a small section of the overall site area falls within NEC D; secondly, layout is reserved for future consideration thereby allowing more detailed consideration as to where new properties should be sited having regard to noise measurements (although this could mean a reduction in the number of units); and finally mitigation measures can be designed into the scheme to reduce noise levels to an acceptable level having regard to the requirements of BS8233 and World Health Organisation guidelines which can be secured by a suitably worded condition.

### Contamination

The contaminated land survey submitted with the application identified that a number of contaminants exist on the site. It confirms however that none of levels identified exceed the thresholds within the CLEA guidelines before making a number of recommendations as to possible options for remediation. Following an assessment of this document, Environmental Health have confirmed that subject to the imposition of a condition to secure further information, they have no objection to the proposed development. It is therefore considered that the proposed development can satisfy the requirements of PPS23 'Planning and Pollution Control' along with local plan policies GR7 and NR6.

### **Over development and loss of buildings with character.**

It is not considered that objection on the grounds of over development can be sustained. The proposed density is acceptable having regard to the existing character of the area and fully accords with the principles of PPS3. Similarly, it is not considered that the loss of any buildings on the site would harm the character of Middlewich. None of the buildings benefit from statutory protection and whilst a barn within the curtilage of no3 has some features of merit, it is in a very poor state of repair and could in effect be demolished without the need for planning permission.

### **Supplementary Information**

A further supplementary memo has been provided by the Strategic Highways & Transportation Manager in response to Cllr McGrory's email of the 25<sup>th</sup> June 2009 having regard to comments regarding the issue of footpath links

and previously requested financial contributions towards pedestrian enhancements under application 07/1452/FUL.

The permission issued under 07/1452/FUL required pedestrians to access the A54 by negotiating the internal footpaths across POS and amenity areas within the existing development which were in parts unmade and unlit. There was therefore an identified need to improve these footpaths to improve: security, safety and amenity to a point which would encourage their sustainable use.

Clearly the current application does not require pedestrians to access the A54 via the existing development as the proposal offers direct access to the A54 via new footpaths which improve existing provision on the A54 to required standards.

Despite this, the Strategic Highways Manager determined that it would still be appropriate to require a provisional sum of £10,000 for improvements to sustainable modal choice locally, and to this end the provisional sum would be held for improvements to local bus stops as part of the ongoing scheme of upgrades to quality partnership bus stop facilities.

### **CONCLUSIONS AND REASONS FOR THE DECISION**

The principle for residential development has already been secured. The critical issue with the application is the ability to demonstrate that the site can be accessed safely from the A54. In this respect it is considered that the proposed access would ensure appropriate vehicular and pedestrian safety. It is therefore considered that the scheme is acceptable on its merits.

**RECOMMENDATION: Approve subject to the following conditions and the prior completion of a S106 Agreement.**

### **Heads of Terms for Legal Agreement**

1. Financial contribution of £112,772.33 towards public open space of enhancements split accordingly between amenity green space and children and young persons provision with an ability to adjust the sum should the amount of on-site POS be adjusted at reserved matters stage.
2. Contribution of £10,000 towards off-site improvements to bus stops
3. Submission of a Travel Plan
4. Provision of 30% Affordable Housing split equally between shared ownership and social rented.
5. Details of Management Company

### *General*

1. 5 year reserved matters time limit.
2. Reserved matters – layout, scale, landscaping and appearance.
3. Submission of materials.

### *Environmental Health*

4. Contaminated land condition.
5. Noise mitigation scheme.

6. Air quality study.
7. Hours restriction - construction.
8. Hours restriction - piling activity.

*Network Rail*

9. Details of vibro-impact machinery.
10. Details of earthwork activity.
11. No development within 2m of the railway boundary.

*Highways and Drainage*

12. Drainage - surface water and sewerage.
13. Flooding – overland flow, flood storage and mitigation design.
14. Access to be fully constructed in accordance with approved plans.
15. Junction constructed prior to any other works commencing.

*Ecology and Trees*

16. 5m bank top buffer zone and scheme for watercourse protection.
17. Breeding bird protection.
18. Detailed mitigation strategy for bats.
19. Scheme for tree protection measures.
20. Ecological enhancements scheme & landscape management plan.

*Archaeology*

21. Programme for archaeological work.

*Sustainable Development*

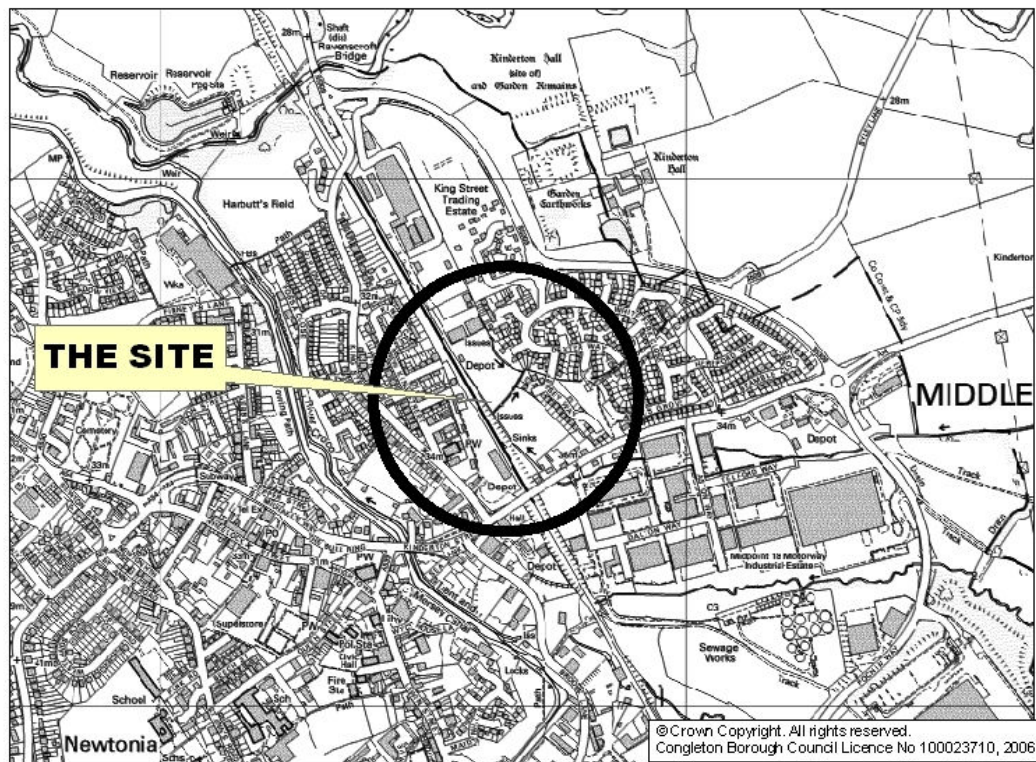
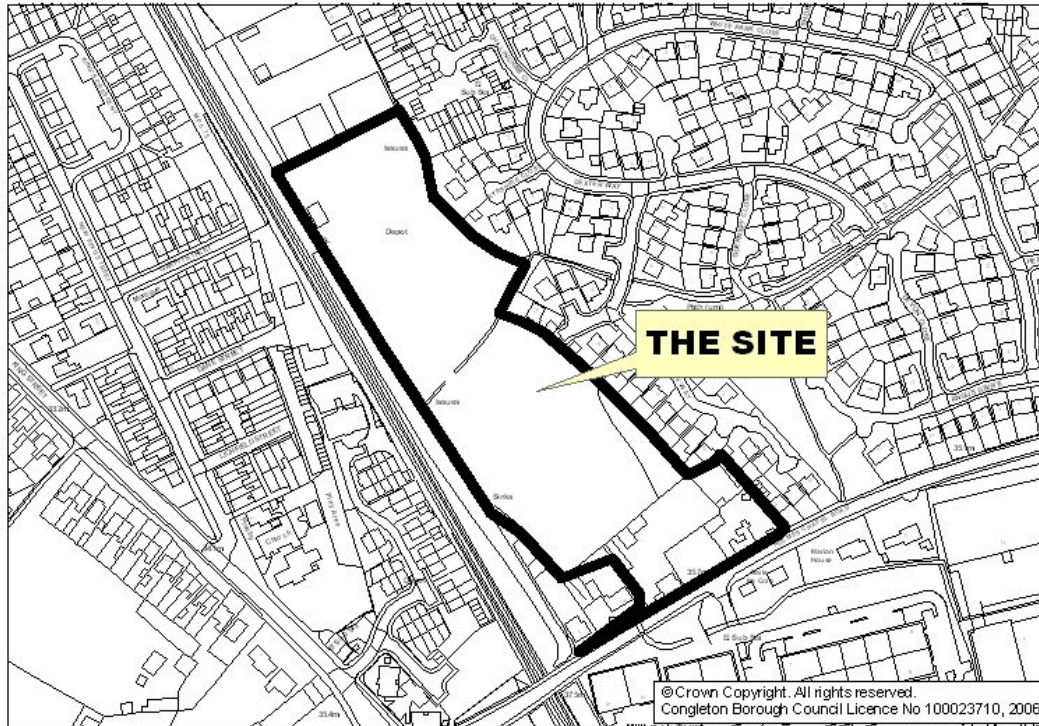
22. Site waste management plan.
23. Compliance with Code for sustainable homes

*General Conditions*

24. Existing and proposed site levels
25. Precise details of bin storage

*Development Parameters*

26. Maximum 93 dwellings
27. Minimum on site POS provision of 1400m<sup>2</sup> (excluding verges, service strips, visibility splays and area of land fronting the A54 Holmes Chapel Road) unless otherwise agreed by the LPA.
28. Provision of litter bins on on-site POS



## Planning Committee Report

<b>Planning Reference No:</b>	09/1325N
<b>Application Address:</b>	Land at 2 & 4 Heathfield Avenue and 29, 29A & 31 Hightown Crewe
<b>Proposal:</b>	Demolition of Existing Buildings and Erection of New Buildings and Redevelopment of Link House to Provide 35 Apartments and Two Retail Units with Associated Infrastructure
<b>Applicant:</b>	RG Harris Ltd
<b>Application Type:</b>	Full
<b>Grid Reference:</b>	370113 355956
<b>Ward:</b>	Grosvenor
<b>Earliest Determination Date:</b>	29 June 2009
<b>Expiry Dated:</b>	17 August 2009
<b>Date of Officer's Site Visit:</b>	27 February 2009
<b>Date Report Prepared:</b>	9 June 2009
<b>Constraints:</b>	

### SUMMARY RECOMMENDATION:

**That Authority be delegated to the Development Manager to approve the application subject to completion of S106 Agreement and imposition of conditions**

### MAIN ISSUES:

- Impact on the Character of the Town Centre, Conservation Area and the Listed Building**
- Impact on Highway Safety**
- Impact on Neighbouring Amenity**
- Impact on Drainage and the Water Environment**
- Impact on Protected Species and Nature Conservation**

## 1. REASON FOR REFERRAL

This application is to be determined by the Southern Planning Committee as the proposals relate to the erection of over 10 residential properties.

## 2. DESCRIPTION OF SITE AND CONTEXT

The application site comprises an unallocated brownfield site within the settlement boundary of Crewe. The site is split into two sections one is located at the junction between Heathfield Avenue and Hightown (south) (site 2) comprising a 360sq. m piece of land which is occupied by the Link House and the other piece of land is 1846 sq. m located at the junction between Heathfield Avenue and Hightown (north) (site 1) and is occupied by a number of vacant commercial premises and lock up garages. The site is located less than 100m from the town centre boundary. There is a mix of land uses

within the locality including small scale retail some commercial and predominantly residential properties comprising Victorian terraces.

There are three car parks nearby designated under Policy TRAN.8.

### **3. DETAILS OF PROPOSAL**

The proposals relate to the demolition of the existing buildings on the northern site and the erection of a building containing two retail units (42 sq. m and 84 sq. m approx) 5 flats (four two bedroom and one one bedroom) on the ground floor with lift shaft, and refuse areas, on the first floor 7 two bed units are shown and one, one bed unit. On the second floor 7 two bed units are shown and two one bedroom units. The third floor shows two, two bed units one of which will be a luxury apartment with a mezzanine floor. The maximum height of the building will be 14.7m

At site 2, to the south, the new building comprises two, two bedroom flats and one, one bedroom flat at ground floor level. No parking is provided on this side of the development however a cycle rack is shown. The first floor shows one two bedroom and two one bedroom apartments, the second level shows one one bedroom unit and one two bedroom unit and the bedrooms for one of the units on the first floor and the third floor shows one one bedroom unit and one two bedroom unit. The Link House has a ridge height of 11m and the new build element on site 2 to the south will be 14.7m also.

The scheme provides three disabled car parking spaces and 24 other car parking spaces. Two cycle racks will also be provided.

This application was due to be determined at the Crewe and Nantwich Borough Council Development Control Committee meeting on 5 March 2009 however it came to the Council's attention that the application was invalid because the applicant had failed to notify all the owners of the land. This has now been rectified as the land in question has been removed from the application site. This has resulted in a slightly amended site layout plan although the number of car parking spaces and the design and location of the apartment buildings has not changed.

### **4. RELEVANT HISTORY**

None relevant

### **5. POLICIES**

#### **Regional Spatial Strategy**

EM17 (Renewable Energy)  
L5 (Affordable Housing)  
DP2 (Promoting Sustainable Communities)  
MCR4 (South Cheshire)

#### **Local Plan Policy**

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NE.5 (Nature Conservation)  
 NE.9 (Protected Species)  
 BE.1 (Amenity)  
 BE.2 (Design Standards)  
 BE.3 (Access and Parking)  
 BE.4 (Drainage Utilities and Resources)  
 RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)  
 TRAN.8 (Existing Car Parks)  
 TRAN.9 (Car Parking Standards)  
 TRAN.5 (Provision for Cyclists)  
 RES.2 (Unallocated Housing Sites)  
 RES.3 (Housing Densities)  
 RES.7 (Affordable Housing) (modified)  
 BE.18 (Shop Fronts and Advertisements)  
 NE.19 (Renewable Energy)  
 S.8 (Existing District and Local Shopping Centres)

### Other Material Considerations

PPS1: Delivering Sustainable Development  
 PPS3: Housing  
 PPS6: Planning for Town Centres  
 PPS9: Biodiversity and Geological Conservation  
 PPG13: Transport

SPD Development on Backland and Gardens

## 6. CONSULTATIONS (External to Planning)

**Highways:** Requires 150% car parking provision, details of retail parking provision and transport assessment

**Environmental Health:** Requests lighting scheme and noise assessment to be conditioned

**Cheshire Fire and Rescue Service:** comments:

- access to building regulations standards
- require details of the water main installations
- means of escape in accordance with building regulations
- recommended inclusion of an automatic water suppression system.

**United Utilities:** No objections.

**Cheshire Wildlife Trust:**

Recommends native species are specified for tree and shrub planting throughout the site. Bird nesting boxes could be installed in retained mature trees. This could be conditioned

**Natural England:** No objections

**Environment Agency:** No response required

**7. VIEWS OF THE PARISH / TOWN COUNCIL:** No parish council

**8. OTHER REPRESENTATIONS:**

Letters of objection from 1, 5, 7, 8, 10, 11, 12, 14, 17, 18, 19, 20, 21, 26, 30 Heathfield Avenue 10, 14 Samuel Street Heathfield Gospel Hall, Crewe.

Petition with 108 signatures on it.

The grounds of objection can be summarised:-

- insufficient car parking spaces and access issues and pedestrian safety issues
- design
- protected species
- trees
- pollution and asbestos during construction works
- impact on foundations
- drainage/ flooding issues
- lack of consultation with neighbours
- impact on existing shops
- concern building will not be finished
- social implications
- insufficient bin storage
- private access rights/ security issues
- amenity issues
- ownership issues

**9. APPLICANT'S SUPPORTING INFORMATION:**

**Design and Access Statement (May 2009 & Prepared By Alison Pike Architects)**

- Proposals relate to the erection of 35 flats on two adjacent sites located either side of the junction of Heathfield Avenue and Hightown Crewe together with two retail units. The residential element comprises a mix of 1 and 2 bed apartments with 23 properties intended for private sale and 12 units to be owned and managed by Wulvern Housing;
- The site contains 5 commercial properties with lock up garages and the smaller site is occupied by the Link House a three storey property;
- The commercial properties are now vacant. Link House is a vacant dwelling which was previously in multiple occupation;
- Vehicular access is taken from Heathfield Avenue;
- There are a small number of trees to the western end of the larger site;
- Heathfield Avenue has some good quality terraced housing whilst the commercial property fronting onto Hightown is of generally poor standard and appearance;
- Variety of small shops on Hightown but town centre less than 400m away;
- Sets out policy framework and relevant policies from RSS and Local Plan;
- Land use is compatible with surroundings;
- Achieves a high standard of design;



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- Proposal provides 75% parking however this is a sustainable town centre location;
- The site will be connected to the main sewers and there is no a requirement for additional infrastructure provision;
- No bats are present at the site however it is recommended that demolition works take place outside of the bird breeding season;
- Agreement provisionally for a section 106 agreement although stipulate that financial costs of development may curtail the amount;
- 12 affordable units will be provided according with policy RES.7;
- 'The Housing Needs Survey' 2005, 'Crewe Affordable Housing Requirement' and 'Housing Needs in Crewe' indicate that affordable rented accommodation is the only realistic tenure option in many cases. The recession will increase the number of families unable to purchase;
- 'The Housing Needs Survey' 2005 identified a deficit of 1 bed apartments and 2 bed affordable apartments;
- Wulvern Housing have been involved in the discussions and will be a party to the planning obligation and will agree to shared ownership units to 80% cap and local connections cascade;
- The developer proposes to build 11 of the 12 affordable units prior to the commencement of work on the commercial elements of the scheme This will be provided on a separate site due to the phasing issues. The twelfth unit will be on the ground floor on the northern site;
- The design and built form has evolved in response to discussions with planning officers;
- The scheme will be built to achieve the Code for Sustainable Homes Level 3;
- Solar panels will provide at least 10% of energy requirements from renewable sources;
- Part M of the Building Regulations compliant;
- Opportunity to regenerate an important gateway into Crewe town centre.

An amended Design & Access Statement has been received clarifying some of the issues regarding affordable housing.

#### **Bat Species Survey: (December 2008 & Ecologically Bats)**

- Bats are not using the buildings as a roosting place;
- Some roosting potential but no identified areas to support a substantial roost of bats;
- The surrounding area would discourage any significant use by bats in the area;
- Connectivity to green areas is poor;
- Suggests best practice measures;
- Nesting birds have used some areas of the buildings;
- Recommends best practice measures for bats and avoidance of demolition during the bird breeding season.

## **10. OFFICER APPRAISAL**

The main issues are the impact of the development on the character and appearance of the area, neighbouring amenity, highway safety, the provision of open space, affordable housing and the impact upon protected species.

### **Principle of Residential Development**

The site lies within the settlement boundary of Crewe and is classed as an unallocated Brownfield site. RES.2 states that development on such sites will be permitted subject to policies BE.1- BE.5. Residential development on the site is therefore acceptable in principle, subject to details relating to matters of design, amenity, car parking, access and drainage considerations.

This approach is advocated by National Planning Guidance (PPS3: Housing) which states that most additional housing development should be concentrated in urban areas. This should involve the more efficient use of land by maximising the re-use of brownfield urban land to minimise the amount of greenfield land being taken for new development. Annex B of PPS 3 (Housing) classes the curtilage of a building as previously developed land. Therefore, the site is not regarded as greenfield land. In light of this, and considering the proximity of this site in relation to public transport and local services, the broad principle of residential development in this location is considered acceptable. However, to fully accord with Policy RES.2 (Unallocated Housing Sites), the development must also be in keeping with the requirements of policies BE.1 – BE.5.

PPS3 does not offer any density threshold for new developments; it only stipulates a minimum of 30 dph. That said, policies RES.3 suggests between 30-50 dph where the quality of the local environment is not compromised and provided that this is on a scale in keeping with the character of the area. In this instance, the proposals achieve a density of over 150dph which accords with national guidance. However regard must also be had to the character of the area; that said this is an urban location within a short walking distance of Crewe town centre and the site itself and the surrounding area is in need of regeneration.

As this is a Brownfield site in a highly sustainable location with good access to public transport and the redevelopment of the site would result in the regeneration of the area and benefit the local economy, the principle of residential development is accepted.

### **Amenity**

The Planning Statement submitted by the applicant indicates that the use of the site for a mix of residential and retail purposes is compatible with surrounding land uses. Given the location of the site within short walking distance of the town centre, the proliferation of residential development surrounding the site and the provision of a small parade of shops, both retailing and residential development are considered to be compatible with the existing land uses.

The principal issue regarding the proposals is the issue of overlooking between units as the proposed buildings on opposite sides of Heathfield Avenue are only 13m apart. This is below the spacing guidelines within the SPD Development on Backland and Gardens. That said, these separation distances match those along Heathfield Avenue between the existing terraced properties and these properties co-exist without detriment to the amenities of occupants.

It is therefore considered unreasonable to impose greater separation distances in this location given the established tight knit pattern of development within the locality.

The proposed apartment buildings achieve between 13m-15m separation from commercial properties along Hightown and Heathfield Avenue: as these are commercial premises this will not result in unacceptable overlooking.

Car parking and amenity space areas are provided to the northern and western sides of site 1 which are closest to existing dwellings on Heathfield Avenue therefore the proposals will not result in a significant loss of light to either windows or garden areas at these dwellings.

Blank gables are provided on site 1 to the Three Link Hall and between the Link House and the new apartment building on site 2. Windows are proposed on the rear elevation of the building on site 2 but this would only overlook the car parking for the Hightown Methodist Church and is not considered to result in an amenity issue. Given that this building is bounded by a hall to the west and a car park to the south it will not overdominate garden areas or result in a loss of light for windows.

The scheme provides less than 50 sq. m private amenity space per unit. That said, many of the apartments have balconies and as recent appeal decisions have argued this is often a buyer beware issue rather than a reason to refuse permission. Moreover this is an urban location close to the town centre where occupants can expect less amenity space as a trade off for the convenience of the locality in terms of accessibility to goods and services.

## **Trees**

There are nine trees at site 1 to the north none of which are worthy of a tree preservation order. Three of these trees are shown for removal however the scheme does enable the retention of six of these trees (two are contained within the pavement outside the application site).

Additional shrub planting is proposed to the road frontages to provide amenity and soften the edges of the development. This is considered acceptable within this built up section of the town which does not contain a great deal of landscaping or tree cover.

Whilst one of the neighbours has requested that a tree be removed, as this tree is in good health and contributes to the character of the area, it is not considered necessary or desirable to condition its removal.

## **Protected Species**

As the proposals relate to the demolition of buildings a bat survey is required.

The survey concludes that bats are not currently using the buildings as a roosting place and the building is highly unlikely to be used for roosting bats due to the noisy urban nature of the surroundings which would discourage bat presence and the poor connectivity with those green spaces which exist within a 2km radius of the site. Best practice measures are nevertheless suggested and this will be conditioned accordingly.

Birds nests were present in the buildings and therefore it is necessary to condition that demolition works will only take place outside of the bird breeding season or else the site is checked by an ecologist prior to demolition.

## **Design Standards**

The area comprises a mix of tight knit Victorian terraces and some run down commercial properties with little architectural merit. There are a number of such properties on the site that are proposed to be demolished. The Link House at site 2 does however have architectural merit. It is a two storey Victorian detached building with features such as bay windows, an articulated porch feature and bargeboard detailing. Its external appearance will not change as a result of the proposals and its continued use will secure its longevity.

As this is a gateway site towards the town centre the scheme provides legibility, a focal point and improves vistas across the townscape.

### *Site 2*

The design of the new building on site 2 has a public front and private back like many of the Victorian properties and whilst this is a modern and innovative design there are aspects of it which respect the character of the surrounding properties and thus overall this building fits in and improves the character of the area dramatically.

Whilst the provision of wavy and mono pitched roof forms and the unfettered use of stainless steel, glazing and render are in stark contrast to the traditional brick and slate buildings within the locality, the crunchy and tight knit appearance of the roof respects the compact nature of the surroundings. The proportions and scale of the building also complement Link House rather than dwarfing it due to the contrast in materials and additional glazing provided at the third and fourth floors. The regular arrangement of the balconies also mimics the Victorian bay windows.

The solar panels are located on the rear elevation which is prominent within the streetscene. That said, the solar panels are dispersed throughout the development which would give these the appearance of rooflights. Moreover their presence on a modern building would not appear as an alien feature. The blank elevation whilst to the rear, is prominent to the streetscene as it

backs onto an open car park. Additional windows along the rear elevation would break up the massing of the building and create interest and this has been negotiated with amended plans having been received.

The provision of openings predominantly on the northern and eastern elevations promotes 'eyes on the street' and the perception of overlooking. Low boundary walls are provided to the footpaths to make a distinct separation between public and private spaces.

### *Site 1*

The scale, design and detailing for the new buildings on both sites is highly symmetrical to give the appearance of bookends to the street. This creates a sense of entrance into the area and replicates the formulaic symmetry utilised in Victorian architecture which is a predominant feature of the area.

Given that the south elevation facing Heathfield Avenue is substantially longer than the northern elevation along site 2, the architect has employed certain techniques to break up the bulk and mass of this; these include projecting sections with balconies which give the appearance of bay windows, variation in the eaves heights and variation in render and facing brickwork.

The window detailing is remnant of Victorian windows with horizontal glazing bars, and rectangular stone lintels. There are some unusual features on the building such as the solar panels and the access road with entrance frame. The solar panels would appear out of place on a historic building however they respect the modern choice of materials on this building and would therefore not appear out of keeping. The galvanised steel frame to the access road articulates what would otherwise appear as a void in the elevation and therefore seeks to hang the design together.

The back to the development is private and has communal walkways and stairwells. However as public access to the building is prevented through the provision of a secure entrance to the building this seeks to remediate some of the social problems associated with such a design. The low boundary wall provided to the gardens also seeks to discourage public access.

Turning to the elevation facing Hightown, it is from these views that the significance of the symmetry and modernity is fully felt. The scheme provides two identical book ends to the junction between Heathfield Avenue and Hightown and the blocks of retail/ residential have the appearance of a separate entity which melds with the existing eclectic mix of commercial and residential properties of differing ages. The recessed entrance which comprises predominantly glazing promotes legibility without pulling focus from the book end buildings. At ground floor level the two retail units are separated into three shop fronts which are of a size and scale to those in the locality which ensures that this building does not dwarf the adjoining building or appear over scaled with reference to its location. The use of projecting bays and variation in ridge and eaves height seek to break up bulk and massing whilst still remaining symmetrical.

This is a highly innovative and imaginative design which respects the character of the area, represents a design very much of its time and takes the opportunity to significantly improve the character of the area.

In terms of layout, the buildings frame the public realm and the car parking areas are deliberately kept to the back of the site and towards the existing properties along Heathfield Avenue in the interests of amenity and to enable such areas to be screened by existing tree cover.

### **Highway Safety**

The proposals provide 27 parking spaces which is 77% provision. As no spaces will be provided for the affordable units on site 2 to the south it is likely that the 27 spaces will be for the 24 units at site 1 which is over 100%.

This does not accord with the adopted standards within the Local Plan which require 150% provision and make no exception for affordable housing units. That said there is justification for diminished provision. Firstly this is a highly sustainable location in close proximity to Crewe town centre with good access to the bus network. The site is approximately a 25 minute walk from the train station. As such this is the opportunity for occupants to travel by alternative means.

Secondly, affordable housing tenants are less likely to own a private motorvehicle than the occupants of private housing due to the relatively high costs associated with owning a car.

It should also be noted that the site lies in close proximity to a public car park and whilst this may not be the most economically viable or attractive option, it nevertheless is available to provide car parking for visitors if required.

There are on street parking restrictions within the area which would discourage future occupants from parking on the road.

In terms of visibility, the vehicular access for the development is at site 1 and is located off Heathfield Avenue before the point at which the road narrows. The access is 4.5m wide, and provides a visibility splay of 2.4m x 90m which accords with guidance in Manual for Streets.

The access road has a clearing of 5.4m which is sufficient to enable a bin wagon to enter the site.

Three cycle racks in total have been provided, two on site 1 and one at site 2. Details will be conditioned accordingly.

In terms of pedestrian access, the site does provide pedestrian access and the parking will be minimised by the landscaping scheme to be submitted.

### **Drainage**

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There are no sewers running through the site and there are no known drainage problems in the area. Given the size of the scheme drainage details will however be conditioned accordingly.

Given the high amount of hardstanding to be provided it is suggested that sustainable urban drainage measures are conditioned accordingly.

### **Open Space and Provision**

Policy RT.3 requires either a minimum amount of on site amenity space provision for developments containing over 20 dwellings or the provision of a commuted sums payment towards the enhancement of existing open space, where open space is available in close proximity to the development. The proposals would need to provide 15 sq. m of shared recreational open space per unit and 20 sq. m of shared childrens play space per family dwelling. This amounts to 525 sq. m of shared recreational open space and 520 sq. m of shared children's play space. This would take up just under half of the total site area.

Whilst Policy RT.3 makes specific reference to equipped children's playgrounds, as a number of commuted sums payments have been secured since the implementation of this policy it is considered for this purpose that the commuted sums payment may be used for alternative means i.e. upgrading football pitches or basketball courts. However as this will still be used for existing areas within walking distance of the development this is considered to accord with both policy RT.3 and circular 05/05: Planning Obligations.

It is accepted that the private open space within the site for the future residents of the development is limited. The site does not provide sufficient on site shared open space and moreover does not provide the 50 sq. m private amenity space as suggested by the development on Backland and Gardens SPD. That said private amenity space is provided by balconies and there are a number of green spaces within 2km of the site including Valley Brook, Queens Park and Derby Docks. Appeal decisions have suggested that people will walk up to 2km in search of services.

The applicant has confirmed as part of this application that they intend to make this contribution and subject to the collection of this funding it is considered that the open space provision on the site is acceptable, this will form part of the S106 Agreement.

As the development is to be phased it is agreed that the amount for the 11 units shall be provided prior to occupation and that the remainder be paid after the completion of the second phase of development.

### **Affordable Housing**

Policy RES.7 as modified states that affordable housing targets on windfall sites will be 35%. The scheme proposed shows 35 units. 35% of 35 is 12.25 equating to 12 units. The developer has agreed to provide 12 units on site.

15

The policy also requires that account is taken of the need to provide rental and subsidised units.

The developer has indicated that all the units to be provided will be for rent. The Design & Access Statement provides evidence that subsidised units are 'out of reach' of many people in housing need living in Crewe due to the rising cost of living, incomes and the recent downturn in the economy. This has been verified by Housing Officers.

Wulvern Housing has been involved at the outset and it is envisaged that they will be a signatory to the section 106 Agreement.

The developer has shown site 2 accommodating the affordable units; there are 7 two bed and 5 one bed units which provides a mix of different accommodation types which accords with the Housing Needs Survey 2005.

The affordable units are provided in one block on site 2 with one additional unit on site 1. Whilst the Local Authority would normally encourage a mix of private and social housing in the interests of sustainable communities, the majority of the affordable housing is to be provided in one block as the developer wishes to 'phase' the development:- the affordable units on site 2 will be built first as there is a demand for affordable housing where Housing Associations have secured funding. The downturn in the economy has affected both house prices and the demand for housing and therefore the building of the private housing at site 1 is dependent on the increase in demand for housing.

The section 106 agreement will require the provision of the 12 affordable units for rent, on the site as detailed above along with the following;

- A trigger for delivery of the affordable housing which will be that the first affordable block on site 2 be completed first and that the 12<sup>th</sup> unit be provided prior to the first occupation of the private market housing at site 1;
- A 'cascade' will need to be included to ensure that first priority is given to those in housing need who are resident in or who have connections to the wards of Crewe (wards of Alexandra, Coppenhall, Delamere, Grosvenor, Leighton, Maw Green, St Barnabas, St Johns, St Marys, Valley, Waldron, Wells Green, Willaston, Wistaston Green) followed by the whole of the Borough of Crewe and Nantwich;
- Provision for nomination rights to be given to Cheshire East Borough Council;
- The affordable units shall be units to rent, subject to a rent which is accepted as affordable by the Homes and Communities Agency for the Borough area which shall, so far as the law allows, exclude any right which the lessee may otherwise have to acquire the freehold or long leasehold interest in such units.

There are some discrepancies within the Design and Access Statement regarding affordable housing and the Council is seeking clarification on this and the location of the 12<sup>th</sup> unit within the development on the northern side of Heathfield Avenue. This has now been clarified the applicant has highlighted this unit on the floorplans.



## **Renewable Energy**

Policy EM17 of Regional Spatial Strategy requires that 10% of the developments energy needs are met by renewable energy sources. Six solar panels are provided on the southern elevation at site 2 and 20 at site 1. There are no calculations to demonstrate that this will provide for the energy needs of the development and therefore this will be conditioned accordingly.

In addition to the solar panels, the affordable units will need to be built to Level 3 of the Code for Sustainable Homes which will increase energy efficiency. This is above the minimum requirements for Building Regulations.

## **Retail Issues**

The site provides two small retail units at ground floor level on site 1 which faces the commercial properties along Hightown. It is anticipated that the units will provide modern retail units and provide street surveillance and an active frontage. It is intended that these units will provide for local needs.

Policy S.8 encourages new retail development within this area as a designated local shopping centre.

PPS6 places importance on the social inclusion and regeneration aspects of new retail development and considers these to be material in site selection.

Whilst PPS6 does encourage retail development within existing town centres, in this instance retail provision will result in social inclusion and regeneration benefits which is considered acceptable. The level of floorspace is so minor that it is highly unlikely to have an adverse impact on the town centres vitality and viability.

## **11. CONCLUSIONS**

The development represents an innovative design and a scheme which will improve the visual character of this site at the edge of Crewe. The scheme provides for affordable housing and will improve not only the visual character of the area but also rejuvenate the local economy. The scheme will not have a significant adverse impact on trees, highway safety, neighbouring amenity or protected species and provides for renewable energy.

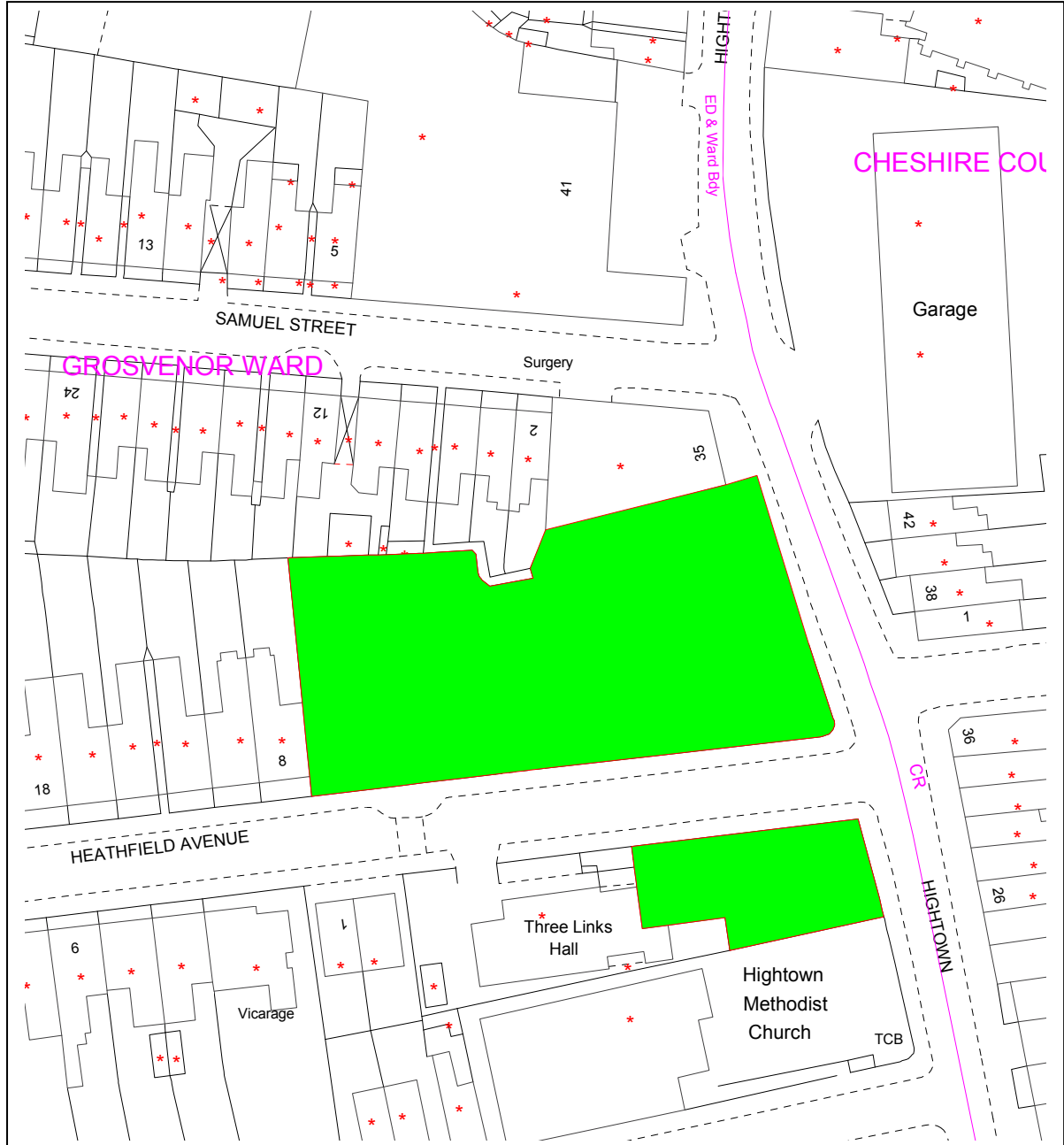
## **12. RECOMMENDATIONS**

**That Authority be delegated to the Head of Planning (Development Control) in capacity as Development Control Manager to approve the application subject to completion of S106 Agreement to secure the affordable housing provision and the open space commuted sum payment as set out in the report and imposition of conditions**

**APPROVE                      Conditions**

- 1. Standard**
- 2. Approved plans**
- 3. Materials**
- 4. Surfacing materials**
- 5. No demolition during bird breeding season or site checked by ecologist**
- 6. Access and car parking to be provided**
- 7. Cycle rack details and to be provided**
- 8. Solar panels to be provided and maintained and method statement**
- 9. No subdivision of retail units**
- 10. A1 shops only**
- 11. Landscaping**
- 12. Landscaping implementation**
- 13. Boundary treatment**
- 14. Waste management plan**
- 15. Sustainable urban drainage measures**
- 16. Noise attenuation**
- 17. Lighting scheme**
- 18. Finished floor levels**

**LOCATION PLAN:**



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<b>Planning Reference No:</b>	09/1515N
<b>Application Address:</b>	Land at the junction of Valley Road, Readesdale Avenue, Crewe, Cheshire
<b>Proposal:</b>	The Installation of a Radio Base Station Consisting of a 10m Replica Telegraph Pole, Cannon Type D and G Cabinets and Development Ancillary Thereto
<b>Applicant:</b>	O2 UK Ltd
<b>Application Type:</b>	GDO Telecom 56 days
<b>Grid Reference:</b>	368991 354748
<b>Ward:</b>	Crewe West
<b>Earliest Determination Date:</b>	9 <sup>th</sup> July 2009
<b>Expiry Dated:</b>	26 <sup>th</sup> July 2009
<b>Date of Officer's Site Visit:</b>	23 <sup>rd</sup> June 2009
<b>Date Report Prepared:</b>	23 <sup>rd</sup> June 2009
<b>Constraints:</b>	None

## **SUMMARY RECOMMENDATION**

### **MAIN ISSUES**

- The design, siting and external appearance
- The exploration of alternative sites
- Health & Safety considerations

### **SUMMARY RECOMMENDATION:**

**That details of siting design are approved subject to the colour and finish of the proposed pole and equipment cabinets being agreed**

## **1. REASON FOR REFERRAL**

This application was to be dealt with under the Council's delegation scheme. However Cllr Weatherill has requested it be referred to Committee due to concerns over the impact of the proposal upon the character and appearance of the area and street scene and potential health implications.

## **2. DESCRIPTION OF SITE AND CONTEXT**

The site is located at the junction of Readesdale Avenue and Valley Road within the Crewe Settlement Boundary. The site is currently a grassed corner with a footpath and grass verges onto Readesdale Avenue and Valley Road. This corner includes 3 small trees and a number of items of street furniture including a telegraph pole, bin, street sign and 2 road name signs. To the north of the site are a small car-park and a parade of shops which includes a hairdressers, a chemist, a co-op store, a take-away and a fish and chip shop. The rest of the surrounding area is predominantly residential and includes a mix of house types including both single and two storey detached and semi-detached properties. The nearest residential property would be 95 Valley Road which stands a distance of 21 metres away from the proposed installation

### **3. DETAILS OF PROPOSAL**

This is an application for prior approval for the siting and appearance of a 10 metre telecommunications installation with 3 integrated antennas and 2 associated equipment cabinets. The first equipment cabinet would be 0.4 metres in width, 1.2 metres in length and 1.5 metres in height, the second equipment cabinet would be 0.3 metres in width, 1.5 metres in length and 1.5 metres in height.

### **4. RELEVANT HISTORY**

P08/0405 - Erection of 12.5m High Telecommunications Installation (GDO Determination)  
– Details of siting, design and external appearance required and refused – Appeal Lodged  
– Appeal Dismissed 7<sup>th</sup> January 2009

### **5. POLICIES**

The relevant development plan policies are:

#### **Policies in the Local Plan**

NE.18 – Telecommunications Development  
BE.1 – Amenity  
BE.2 – Design Standards  
BE.3 – Access and Parking

#### **Government Guidance**

PPG8 – Telecommunications

### **6. CONSULTATIONS (External to Planning)**

**Highways:** No comments received at the time of writing this report

### **7. VIEWS OF THE PARISH COUNCIL**

No comments received at the time of writing this report

### **8. OTHER REPRESENTATIONS:**

Letters of objection have been received from the occupiers of the following properties:  
99 Valley Road, Crewe; 101 Valley Road, Crewe; 107 Valley Road, Crewe; 29 Arderne Avenue, Crewe; 1 Readesdale Avenue, Crewe; 97 Dane Bank Avenue, Crewe; Headteacher of St Thomas More Catholic High.

Main areas of concern relate to:

- Potential safety implications and proximity to local schools
- Impact of radiation upon local residents and young children
- Precautionary approach should be adopted
- Site is close to local schools and college and children frequently walk past the site
- Adverse visual impact
- Proposal would be viewed against the backdrop of single storey development
- Mobile phone masts are now banned from schools
- Applicant's statement that only one property looks onto the site is incorrect
- Previous applications in the area have been turned down

- There are plenty of fields approximately ½ mile from this site that could accommodate the proposal
- Similar proposal on this site has already been refused
- Clutter of pavement with equipment cabinets
- Maintenance of the equipment will cause unsafe conditions on the highway/pavement
- Insufficient information to demonstrate alternative sites have been considered and applicant should re-negotiate with college to site the equipment in their grounds
- Mast and equipment cabinets are likely to be vandalised

## **9. APPLICANT'S SUPPORTING INFORMATION**

### **Supporting Planning Statement and Design and Access Statement**

- The proposed installation is needed to provide 2 and 3G coverage to the residential and commercial properties in Wistaston due to the re-development of the South Cheshire College Site
- The removal of the masts on South Cheshire College will result in a hole in the coverage for this area of Crewe
- The height of the installation has been reduced by 2.5m following the previous appeal and concerns by the Inspector over the height of the proposal
- Alternative sites considered and not chosen are;
  - Crewe Road/Brookland Road – Would not provide suitable coverage
  - Willaston BT Exchange – Would not provide suitable coverage
  - Huntsbank Business Park – Would not provide suitable coverage
  - Wistaston Memorial Hall – The owner will not allow an installation on this site
  - Tesco Garage, Crewe Road - Would not provide suitable coverage
  - Crewe Road/Lynton Way - Would not provide suitable coverage
  - South Cheshire College – The existing masts are being removed from this site which is no longer available
  - St Marys Church, Church Lane - Would not provide suitable coverage
  - Woodside Public House – More visually intrusive and close to residential properties
  - Orange Mast off Wistaston Green Road - Would not provide suitable coverage
  - St Mark's Methodist Church – The Church is too small to accommodate the necessary equipment
- Every attempt has been made to minimise the visual impact of the proposal
- Given the orientation of the surrounding properties the proposal would not significantly affect the outlook of these properties
- It is considered that the pole and equipment cabinets will soon be seen as a utilitarian feature not uncommon in such a street scene and will be accepted as part of the urban fabric
- It is believed that the scheme takes the form which is sympathetic within the context of the immediate street scene which includes telegraph poles and lighting columns
- The proposed height and design represents the best compromise between the visual impact of the proposal on the surrounding area and meeting the technical coverage requirement for the site

### **ICNIRP Declaration**

This is a signed declaration that the equipment and installation has been designed to be in full accordance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection.

## **10. OFFICER APPRAISAL**

### **Principle of Development**

This is an application for prior-approval under Part 24 of the General Permitted Development Order. The Local Planning Authority has 56 days beginning with the date on which it receives a valid application, in which to make and notify its determination on whether prior approval is required to siting and appearance and to notify the applicant of the decision to give or refuse such approval. There is no power to extend the 56 day period. If no decision is made, or the Local Authority fails to notify the developer of its decision within the 56 days, permission is deemed to have been granted.

### **Alternative Sites**

Government guidance aims to facilitate new telecommunications development, and consideration needs to be given as to whether all suitable alternative locations have been explored.

A previous application for prior approval was submitted by O2 on this site (Planning application ref; P08/0405). This was refused partly due to a lack of consideration of alternative sites. However as part of the appeal the applicant carried out a more comprehensive consideration of alternative sites including those suggested by the Case Officer. This assessment was accepted by the Inspector and this reason for refusal was not accepted at the appeal. The sites listed in the supporting information section of this report have already been considered and discounted, and on this basis it is accepted that the operator has complied with guidance and explored suitable alternative sites.

### **Siting, Design and Street Scene**

The proposed installation has been designed as a slim line pole designed to mimic a telegraph pole. The height of the pole would be stepped back from the pavement by 3 metres and would be 10 metres in height which would make it taller than the surrounding lighting columns which are 8 metres in height.

Policy NE.18 (Telecommunications Development) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and PPG8 will be used to assess this proposed development.

In terms of the policy guidance in relation to telecommunications development, PPG8 states that the government policy is to;

*'facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum. The Government also has a responsibility for protecting public health. The aim of telecommunications policy is to ensure that people have a choice as to who provides their telecommunications service, a wider range of services from which to choose and equitable access to the latest technologies as they become available'*

The proposed installation at 10 metres in height would be taller than the existing street lighting columns in the area which are approximately 8 metres in height. The mast would



mainly be viewed by vehicles and pedestrians travelling along Readesdale Avenue, Valley Road and when visiting the precinct of shops to the north of the site.

In dismissing the previous appeal for a 12.5m mast the Inspectors main concerns related to the height of the proposed mast. The Inspectors decision states that the height of the mast would *'stand out as being uncharacteristically tall and would appear out of scale, incongruous and an alien feature in this suburban and domestically scaled environment. Its height would, in my view, also prevent its camouflage from being successful'*.

The applicant has reduced the height of the proposal from the earlier submission by 2.5 metres. The proposed mast would still sit taller than the existing telegraph poles and lighting columns in the vicinity by approximately 2 metres. However, this is not considered to be significant and the proposal would now successfully assimilate with existing street furniture. Accordingly unlike the earlier scheme the proposal would not appear as an alien or incongruous feature or out of scale within the locality.

Furthermore it is considered that the benefits of extending the telecommunications network in the area outweigh the limited visual impact of the proposed development upon the character and appearance of the area.

### **Health and Safety**

Concern has been expressed nationally with regard to the effect of mobile phone base stations to human health. The Stewart Report (2001) concluded that there are gaps in the knowledge to justify a *'precautionary approach'* in regard to the siting of base stations. There have been various High Court judgements which have ruled either way on the issue of whether health considerations can be material in determining an application for planning permission or prior approval.

The perceived risk is acknowledged and consideration should be given to any long-term effect to the quality of life and well-being of local residents. Due to the design of the proposal mimicking a telegraph pole, its siting and the surrounding vegetation the proposal would not register as an enduring reminder of a source of radio frequency radiation and would therefore have little effect on the well-being and amenity of local residents.

Paragraph 98 of PPG8 states that *'In the Governments, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a Local Planning Authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them'*. In this instance an ICNIRP certificate has been provided.

### **Highways**

The Highway Engineers comments had not been received at the time of writing this report. However there were no objections as part of the last application on the site. As a result it is not envisaged that the proposal would raise any highway safety implications.

### **Other matters**

Representations have been received which express concern in regard to potential for vandalism of the equipment cabinets and mast and also potential safety implications for

the highway and pavement when the operator is maintaining the equipment. However, maintenance of telecommunications installations is likely to be infrequent and as with the maintenance of other utilities can be maintained without threat to highway safety. Equally the potential for vandalism is not considered to be a significant consideration in this proposal.

## **11. CONCLUSIONS**

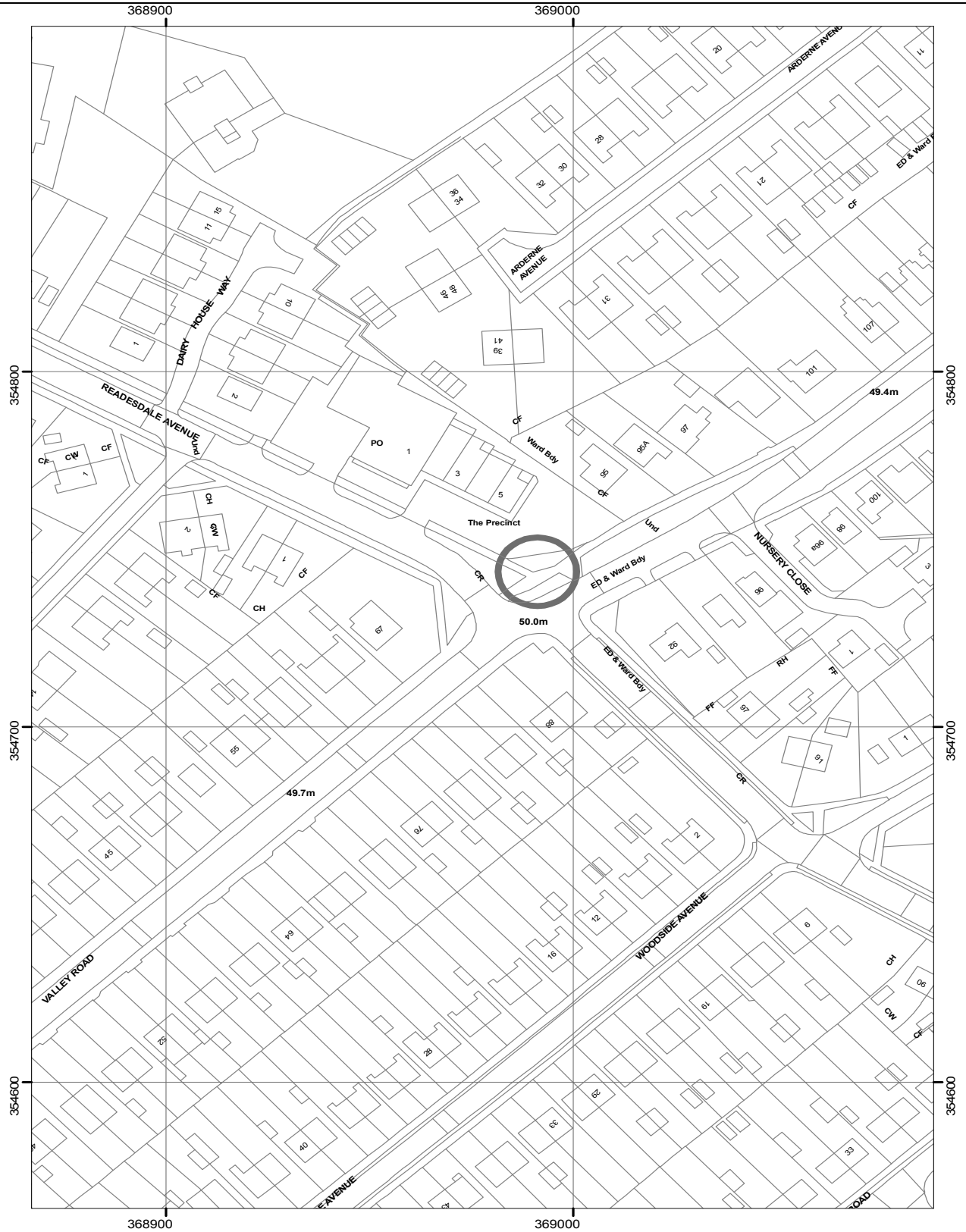
The siting of base stations is a highly emotive area of planning and is dictated largely by the need to provide coverage to populated areas. It is rare for such development to be sufficiently remote that no objections are raised from residents. Alternative sites have been considered as part of the selection process and have been rejected for a number of reasons including technical coverage requirements, the proximity to residential properties and also the unwillingness of site owners to allow development on their land. The applicant has reduced the height of the proposed mast from the earlier refused scheme by 2 metres and this is considered to be sufficient to overcome the earlier reason for refusal. Accordingly the proposal is not considered to appear as an alien or incongruous feature within the locality. It is considered that in this instance the proposed development is compliant with local and national policy.

## **12. RECOMMENDATIONS**

**RECOMMENDATION: That details of siting and design are required and that these details are approved subject to the colour and finish of the proposed pole and equipment cabinets being agreed**

1. Standard – 3 years
2. Monopole and antenna to be brown in colour, equipment cabinet to be green
3. Development to be completed in accordance with the approved plans

LOCATION PLAN:



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## Planning Committee Report

<b>Planning Reference No:</b>	09/1589N
<b>Application Address:</b>	4 Fulbeck Close, Wistaston, Crewe
<b>Proposal:</b>	Proposed Extension on Rear of Dwelling
<b>Applicant:</b>	Mr Sutton
<b>Application Type:</b>	Full Planning Permisison
<b>Grid Reference:</b>	
<b>Ward:</b>	Rope
<b>Earliest Determination Date:</b>	15 July 2009
<b>Expiry Dated:</b>	2 August 2009
<b>Date of Officer's Site Visit:</b>	3 July 2009
<b>Date Report Prepared:</b>	3 July 2009
<b>Constraints:</b>	

### SUMMARY RECOMMENDATION:

That Authority be delegated to the Head of Planning and Policy to  
**APPROVE** (subject to conditions)

### MAIN ISSUES:

- Impact on the Character of the Area
- Impact on Neighbouring Amenity

## 1. REASON FOR REFERRAL

This application is to be determined by the Cheshire East Council Southern Planning Committee as the applicant is related to an elected member.

## 2. DESCRIPTION OF SITE AND CONTEXT

The application site comprises a detached two storey dwellinghouse and its curtilage accessed off Fulbeck Close, a cul de sac located in Wistaston. The rear garden contains three sheds and is bounded by 1.8m high close boarded fencing. Topographical levels vary across the site slightly with the land rising to the rear.

The site lies within an established residential estate although there have been new residential properties built in close proximity to the north and east of the site.

The site also lies 60m from the Gresty Brook although the site is not within an area of flood risk. The site lies within the designated settlement boundary of Crewe.

## 3. DETAILS OF PROPOSAL

The proposals relate to a single storey side and rear extension measuring 10.8m wide and 1.8m deep from the rear elevation and 3.5m wide and 6.9m deep from the side elevation. The extension measures a height of 2.5m to eaves height and 3.8m to ridge height.

#### **4. RELEVANT HISTORY**

None relevant

#### **5. POLICIES**

##### **Regional Spatial Strategy**

None relevant

##### **Local Plan Policy**

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

RES.11 (Improvements and Alterations to Existing Dwellings)

##### **Other Material Considerations**

SPD Extensions and Householder Development

#### **6. CONSULTATIONS (External to Planning)**

None consulted

#### **7. VIEWS OF THE PARISH / TOWN COUNCIL: No Parish Council**

#### **8. OTHER REPRESENTATIONS:**

None received at time of writing report

#### **9. APPLICANT'S SUPPORTING INFORMATION:**

None received

#### **10. OFFICER APPRAISAL**

##### **Principle of Development**

The application site lies within the settlement boundary of Crewe where there is a presumption in favour of development. Policy RES.11 governs the acceptability of extensions to dwellinghouses and stipulates that extensions should respect the setting, design, scale, and form and materials of the original dwelling and should not result in a loss of amenity to neighbours or result in a loss of car parking.

##### **Design**

Whilst this single storey development extends to the side and rear of the property and the side extension has an awkward form, this is a modern detached property and the extensions are not unduly prominent in the streetscene. In such circumstances it is difficult to attribute harm to either the host dwelling or the character of the area. Moreover the design does attempt to reflect certain features of the original dwelling such as the window detailing, and the existing roof form.

It is considered on balance that the design of the extension is appropriate to this dwelling and does not harm the character of the streetscene.

### **Amenity**

In terms of overlooking, the buildings along Fulbeck Close are located close together which leaves limited room for allowing light to windows. A small dining room window is proposed on the side elevation. Although this will face the side elevation of no. 2 Fulbeck Close and the boundary fence, this will not result in overlooking as the window faces an obscure glazed window and moreover the fence provides obscurity. There is no requirement to condition the retention of the fencing given that the neighbours window is obscure glazed.

In terms of overlooking to the rear, whilst the neighbour at 3 Kemble Close has a number of windows which are less than 12m from the extension proposed, the existing boundary fence provides obscurity. This fence will be conditioned to be retained.

In terms of overdomination, being single storey, the bulk and mass of the development will not have an adverse impact on dwellings at 2 Fulbeck Close and 3 Kemble Close.

### **Other Matters**

The proposals will not have an adverse impact on the car parking and access arrangements.

## **11. CONCLUSIONS**

The proposed extension represents an acceptable form of development as it is not prominent and respects the character and appearance of the existing dwelling and the character of the area. The extension does not raise any concerns for neighbouring amenity or highway safety and the proposals therefore accord with policies BE.1 (Amenity) BE.2 (Design Standards) BE.3 (Access and Parking) RES.11 (Improvements and Alterations to Existing Dwellings) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

## **12. RECOMMENDATIONS**

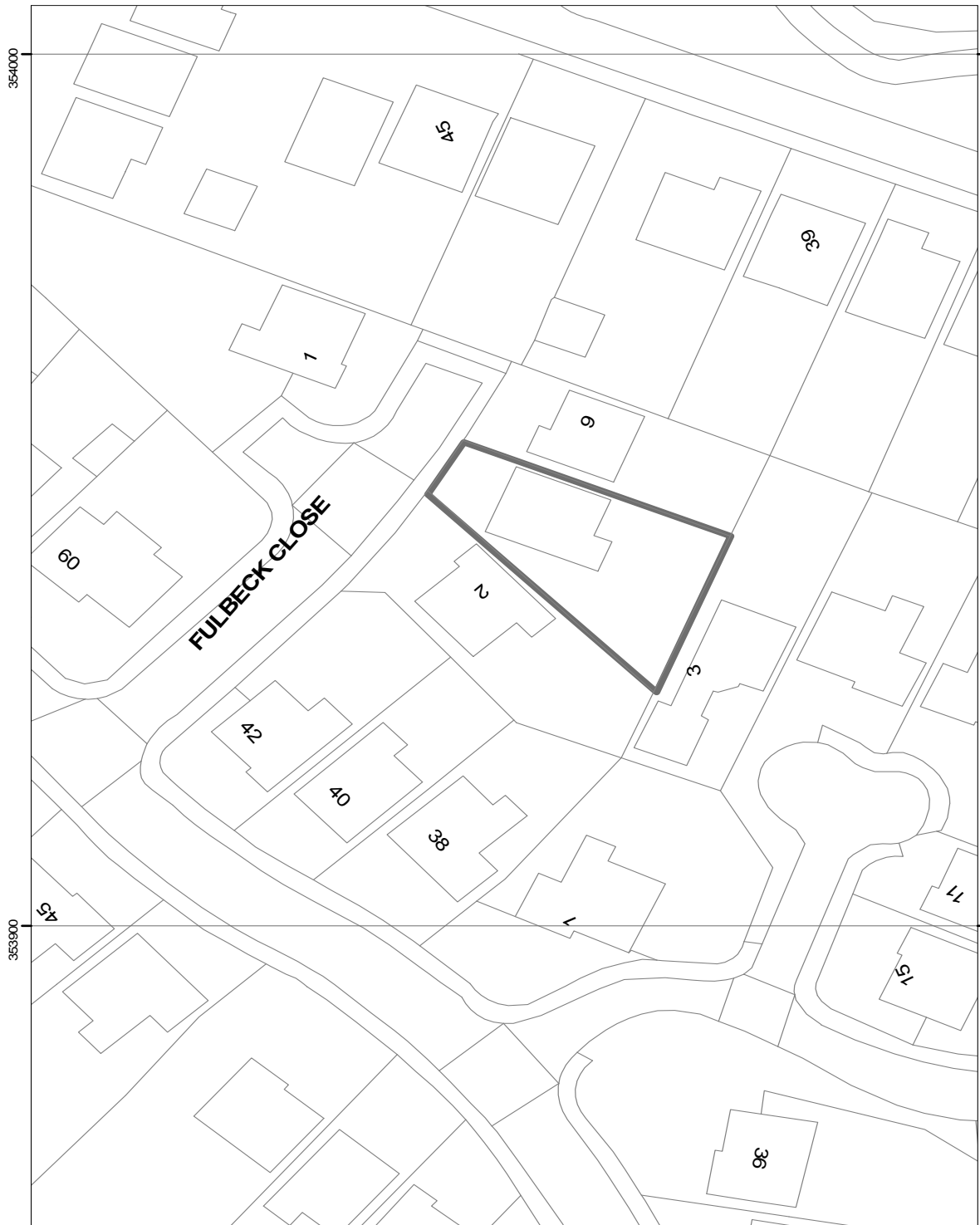
**That Authority be delegated to the Head of Planning and Policy to**

**APPROVE subject to the following conditions**

- 1. Standard Time Limit**
- 2. Materials to Match Existing Building**
- 3. Approved Plans**
- 4. Rear Fence to be Retained**



**LOCATION PLAN:**





<b>Planning Reference No:</b>	09/1598C
<b>Application Address:</b>	Beech House, Twemlow Green, Holmes Chapel Cheshire, CW4 8BN.
<b>Proposal:</b>	Construction of one two-storey dwelling with detached double garage and new access. Construction of new access for existing dwelling.
<b>Applicant:</b>	Mr J Hindley
<b>Application Type:</b>	Full
<b>Ward:</b>	Congleton Rural Ward
<b>Earliest Determination Date:</b>	6 July 2009
<b>Expiry Date:</b>	20 July 2009
<b>Date Report Prepared:</b>	3 July 2009
<b>Constraints</b>	TPO

**SUMMARY RECOMMENDATION:**

Approve with conditions

**MAIN ISSUES:**

Principle of the development  
Impact on neighbour amenity  
Impact on protected trees  
Impact on character of the area

**1. REASON FOR REFERRAL**

Called in by Councillor Les Gilbert on the grounds of loss of amenity to Hiverley Cottage, character of the area and prominence of proposed dwelling when viewed from the A535.

**2. DESCRIPTION OF SITE AND CONTEXT**

The 0.34ha application site is located to the south side of the A535 and North West side of Forty Acre Lane at the eastern end of the village of Twemlow.

The site consists of a substantial modern detached dwelling known as 'Beech House' which is set within a triangular shaped plot of mature gardens including a number of protected trees. The site is well screened by high mixed species hedges to the South East and South West; by a group of mature trees to the North West end and a number of semi mature trees and a 1.6m beech hedge along the northern boundary.

The site lies within the Twemlow Settlement Infill Boundary Line.

**3. DETAILS OF PROPOSAL**

The application seeks full planning permission for the construction of one two-storey dwelling with detached double garage and new access and the construction of a new access for the existing dwelling.

#### **4. RELEVANT HISTORY**

08/1585/ful Application for one two-storey dwelling and new access refused 15<sup>th</sup> December 2008.

#### **5. POLICIES**

North West Regional Spatial Strategy

DP1 – Spatial Principles

DP4 – Making the best use of existing resources

DP7 – Promote Environmental Quality

Local Plan Policy

GR1 (General criteria for development)

GR6 (Amenity and health)

GR9 (Accessibility, servicing and parking provision)

H1 & H2 (New Housing)

PS6 (Development within Infill Boundary Line of settlements in Open Countryside or Green Belt)

NR1 (Trees)

Supplementary Planning Document 2: Provision of Private open Space (SPD2)

#### **6. CONSULTATIONS**

The Senior Landscape and Tree Officer (by email 22<sup>nd</sup> June 2009) raised concerns that the proposal would impact on one protected tree, a mature Oak

The SLT Officer also commented that the northeastern corner of the site is dominated by trees and appears waterlogged. The position of the proposed garage and the presence of the trees this use area of the site as private amenity space would be severely restricted.

The Senior Landscape and Tree Officer (by email 3<sup>rd</sup> July 2009) following receipt of revised plans the Officer commented that subject to appropriated tree and hedge protection measures her earlier concerns regarding the protected Oak tree had been addressed.

Additionally, the SLT Officer notes that the plans appear to indicate additional planting on the roadside verge to the west of the site, such land is outside the application site and may be outside the applicant's control. She further states that should the proposal be deemed acceptable landscape conditions are recommended. Also, boundary treatment to separate the existing and new plots will also need to be addressed.

**7. CONSULTATIONS (External to Planning)**

The Environmental Health Section by email received 2<sup>nd</sup> July 2009 raised no objections subject to the following conditions:

1. Ground contamination
2. Restrict hours of piling
3. Limit hours of construction

The Highways Engineer had made no comments at the time of writing this report.

**8. VIEWS OF THE PARISH COUNCIL:**

Twemlow Parish Council by email 3<sup>rd</sup> July 2009 made the following comments:

The proposal is not in keeping with a hamlet which consists of relatively large houses set in spacious plots with ample distance between houses which are protected with mature trees (some of which have already been removed at Beech House).

The previous application was turned down due to it being unduly prominent when viewed from the A535, which the Council still feel would be the same this time. It is still again very close to the A535 hedge line and no other properties are so close.

The Parish Council feel that the property is causing a removal of mature trees which is therefore a significant harm to the rural appearance of this area.

**9. OTHER REPRESENTATIONS:**

A single letter of objection received 1<sup>st</sup> July 2009 raised the following issues:

- The proposed development due to its size, scale and position is not appropriate to the character of the surrounding area.
- The development will have a detrimental effect on amenity due to loss of privacy and visual intrusion on at least one neighbouring property.
- The development will harm existing protected trees

**10. OFFICER APPRAISAL**

This proposed scheme is a reapplication of an earlier scheme for a new dwelling and new access (ref.08/1585/ful) that was refused for the following reason:

*The proposed development by reason of its design, scale and massing would result in a form of development which would appear unduly prominent when viewed from the A535 and not in keeping with the sylvan character of the area in which trees are allowed to predominate as a result of the wide spacing and setting back of dwellings from the road. As such the proposed development*

*would be contrary to policies GR1, GR2, H6 and PS6 of the adopted Congleton Borough Local Plan First Review.*

The current scheme is a similar proposal for a detached dwelling and a new access. The new scheme includes the following changes that seek to address the reason for refusal.

- The main dwelling has been moved to 5m from the 1.6m high beech boundary hedge.
- The garage has been separated from the main dwelling to reduce the massing of the development when viewed from the A535.

In addition, on officer advice, amendments have been submitted, (received 3<sup>rd</sup> July 2009) which include the repositioning of the detached garage and the access to the proposed dwelling so that neither are within the root protection zone of an Oak tree subject of a TPO.

The main issues for the Committee in determining this application are:

1. The principle of the development.
2. Impact on neighbour amenities
3. Impact on protected trees
4. Highway safety
5. Impact on the character of the surrounding area.

### ***The Principle of the Development***

Policy PS6 states that within the infill boundary line of a number of named settlements that includes Twemlow, limited development only in accordance with policy H6 will be permitted where it is appropriate to the local character in terms of use, intensity, scale and appearance and does not conflict with the other policies of the local plan.

Policy H6 states that new residential development in the open countryside or within the green belt will not be permitted unless it falls within one of a number of categories which includes the following:

*Limited development within the infill boundary line of those settlements identified in policy PS6 which must be appropriate to the local character in terms of its use, intensity, scale and appearance;*

The surrounding area is primarily residential with generally well-spaced larger dwellings on generous plots. Were an additional dwelling erected on this well

screened site with an area of 0.34ha the housing density would, in planning terms, still be low at under 6 dwellings per hectare.

The use, intensity and scale of the proposed development would be appropriate to the character of the area. Having regard to policies PS6 and H6, it is considered that the proposed development is acceptable in principle.

### ***Impact on Neighbour Amenity***

Policy GR6 requires that proposals will only be permitted where there would be no unduly detrimental effect on the amenity of neighbouring residential properties

It is noted that objections on amenity grounds have been received from neighbours living across the A535 to the north of the site. The distance between existing nearby properties and the proposed dwellinghouse would exceed recommended distances as set out in SPG 2 – Private Open Space. With respect to the objector's dwelling the proposed development would be over 50m away, as such any impact on their amenities would not be considered significant in planning terms.

The nearest other dwelling would be Beech House. The proposed dwelling would have two first floor bedroom windows in its west elevation which would face Beech House however no windows to habitable rooms would be overlooked and only the front garden and the rear portion of the rear garden would be overlooked.

There would be no significant loss of natural light to Beech House.

There are no other amenity issues.

### ***Impact on protected trees***

Objections have been raised regarding the impact of the proposals on protected trees. Additionally, concerns were initially raised by the Senior Landscape and Tree Officer regarding the siting of the proposed garage and access to the new dwelling. Both would have been within the Root Protection Zone (RPZ) of a mature Oak tree subject to a TPO (labelled T5 on the Landscape proposal plan).

On officer advice, the siting of the proposed dwelling, the garage and the access to the new house were altered so that none of the proposed development would be with the RPZ.

Based on the revised layout received 3<sup>rd</sup> July 2009. Subject to appropriate tree and hedge protection and appropriate landscaping conditions the Senior Landscape and Tree Officer raises no objection.

As such any refusal on grounds of harm to protected trees would not be sustainable.

***Design and impact on the character of the surrounding area.***

The proposal is for a two storey detached 4 –bedroom dwelling measuring 14m in width, 10m in depth, 3.6m to eaves with a ridge height of 7.7m. To the front elevation there would be a central gabled feature with porch below and dormers to either side. Facing materials should be agreed by condition with the LPA.

The detached garage would measure 6.2m in width, 6.2m in depth, 2.3m to eaves and 4.8m to ridge height. On officer advice the ridge has been amended to run front to back thereby avoiding future conflict with nearby trees.

The earlier refused scheme was such that the garage was attached to the main dwelling which presented an unbroken rear elevation of 22m in width some 3m from the rear boundary (a 1.6m high Beech hedge).

The current scheme moves the rear elevation of the dwelling back to 5m from the rear boundary and shifts the garage 6m to the north west away from the dwelling amongst the trees. This greatly reduces the massing to the rear boundary.

The reason for refusal of the previous application refers particularly to the prominence of the development when viewed from the A535. With the current arrangement the proposed development would barely be visible at all when approached on the A535 from the north east or from the south west.

There would only be views of the buildings when viewed from a 40m section of the A535 directly to the rear of the site (north), such views would be partially screened by the existing boundary hedge and existing semi mature trees on the grass verge. Whilst it is noted that the plans include further planting on the grass verge, this land is beyond the control of the applicant. As such it is recommended that there should be appropriate landscaping to include further tree planting on or just within the rear boundary. Such landscaping would provide further screening of the development when viewed from the A535 and should be conditioned.

Given that this section of the A535 has the national speed limit and that there are no footpaths, it is considered that views into the site by the public would be very limited. Only the residents living to the north across the A535 at Hiverley Cottage would have any clear view of the development.

It is noted that the Senior Landscape and Tree Officer no longer objects to the scheme with regard to its prominence when viewed from the A535.

The boundary treatment between Beech House and the new dwelling and the part of the existing access to be closed should be landscaped appropriately.

Overall, subject to appropriate tree and hedge protection and landscaping measures it is considered that the scheme would have little impact on the character of the surrounding area and therefore addresses the reasons for refusal of the earlier scheme.



### ***Highways Safety***

Policy GR9 aims to ensure that new development does not impact on highway safety in terms of parking, access and servicing.

Whilst no comments have been received from the Highways Engineer the proposal would have little significance on highways. Should the application be approved it is recommended that an appropriate informative be included to ensure that the new access and alterations to the existing access meets highways standards.

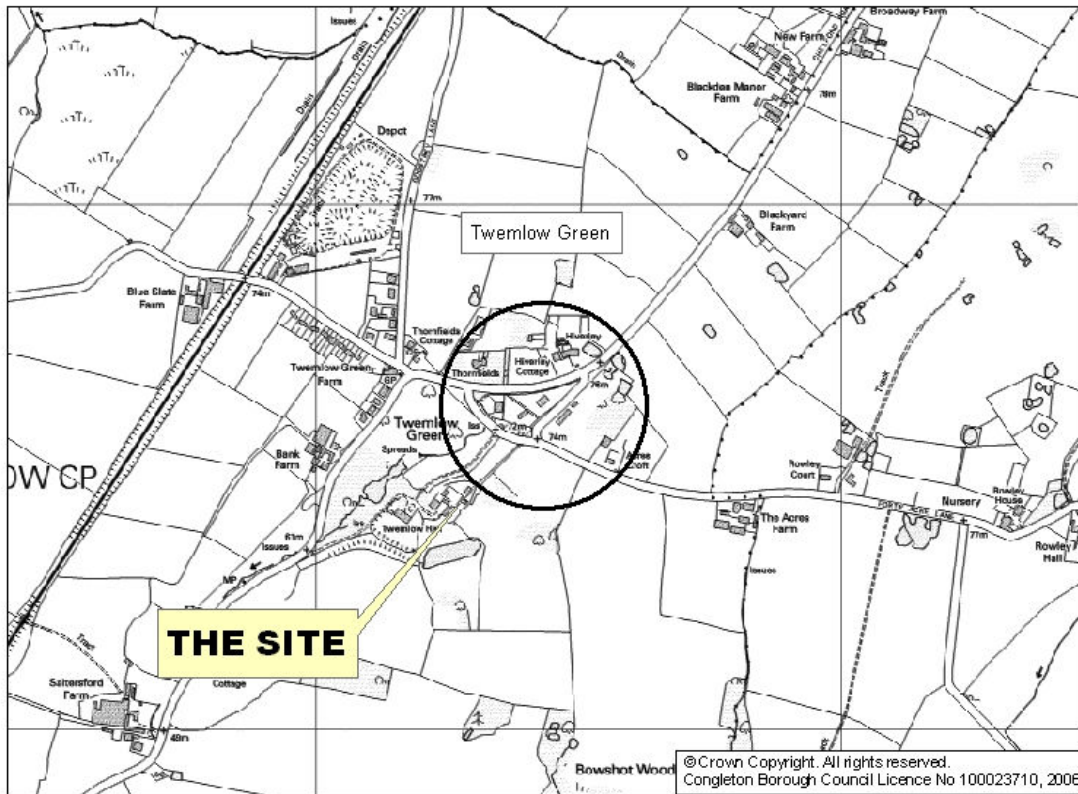
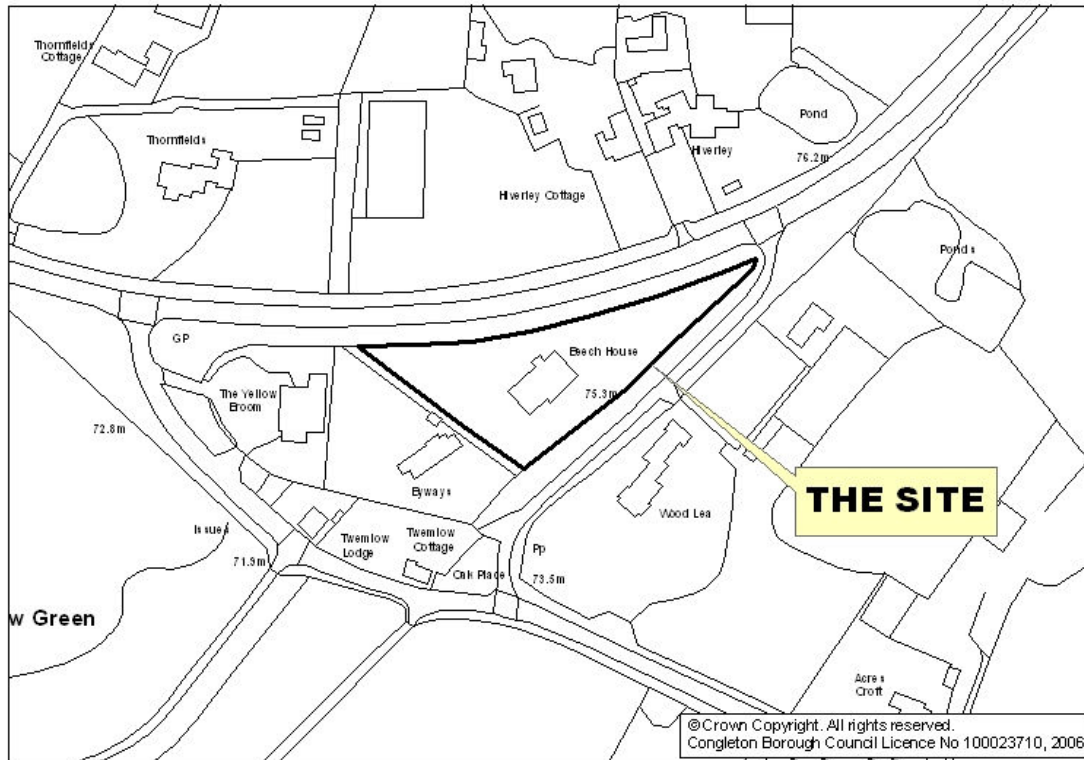
## **12. CONCLUSIONS**

Having regard to the pattern of existing development in the area and other material planning considerations, the Local Planning Authority is of the opinion that the proposed development would be in accordance with Policies PS6, GR1, GR2, GR6, GR9, H1, H2, H6 and NR1 of the adopted Congleton Borough Local Plan First Review, and DP1, DP4 and DP7 of the Regional Spatial Strategy for the North West and that it would not materially harm the character or appearance of the surrounding area or the privacy and living conditions of neighbouring occupiers and would be acceptable in terms of highway safety.

## **12. RECOMMENDATION**

APPROVE subject to the following conditions: -

1. Standard commencement condition
2. Development to accord with approved revised plans
3. Removal of permitted development rights Class A to C of Part 1 Schedule 2 of GPDO 1995.
4. Limit hours of construction,
5. Limit hours of piling
6. Submission of samples of facing materials
7. Standard contaminated land conditions
8. Standard Tree Protection conditions
9. Standard Landscaping conditions





## **SOUTHERN PLANNING COMMITTEE**

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**Date of meeting:** 15 July 2009  
**Report of:** Head of Planning and Policy  
**Title:** Bryancliffe, Wilmslow Park South, Wilmslow – Judicial Review of decision to grant planning permission

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### **1.0 Purpose of Report**

- 1.1 To notify members of the result of the Judicial Review proceedings brought against the decision of Macclesfield Borough Council to grant planning permission for the development at Bryancliffe, Wilmslow Park South, Wilmslow. The judicial review application was successful and therefore the Planning Permission that had been granted was quashed by the Court.

### **2.0 Decision Required**

- 2.1 To note
- (1) the decision of the High Court
  - (2) that changes will be required in the processing of applications and content of reports as a result of the areas of challenge that were successful
  - (3) that not all of the grounds of challenge were successful and the areas of unsuccessful challenge will be taken as a minimum level for processing and determining applications for Cheshire East.

### **3.0 Financial Implications for Transition Costs**

- 3.1 The Council will be required to meet its own costs of defending this action, and will also be required to meet the Claimants costs, at least in part.

### **4.0 Legal Implications**

- 4.1 The decision of the High Court quashes the Planning Permission that was granted on 15<sup>th</sup> February 2008. The application therefore currently stands undetermined. At the time of writing this report the original applicants have gone into administration and Administrators are in control of the site. It is not clear what their intention is with regard to the

undetermined application at the time of writing, but if the application is not withdrawn it will need to be re-determined by the Council.

## **5.0 Risk Assessment**

- 5.1 Failure to amend procedures and practices in the processing of planning applications for the future will leave the Council open to further legal challenge by Judicial Review and investigations by the Local Government Ombudsman.

## **6.0 Background and Issues**

- 6.1 Macclesfield Borough Council granted planning permission in February 2008 following completion of a section 106 agreement, for the demolition of the existing house and erection of 3 apartments with under croft parking on the site.

- 6.2 The Claimant lives over Fulmards Close from the site and objected to the proposed development, and challenged the legality of that decision to grant permission. In this regard he put forward a number of grounds of challenge, these were:-

- i. that the Committee Report did not deal with the European Community Habitats Directive on protected species in regard to the bat roost that had been identified on the site;
- ii. that that there was a failure by the Council to consider alternatives to the form of development suggested in the planning application;
- iii. that the proposed swap of units to ensure that there was no increase in the number of houses in accordance with the Restrictive Housing Policy between the Bryanccliffe site and another site within the Wilmslow area was irrelevant and contrary to government guidance;
- iv. that the Committee Report failed to say whether there was compliance with the policies in the Development Plan or not;
- v. that there was a failure of the Council to take account of applicable policies;
- vi. that there was no authority to issue the planning permission as the Decision notice did not include a condition requiring a method statement for planting on the slope on the site or landscape implementation conditions as required by the Committee minutes, and;
- vii. that there was a failure in the Decision Notice to adequately summarise the relevant policies for the decision taken.

- 6.3 Each of these grounds of challenge was disputed by the Council, and a hearing into the matter took place on the 21<sup>st</sup> and 22<sup>nd</sup> May 2009, in front of a High Court Judge sitting in Manchester.

- 6.4 The judge determined that the Judicial Review application should succeed and quashed the planning permission, on the basis that he agreed with grounds i, iv and v listed above. In relation to the other grounds of challenge these all failed either because the allegation was unfounded or because there was no requirement for the Council to undertake what was suggested as being required.

## **7.0 The Issues**

- 7.1 Clearly the Council have to ensure that such a challenge is not able to be made against any future decisions, and have to amend any existing procedures to ensure that this is the case.
- 7.2 With regard to the ground of challenge relating to European Protected Species, it is accepted that the report contained no discussion on the specific requirements of the European Directive, however it is not considered that Macclesfield Borough Council was unique in this approach amongst Local Planning Authorities. This case may well affect the approach of a number of authorities to protected species under this European Legislation.
- 7.3 The other two successful grounds of challenge are considered to be fairly harsh, as both issues were discussed in general in the Committee report, however the Judge took the view that they should have been specifically mentioned and dealt with.
- 7.4 With reference to the successful grounds of challenge, a fuller consultation response detailing the legislation and requirements from Nature Conservation, and amendments to the requirements for Officers reports, both Committee and delegated, should ensure that all reports cover the information that in this case was found to be lacking. The Development Management Team will need to formulate quickly the practical way that this is to be done, and ensure that all Officers are aware of these requirements.
- 7.4 In relation to applications that come to Committee for determination, members should expect more information relating to European Protected Species (in this area mainly bats and Great Crested Newts) and more specific detail on the compliance or otherwise with Development Plans.
- 7.5 The unsuccessful grounds of challenge also need to be reviewed to ensure that in the formation of the Development Management Team for Cheshire East that the procedures or practices that were in place for this application at Macclesfield Borough Council are the minimum that Cheshire East have implemented. This is of particular relevance in the alleged failure of the Decision Notice to have all required information, but the acceptance of the Judge that the decision notice was sufficient.
- 7.6 A similar report has been considered by the Strategic Planning Board in their role as monitors of planning decisions, and Northern Planning Committee will also receive this report as they cover the area within which the site is located. While the decision does not directly affect the

Southern Planning Committee, the decision will alter the way that Cheshire East as a whole deal with applications, and as such it is considered important for members of both Planning Committee's to be aware of the result and the impact of such.

## **8.0 Reasons for Recommendation**

- 8.1 To ensure that members of the Southern Planning Committee are aware of the decision of the High Court, and are aware that changes in the content of Officer's reports will need to be implemented to ensure that the situation does not arise again. It is equally important to note the areas of challenge that were not upheld, and to ensure that as Cheshire East these points, where relevant, are maintained as a minimum.

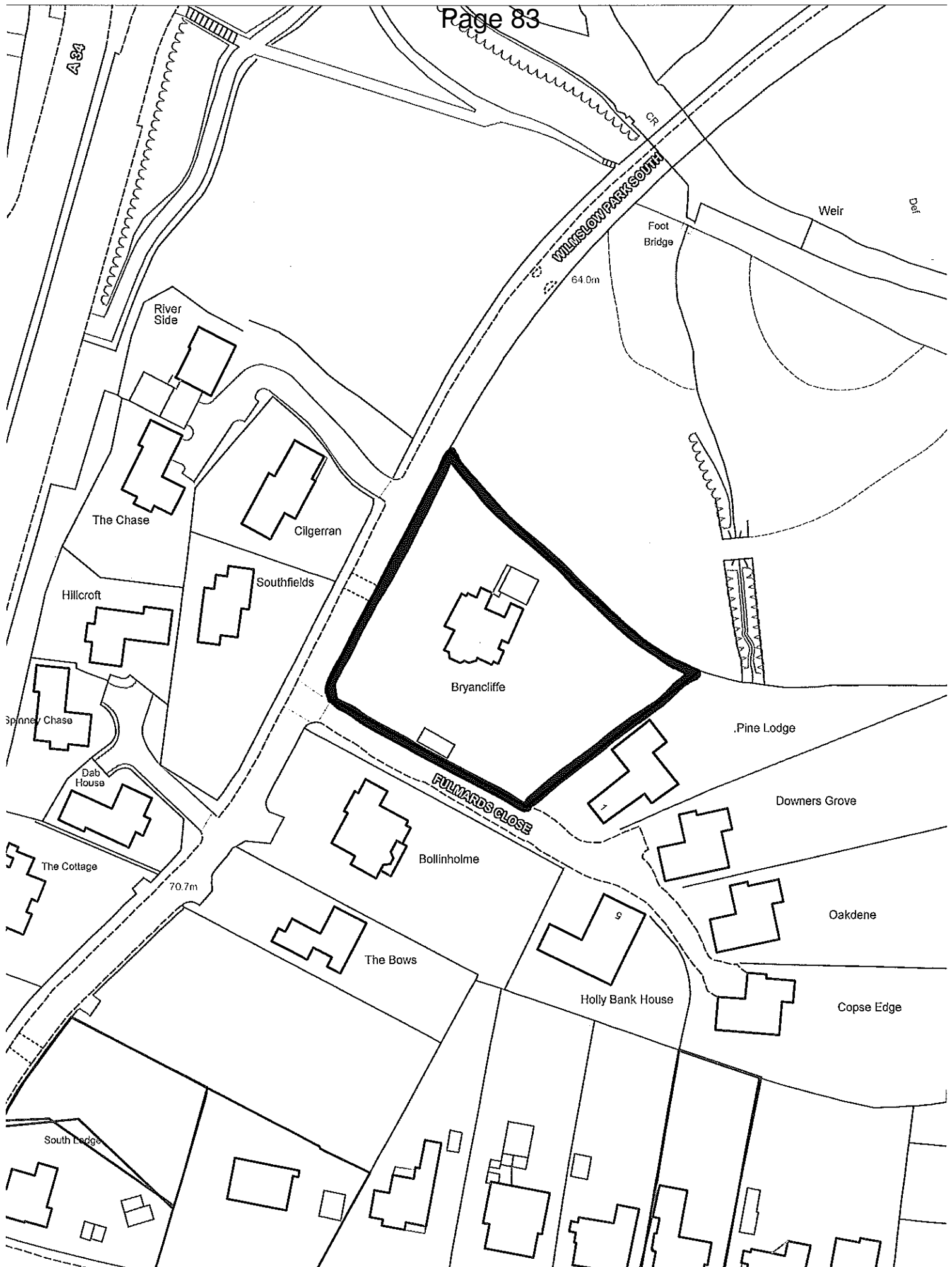
### ***For further information:***

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**BRYANCLIFFE, WILMSLOW PARK SOUTH, WILMSLOW**



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