

# Southern Planning Committee

## Agenda

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**Date:** Wednesday, 30th September, 2020  
**Time:** 10.00 am  
**Venue:** Virtual

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How to Watch the Meeting

For anyone wishing to view the meeting live, please click in the link below:

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**Members of the public are requested to check the Council's website the week the Southern Planning Committee meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.**

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 top of each report.

It should be noted that Part 1 items of Cheshire East Council decision meetings are audio recorded and the recordings are uploaded to the Council's website.

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

**1. Apologies for Absence**

To receive apologies for absence.

**2. Declarations of Interest/Pre Determination**

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Please contact Helen Davies on 01270 685705

E-Mail: [helen.davies@cheshireeast.gov.uk](mailto:helen.davies@cheshireeast.gov.uk) with any apologies or requests for further information  
[Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) to arrange to speak at the meeting

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 3 - 8)

To approve the minutes of the meeting held on 5 August 2020.

4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Planning Committee
- The relevant Town/Parish Council

A total period of 3 minutes is allocated for each of the planning applications for the following:

- Members who are not members of the planning committee and are not the Ward Member
- Objectors
- Supporters
- Applicants

5. **19/0819N Basford Old Creamery, Newcastle Road, Chorlton, CW2 5NQ** (Pages 9 - 22)

To consider the above application.

6. **20/0604N Elephant & Castle Inn, 289, Newcastle Road, Shavington, CW2 5DZ** (Pages 23 - 38)

To consider the above application.

**THERE ARE NO PART 2 ITEMS**

**Membership:** Councillors S Akers Smith (Vice-Chairman), M Benson, J Bratherton, P Butterill, S Davies, K Flavell, A Gage, D Marren, D Murphy, J Rhodes, L Smith and J Wray (Chairman)

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 5th August, 2020 at Virtual Meeting

**PRESENT**

Councillor J Wray (Chairman)  
Councillor S Akers Smith (Vice-Chairman)

Councillors M Benson, P Butterill, S Davies, A Gage, D Marren, D Murphy,  
J Rhodes, L Smith, H Faddes and B Puddicombe

**ALSO PRESENT**

Peter Hooley- Planning and Enforcement Manager  
Paul Wakefield- Principle Planning Officer  
Paul Hurdus- Highways Development Manager  
Nicky Folan- Lawyer  
Helen Davies- Democratic Services

**10 APOLOGIES FOR ABSENCE**

Apologies of absence were received from Councillor Joy Bratherton (Councillor Hazel Faddes substituted) and Councillor Kathryn Flavell (Councillor Brian Puddicombe substituted).

**11 DECLARATIONS OF INTEREST/PRE DETERMINATION**

In the interest of openness and transparency:

- in respect of application 20/1769C, Councillor Suzie Akers-Smith declared that as she was the Member who had called in this application, she would leave the virtual meeting prior to consideration of the application on the grounds of predetermination; and
- in respect of applications 20/0921C and 20/0920C, Councillor John Wray noted one of the speakers registered to speak on both applications shared the same surname as him, however the speaker was not known to him in anyway.

Committee Members acknowledged receipt of correspondence via email directly relating to one of the applications ahead of the meeting.

**12 MINUTES OF PREVIOUS MEETING**

RESOLVED-

That the minutes of the virtual meeting held on 1 July 2020 be approved as a correct and accurate record and signed by the Chairman.

**13 PUBLIC SPEAKING**

RESOLVED-

That the public speaking procedure be noted.

**14 19/3667C- ALSAGER COURT, SANDBACH ROAD NORTH, CHURCH LAWTON, ST7 3RG: THE DEMOLITION OF A FORMER CARE HOME AND THE CONSTRUCTION OF A NEW CARE HOME**

Consideration was given to the above application.

(Councillor Liz Wardlaw, the Ward Councillor, Parish Councillor Neil Harper, from Church Lawton Parish Council and Kirsty Jane Pearce a Parish Resident attended the virtual meeting and spoke in respect of the application).

RESOLVED-

That the application be refused for the following reasons:

Due to the scale, height, massing and layout of the proposed development it would be overdominant and visually intrusive to adjoining residential properties contrary to policy SD2 of Cheshire East Local Plan Strategy and policy GR6 of the Congleton Borough Local Plan.

(This decision was contrary to the officers recommendation)

**15 19/4463C- LAND AT FORMER ALSAGER ARMS HOTEL, SANDBACH ROAD SOUTH, ALSAGER: ERECTION OF A RESIDENTIAL BUILDING COMPRISING 18 SELF-CONTAINED ONE-BEDROOM SPECIALISED SUPPORTED LIVING APARTMENTS TOGETHER WITH ASSOCIATED OPEN SPACE AND CAR PARKING (USE CLASS C3).**

Consideration was given to the above application.

(Councillor Rod Fletcher, the Ward Councillor, Sue Helliwell a Parish Resident and Michael Gilbert, Agent for the Applicant attended the virtual meeting and spoke in respect of the application).

RESOLVED-

That for the reasons set out in the report and in the verbal update to the Committee, the application be approved subject to the following conditions:

1. Standard Time
2. Approved Plans
3. External Material details to be submitted
4. Landscape scheme to be submitted (hard and soft landscaping and boundary treatment)
5. Landscape Implementation Scheme
6. Existing and Proposed ground floor Levels, and finished floor level to be approved
7. Submission of a Tree Protection Scheme

8. Submission of a Tree Pruning Specification
9. Submission of a Arb Method Statement
10. A detailed Drainage Strategy/design for surface water drainage
11. Construction Management Plan
12. Development to be carried out in accordance with the noise mitigation scheme
13. Submission of Residents Travel information Pack
14. Provision of Electric Vehicle Charging infrastructure
15. Provision of Ultra Low Emission Boilers
16. Submission of Contamination Remediation scheme
17. Submission of a verification report in accordance with the remediation scheme
18. Prior approval of a soil contamination verification report
19. Development should stop if contamination is encountered
20. Bin and Scooter storage to be made available prior to first occupation
21. Supported Living condition

**16 20/0921C- 104, PORTREE DRIVE, HOLMES CHAPEL, CHESHIRE EAST, CW4 7JF: PROPOSAL TO INCREASE THE HEIGHT OF THE BRICK PILLARS AND INSTALL NEW QUALITY FEATHER EDGE TIMBER FENCING BETWEEN THE BRICK PILLARS ALONG THE RIGHT SIDE GARDEN WALL**

Consideration was given to the above application.

(Councillor Les Gilbert, the Ward Councillor, Alison Wray an Objector and Justine Biggs, the Applicant attended the virtual meeting and spoke in respect of the application).

RESOLVED-

That for the reasons set out in the report and in the verbal update to the Committee, the application be approved subject to the following conditions:

1. Approved Plans.

**17 20/0920C- 104, PORTREE DRIVE, HOLMES CHAPEL, CW4 7JF: CONSTRUCTION OF A TIMBER FRAMED SHED, TIMBER FRAMED GAZEBO AND DECKED AREA.**

Consideration was given to the above application.

(Councillor Les Gilbert, the Ward Councillor, Alison Wray an Objector and Justine Biggs, the Applicant attended the virtual meeting and spoke in respect of the application).

RESOLVED-

That for the reasons set out in the report and in the verbal update to the Committee, the application be approved subject to the following conditions:

1. Approved Plans

2. Within 28 days , a scheme to provide screening for the outbuilding hereby approved shall be provided to the Arran Close elevation. The screening as approved shall be completed within 2 months and thereafter be retained for as long as the building the subject of this permission is in situ.

**18 20/1769C- 71, MANCHESTER ROAD, CONGLETON, CW12 2HT: THIS APPLICATION IS FOR PROFESSIONAL CAR VALETING AND HAND CARWASH FACILITY AT EXISTING VACANT OFF MANCHESTER ROAD, CONGLETON, CW12 2HT.**

Consideration was given to the above application.

(Councillor Suzie Akers-Smith, the Ward Councillor and Member who had called in this application attended the virtual meeting and spoke in respect of the application).

The Committee noted that Councillor Akers-Smith left the meeting after speaking, thereby not listening or contributing to any of the debate on this application

**RESOLVED-**

That for the reasons set out in the report and in the verbal update to the Committee, the application be approved subject to the following conditions:

1. Commencement of development (3 years)
2. Development in accord with approved plans
3. Materials as application
4. Opening hours excluding Sundays and Bank Holidays
5. Contaminated land
6. Drainage of foul and surface water

**19 PERFORMANCE OF THE PLANNING ENFORCEMENT SERVICE 2019-2020**

Consideration was given to the above report.

**RESOLVED-**

That the report be received and noted.

**LINKS TO MEETING RECORDINGS**

The meeting of the Southern Planning Committee on the 5<sup>th</sup> August 2020 was recorded over two videos please follow the links below to view:

Video One: <https://youtu.be/I2MhbobG0dA>

Video Two: <https://youtu.be/ZUktENyrhI4>

The meeting commenced at 10.00 am and concluded at 2.13 pm

Councillor J Wray (Chairman)

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Application No: 19/0819N

Location: Basford Old Creamery, Newcastle Road, Chorlton, CW2 5NQ

Proposal: Amendments to site layout and building designs covered under approvals 15/4224N AND 16/1987N. Proposals include provision of new office space and sub-division within approved industrial units and creation of additional B1,B2 and B8 floor space to area formally used as external work area.

Applicant: Mr J Beeson, Total Concrete Products Ltd/Pioneer Design & Build Ltd

Expiry Date: 16-May-2019

**SUMMARY:**

The site is an existing employment site with B1, B2 and B8 Use Classes allowed. Granting planning permission would have a positive benefit in terms of employment provision and support of local business.

Additional measures have been put in place to protect neighbouring properties from noise, dust and disturbance and subject to conditions; there would be no significant adverse impact on residential amenity.

The development is considered to be acceptable in terms of design, highway safety and impact on the Listed Building within the complex.

There is policy compliant parking provision and the access and turning areas are acceptable in highway safety terms.

On this basis the application is recommended for approval.

**RECOMMENDATION:**

**Approve subject to conditions.**

**DEFERRAL**

The application was deferred by Southern Planning Committee at the meeting on 3<sup>rd</sup> July 2019 for the following reasons:

1. Further clarification on the wording and time frames for the conditions.
2. Clarification of the acoustic fence – why has it not been provided as part of the previous approvals.

3. Further information regarding the dust mitigation/suppression.

Response

1. The conditions are set out in full at the end of this report. The majority of works that were to be controlled by condition and set time scales have now been completed and are to be retained.
2. The acoustic fence has now been provided and condition 3 will ensure its retention.
3. The yard and access road have now been given a permanent hard surface and Environmental Protection Officers are satisfied that the dust issue has been remedied. The wheel wash has been provided. No complaints relating to dust have been received recently.

The remedy that approval of this application would provide is that we would have one set of enforceable conditions to control the operations on the whole site, which is not the case at the moment. In addition, condition 3, proposed in the recommendation would require retention of the acoustic fence that has now been erected.

**CALL IN**

This application was called in by Cllr Janet Clowes for the following reasons:

*“The Parish Council has considerable reservations about this proposal, (which are compounded by the fact that this site has a long history of noncompliance of conditions) in order to protect the amenity of residents living in the vicinity and disturbance to the surrounding area.*

*Whilst it is acknowledged that this site has an established industrial use the current proposal is far too intensive and is presented with a degree of ambiguity. Whilst the Old Creamery had permissions for B1, B8 and B2 use, (as appropriate for a rural dairy business), over the past 4 years, there has been an inappropriate intensification of B2 use resulting in severe loss of amenity for residents, non-compliance with conditions and enforcement actions. All are contrary to CELP Policy EG2 and EG3*

- The Parish Council considers that the current proposal represents a gross overdevelopment and the proposed circulation within the site to serve the various units is unsatisfactory. The proposed provision of 93 car parking spaces, excluding an unspecified number of long HGVs, feeding out onto a single blind access at the bottom of the humped West Coast Main Line Railway Bridge over Newcastle Road is in our view extremely dangerous.*

- It is considered that the implications of HS2 is a critical factor which will compound the problem. The additional construction traffic and disruption associated with this operation which abuts the application site will make the operation of the proposed use a nightmare affecting nearby residents and the area in general.*

- The applicant's statement that the proposed acoustic screen along the NW boundary to protect Weston Village could be up for discussion, is NON-NEGOTIABLE in so far as Weston & Basford Parish Council is concerned. Should any planning permission eventually be granted this screen is absolutely essential. This is especially important as a further 100 houses are due to be built in fields to the north-west of the site and Weston Village.*

- *Despite the submitted noise calculations, given the previous history, the Parish Council cannot accept that roller shutter doors on units 6 and 7 remain open or any of the doors on other units within the site. All operations within the site must be carried out behind closed doors.*
- *In addition, the proposed hours of operation are excessive on both weekdays and Saturdays. This once again impacts significantly on residents' amenity. There must be no increase in the operating hours from this site.*
- *There are no proposals regarding external lighting which if not handled sensitively can be extremely detrimental to nearby residents and the surrounding rural area in general.*
- *All unauthorised uses and structures currently on site must be removed prior to any further development should this application be approved. (This includes the cement mix silos, portacabins on the Network Rail access road and concrete bunkers on site). In this context the two circles shown to the east of Units 6 and 7 are undefined – what they are and their purpose must be clarified before this application is determined.*
- *There appear to be no proposals regarding types of surfacing and dust attenuation. The dust and mud generated from the current site extends out onto the highway and surrounding countryside which is totally unacceptable.*
- *In summary, the Parish Council is extremely concerned about the Health and Safety aspects of the proposal and compliance therewith – there doesn't appear to be any reference to this in the submission.*
- *Finally, the Parish Council is disappointed that the 'listed' cottage prominently located on the site frontage has been excluded from the proposal. This could be renovated and converted into worthwhile office accommodation.*

*The Ward Councillor has been asked to call-in this application and the Parish Council request that a site visit is arranged prior to the Planning Committee meeting.*

*The application as submitted is considered to be totally unacceptable and should be refused."*

## **PROPOSAL**

This application is for amendments to the site layout and building designs covered under approvals 15/4224N and 16/1987N.

Application 15/4224N approved a B1/B2/B8 unit with a large external work area surrounded by an acoustic screen (western part of the site). The changes include creating a fully enclosed building, split into 2 units, where the external work area was, creating office space in the south west corner of the building and splitting the building which formerly housed the concrete operations into 3 units, with the shutter doors to the south being blocked up.

Application 16/1987N approved a new industrial building replacing existing buildings, retaining B1, B2 and B8 classifications (eastern part of the site). The changes include office accommodation (mezzanine) at the southern end of the building, splitting the building into 2 units and the reduction in the number of roller shutter doors in the west elevation.

This application would allow the whole site to be controlled by one planning permission and would include acoustic screen at the northern end of the site. The application also seeks changes to the hours of operation and keeping doors closed while work takes place.

## **SITE DESCRIPTION**

The site contains two large industrial buildings, one adjacent to the railway line, and one to the east of that, with a central yard. There is also a concrete batching plant on eastern side of the site.

To the front of the site, adjacent to the access and Newcastle Road is Basford Bridge Cottage, a Grade II Listed Building in a very poor state of repair. This building does not form part of the application site. A main railway line runs alongside the western boundary of the site.

The site is designated as being within the Open Countryside in the adopted local plan.

## **RELEVANT HISTORY**

P03/0367	2003	Conversion to Office/Light Industrial Use and General Storage / Distribution
P08/0782	2008	Renewal of Previous Consent (P03/0367) for Conversion to Office / Light Industrial Use and General Storage / Distribution.
11/2911N	2011	Extension to Time Limit of Application P08/0782 for Renewal of Previous Consent (P03/0367) for Conversion to Office/Light Industrial Use and General Storage/Distribution
15/0556N	2015	Approval for modular building and change of use of existing B8 unit to B2
15/4224N	2016	Approval for demolition of existing buildings and erection of replacement detached single storey industrial unit for B1, B2 and B8 classifications. Erection of acoustic walling to boundaries.
16/1987N	2016	Approval for new industrial building replacing existing buildings, retaining B1, B2 and B8 classifications.
17/3850N	2018	Withdrawn application for variation of conditions 4 & 5 on 16/1987N
17/3850N	2018	Withdrawn application for variation of condition 9 on 16/1987N

## **NATIONAL & LOCAL POLICY**

### **POLICIES**

#### **Development Plan**

#### **Cheshire East Local Plan Strategy (CELPS)**

The following are considered relevant material considerations:

PG1 – Overall Development Strategy

PG6 – Open Countryside

PG7 – Spatial Distribution of Development

PG2 – Settlement Hierarchy  
EG1 – Economic Prosperity  
EG2 – Rural Economy  
EG3 – Existing and Allocated Employment Sites  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE12 – Pollution, Land Stability and Land Contamination

**Borough of Crewe and Nantwich Replacement Local Plan 2011 (CNRLP)**

BE.1 – Amenity  
BE.3 - Highways and Parking  
NE.17 – Pollution Control

**Weston & Basford Neighbourhood Plan (WBNP)**

LC2 – Landscape Quality, Countryside and Open Views  
LC3 - Woodland, Trees, Hedgerows and Walls  
LC8 – Biodiversity  
E1 – New Businesses  
D1 – Existing Buildings in the Open Countryside  
D2 – Environmental Sustainability of Buildings  
D3 – Employment Development  
D5 – Adapting to Climate Change  
T1 – Footpaths, Cycle Ways and Bridleways  
T2 – Traffic Congestion  
T3 – Improving Air Quality  
T6 – Cycle Parking  
T9 – Fibre Optic Cabling to Premises

**Wybunbury Combined Neighbourhood Plan (WCNP)**

H4 – Design  
H5 – Adapting to Climate Change  
E1 – Woodland, Trees, Hedgerows and Boundary Trees  
E3 – Biodiversity  
E5 – Landscape Quality, Countryside and Open Views  
F1 – Public Rights of Way  
LE1 – New and Existing Businesses  
TI1 – Traffic Management  
TI2 – Parking  
TI13 – Traffic Generation  
TI4 – Drainage  
TI5 – Communications Infrastructure  
TI6 – HS2

**Material Considerations**

The National Planning Policy Framework

## **CONSULTATIONS:**

**HS2:** Originally submitted a holding objection in relation to the parking area. Subsequently this was removed following the submission of an amended layout plan. An informative is required to inform the applicant that some land could be subject to a Compulsory Purchase Order in the future.

**United Utilities:** No objection subject to drainage conditions.

**Historic England:** On the basis of the information available to date, in our view you do not need to notify or consult us on this application under the relevant statutory provisions.

**Network Rail:** Require the access road around the site to remain open. Several other issues are raised that should be added as informatives as they are not material planning considerations.

**Head of Strategic Infrastructure:** No objection subject to a condition to provide covered cycle parking.

**Environmental Protection:** No objection, subject to conditions/informatives relating to noise and disturbance, lighting, hours of operation, air quality and contaminated land.

**Weston & Basford Parish Council:** Object to the application on the grounds of noise, dust, parking, highway safety, lack of works to the listed cottage and unauthorised development on the site. This objection can be viewed in full on the website.

**Hough & Chorlton Parish Council:** Object on the grounds of inappropriate use, noise, dust, highway safety and unauthorised development on the site. This objection can be viewed in full on the website.

## **REPRESENTATIONS:**

At the time of report writing 1 objection has been received relating to this application. This expresses the following concerns:

- Noise pollution if adequate 'screening' is not provided
- Hours of operation
- External Lighting
- Site surface and possible dust implications
- The impact on local residents if the doors to be open whilst work is in operation
- Overall Health and Safety concerns for the residents of the local area

## **APPRAISAL**

The key issues to be considered in the determination of this application are set out below.

### **Background**

The site has an extensive history, originally as a dairy/creamery operation followed by approval in 2003 for industrial, storage and office use. This was renewed in 2008 and the time limit for commencement extended in 2011.

In August 2015 Southern Planning Committee approved an application for the provision of a new modular building (temporary), B1 (Business), and change of use of the existing B8 (Storage or distribution) unit to B2 (General Industrial) (15/0556N). This was followed by the approval of replacement building and acoustic walls to the boundaries in January 2016 (15/4224N). This is the building that is adjacent to the railway line.

In December 2016 Southern Planning Committee approved a new industrial building replacing existing buildings, retaining B1, B2 and B8 classifications on the eastern side of the site (16/1987N).

### **Principle of Development**

The NPPF includes a strong presumption in favour of economic growth and in paragraph 80 states that *'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'*

Paragraph 83 states that:

*'Planning policies and decisions should enable:*

- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) The development and diversification of agricultural and other land-based businesses;*
- c) The sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.'*

The site provides purpose built employment units and would thereby feed into the local and national economy. Policy EG2 of the CELPS supports development that gives the opportunity for rural employment and the retention and expansion of existing businesses.

The Weston and Basford Neighbourhood plan (Policy E1), supports the extension of existing or new small scale businesses where they positively benefit the local economy and do not have an adverse impact on the character of the area or the amenity of adjoining properties.

It is considered that the proposals are in compliance with the requirements of that policy.

The Wybunbury Combined Neighbourhood Plan (Policy LE1) requires that developments such as this do not have an adverse impact on the amenity of local residents, the highway network being capable of accommodating any additional traffic and do not have an adverse impact on the environment.

For some time the site had several issues with dust and with debris being carried onto the road. The yard and the entire access road have now been given a hard surface and there have been no complaints about dust for over 6 months.

It is considered that the proposals now are in compliance with the requirements of that policy.

This is an existing industrial site that has an established industrial use and as such the proposal is considered to be acceptable in principle subject to the issues set out below.

### **Design**

Planning permission was granted in 2015 and 2016 for the redevelopment of the site. However the development was not carried out in complete accordance with the approved plans. In particular the external cutting area has been removed and now forms part of what is described as Unit 1 and a batching plant and silos have been installed on the site.

In terms of design, the buildings and other structures within the site are of a typically industrial nature, which is considered to be appropriate in the context of this existing industrial site. The portacabins have been removed and the office space replaced within the new buildings. This is considered to be an improvement to the appearance of the site.

The proposal involves the creation of an acoustic screen, 3 metres in height on the northern boundary of the site and alongside a section of the Network Rail access road. The screen has now been installed and is considered to be acceptable.

Subject to the proposed conditions, the development is considered to be in compliance with Policies SD2 and SE1 of the CELPS and Policy D3 of the WBNP and Policy LE1 of the WCNP.

### **Amenity**

The site is located in Open Countryside, with the nearest residential property being on the opposite side of Newcastle Road and other residential properties approximately 270 metres to the west.

Environmental Protection has assessed the submitted Noise Report and is satisfied that the conclusions of the report and methodology used are acceptable. The mitigation measures include:

- Roller shutter door to the south elevation of the building adjacent to the railway being closed up
- Reduction in the number of roller shutter doors on the west elevation of the building to occupy the eastern part of the site
- Creation of acoustic screen walls at the northern end of the site

The application also seeks permission to allow the batching plant to start operating from 7am, this is because the nature of the business means that building sites require delivery from when they start work and therefore being restricted to an 8am start severely hampers their ability to carry out their business.



An additional noise report has been submitted relating to the concrete batching plant. The methodology, conclusion and recommendations contained within the report are accepted by Environmental Protection. The conclusion reached in the report is that noise from the batching plant will have no significant adverse affects on existing residential properties. However to ensure no additional adverse noise generated by deliveries to the batching plant, it is recommended that delivery hours are restricted.

The report concludes that the concrete batching activities are inaudible over road traffic noise and general background noise.

There have been complaints to Environmental Protection about noise, however none of these relate to the batching plant or come from residential properties to the north.

The application states that concrete panel manufacturing and steel fabrication has been removed from the site, but given that there is permission in place for B2 use, this could return without the need for a further planning permission. As such the acoustic screen walls must be provided.

The hours of operation of the site should be conditioned as follows:

The hours of operation of the development hereby permitted, other than the operation of the batching plant shall be as set out below.

Monday-Friday	08:00 to 18:00 hours
Saturday	09:00 to 14:00 hours
Sunday and Public Holidays	Nil

The operating hours of the batching plant shall be as follows:

Monday-Friday	07:00 to 18:00 hours
Saturday	07:00 to 14:00 hours
Sunday and Public Holidays	Nil

Deliveries of materials to the batching plant shall be restricted to within the following hours:

Monday – Friday	08.00 hrs	18.00 hrs
Saturday	09.00 hrs	14.00 hrs
Sunday and Bank/Public Holidays	No deliveries	

It is therefore considered that the impact of noise has been addressed, providing conditions are imposed requiring compliance with and maintenance of the recommended mitigation measures and hours of operation and deliveries.

Having regard to the issue of contaminated land, conditions are required relating to this matter.

Dust and resultant mud on the road has been raised as an issue. The yard and access road have now been given a permanent hard surface, which has addressed this issue and no complaints about dust have been received for over 6 months. The case officer has re-visited the site in June and September 2020 and observed that there was no sign of materials being transferred from the site onto the road.

## **Highways**

The site currently serves B1/B2/B8 uses and the proposal is to divide the existing buildings to serve smaller businesses. The existing access will remain and the parking arrangement is to be formalised within the site.

The site access width is adequate and visibility of over 200m is achievable to the east and approximately 150m to the west, and there have also been no recorded accidents within the vicinity of the access over the last 5 years.

Compared to what is already approved on the site, there would be a limited increase in the floor area created. Any uplift in traffic volume would be minimal and there is no reason to believe that the access will not continue to operate safely as it has done so whilst serving existing industrial uses over the last number of years.

The car parking provision is to Cheshire East Council requirements but there doesn't appear to be cycle parking provision. Covered and secure cycle parking provision should be secured by condition.

Subject to the cycle provision condition, the Head of Strategic Infrastructure has no objection to the proposal.

## **HS2**

HS2 had submitted a holding objection to the proposal as some of the parking provision shown was within a Safeguarding Area for HS2. Subsequently this has been removed from the proposal and that objection has now been withdrawn and there is no conflict with HS2.

## **Listed Building**

It is noted that the Listed Building is not within the application site and it was not under previous applications either. The proposed works would have no significant additional impact on the setting of the Listed Building given the existing approved development on the site.

## **Other Matters**

Concerns have been expressed about health and safety issues on the site. These are not something to be dealt with under the Planning Acts and fall under other legislation.

## **Conclusion**

The site is an existing employment site with B1, B2 and B8 Use Classes allowed. Granting planning permission would have a positive benefit in terms of employment provision and support of a local business.

Additional measures have been put in place to protect neighbouring properties from noise, dust and disturbance and subject to conditions; there would be no significant adverse impact on residential amenity.

The development is considered to be acceptable in terms of design, highway safety and impact on the Listed Building within the complex.

There is policy compliant parking provision and the access and turning areas are acceptable in highway safety terms.

## **RECOMMENDATION**

**Approve subject to the following conditions:**

- 1. The development hereby approved shall be carried out in total accordance with the approved plans numbered (list of plan numbers).**
- 2. The materials to be used shall be in strict accordance with those specified in the application unless different materials are first agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.**
- 3. The acoustic screen erected on the northern and north eastern boundary of the site as identified on plan reference PL116 Rev A shall be retained, unless any variation is agreed in writing by the LPA.**
- 4. The hours of operation including deliveries, of the development hereby permitted, other than the operation of the batching plant shall be as set out below.**

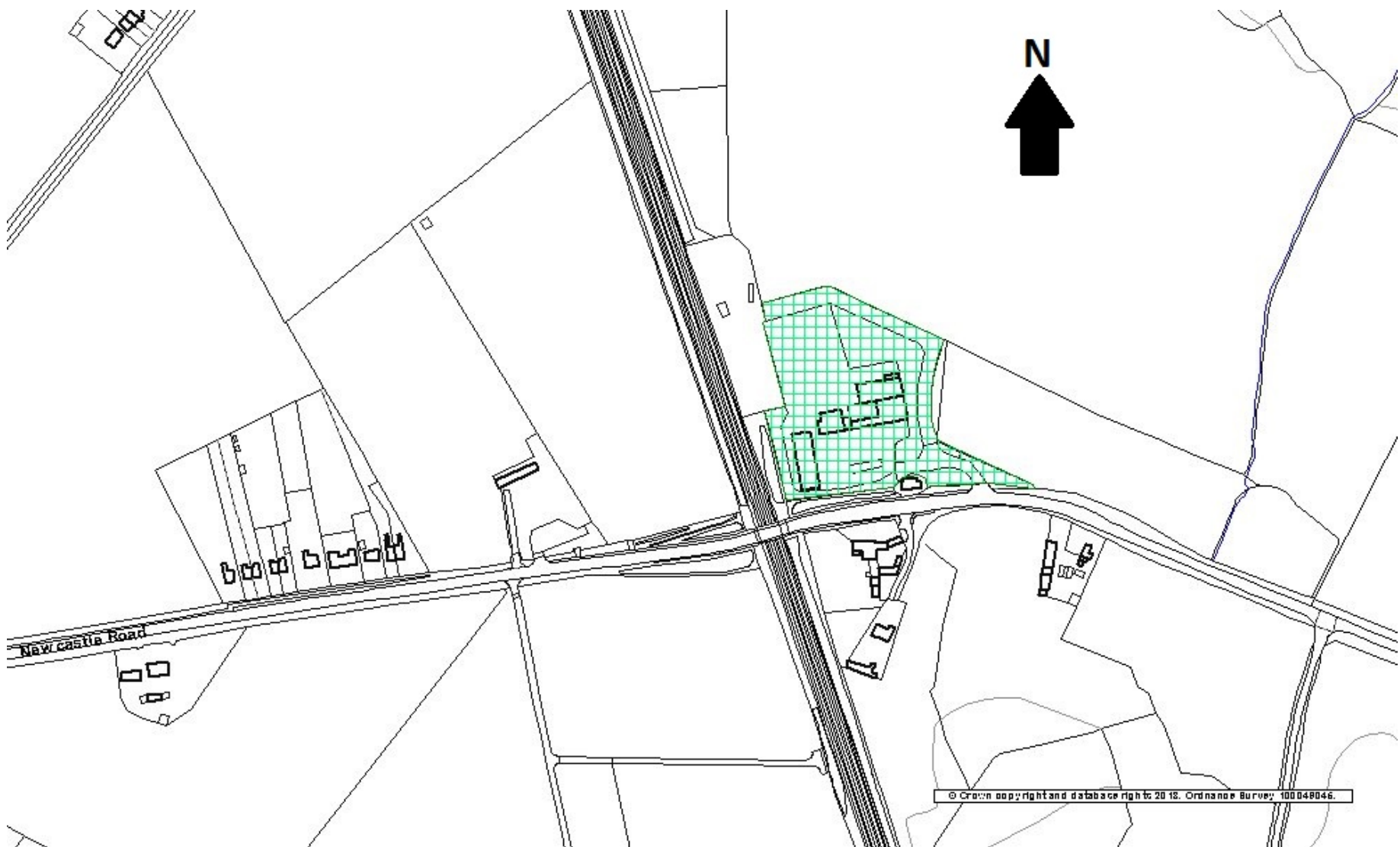
<b>Monday-Friday</b>	<b>08:00 to 18:00 hours</b>
<b>Saturday</b>	<b>09:00 to 14:00 hours</b>
<b>Sunday and Public Holidays</b>	<b>Nil</b>
- 5. The operating hours of the batching plant (not including deliveries) shall be as follows:**

<b>Monday-Friday</b>	<b>07:00 to 18:00 hours</b>
<b>Saturday</b>	<b>07:00 to 14:00 hours</b>
<b>Sunday and Public Holidays</b>	<b>Nil</b>
- 6. Deliveries of materials to the batching plant shall be restricted to within the following hours:**

<b>Monday – Friday</b>	<b>08.00 hrs</b>	<b>18.00 hrs</b>
<b>Saturday</b>	<b>09.00 hrs</b>	<b>14.00 hrs</b>
<b>Sunday and Bank/Public Holidays – No deliveries</b>		
- 7. Prior to its installation details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**
- 8. No concrete panel or steel cutting operations or associated activities shall take place outside any of the buildings.**

9. The development hereby approved shall be carried out in accordance with the details within the submitted Dust Management Plan insofar as they relate to the access roads and yard areas, the wheel wash on the access road used by the batching plant and the provision of an operational water bowser.
10. All vehicles leaving the site, using the access road adjacent to the eastern boundary of the site, shall use the wheel wash prior to departing the site onto Newcastle Road.
11. Within 6 months of the date of this permission, Electric Vehicle Infrastructure to the following specification shall be provided:  
5% of the parking shall be fitted with electric vehicle charging points suitable for a minimum Mode 2 charging, with cabling provided for a further 5% (to enable the easy installation of further units.)  
The infrastructure shall be maintained and operational.
12. Within 2 months of the date of this permission, details of secure, covered cycle parking for 3 cycles shall be submitted to and approved in writing by the LPA. The approved cycle parking shall be provided within 3 months of the date of approval of the details, the cycle parking shall be provided and retained thereafter unless any variation is agreed in writing by the LPA.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.



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Application No: 20/0604N

Location: ELEPHANT AND CASTLE INN, 289, NEWCASTLE ROAD, SHAVINGTON, CW2 5DZ

Proposal: Variation of condition 2 & 24 of existing permission 17/2483N; Affordable Housing Development Comprising 45 no. dwellings & Ancillary Works

Applicant: William Fulster, Magenta Living & M.C.I. Developments

Expiry Date: 31-Oct-2020

### **SUMMARY**

The principle of development of the land to the rear of the Elephant public house for residential purposes has been previously accepted. The permission comprises 45 affordable dwellings as a rural exceptions site (6 x four bed dwellings, 18 x three bed dwellings, 15 x two bed dwellings, 2 x two bed bungalows and 4 x one bed maisonettes). The tenure mix as approved is for 23 units (51%) to be made available for shared ownership and 22 units (49%) will be affordable rented units.

Whilst some trees have been removed and site preparations have occurred including works to the existing pub car park (as approved by 17/2484N) the development has not commenced. The majority of pre-commencement conditions have been discharged, however, this condition relating to the TRO scheme, affordable housing scheme, contamination land and drainage remain to be discharged.

The proposed alternative highways scheme for Main Road as amended and now submitted will negate the need for a Traffic Regulation Order as originally required by condition 24 on the original permission and which has not been determined therefore delaying the delivery of this 100% affordable housing scheme.

As this is a S73 application, the Local Planning Authority, whilst not being able to revisit the principle of the development, can vary, remove or add conditions if it is appropriate to do so in the context of the application seeking to be varied at the time it seeks to be varied.

### **SUMMARY RECOMMENDATION**

**APPROVE** subject to a deed of variation to append this decision to the Original Unilateral Undertaking attached to 17/2483N and conditions

### **PROPOSAL**

Permission is sought to vary conditions 2 (the approved plans) and 24 (which requires a TRO scheme for making part of Main Road into a one way street to be approved prior to commencement

of any development of the approved affordable housing scheme at the Elephant site) on application 17/2483N.

Condition 24 requires -

*The development shall not commence unless and until a Traffic regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK Rev C has been Made and any legal challenges concluded.*

*Reason: For the avoidance of doubt and in the interests of highway safety.*

The scheme as originally designed was for a one way TRO on a section of Main Road with a 2m wide footway to the western side of Main Road. A TRO scheme was submitted to the Highways Authority to satisfy the original planning condition but has not been approved in the 2 years since it was submitted.

The Highway Authority received over 300 objections to the original TRO proposals as put forward in accordance with the scheme of improvements originally detailed on plan SCP/13289/SK Rev C as originally approved. A further S73 application to vary the original TRO scheme (19/1923N) was resolved to be approved but has yet to be formally decided due to the S106 being unsigned.

The Applicant has therefore sought an alternative design Main Road that will no longer require a formal TRO because the proposals no longer incorporate Main Road being made into a One Way Street.

This scheme has itself been amended during the course of this application.

The proposed wording of condition 24 is -:

*'No dwelling shall be occupied until the works to the highway along Main Road identified on Plans SCP/13269/SK30 Rev A and SCP/13289/ATR08 have been completed in accordance with the approved details'*

*Reason: For the avoidance of doubt and in the interests of highway safety.'*

## **SITE DESCRIPTION**

The site is a field to the rear of the existing Elephant Public House, located at the junction of Main Road and Newcastle Road, Shavington. To the western boundary lies the Blakelow Business Park, to the southern boundary are dwellings on Newcastle Road and the Elephant Public House. To the eastern boundary are dwellings on Main Road. To the northern boundary is Puseydale Farm and a site with extant planning permission for 3 dwellings (16/4767n).

Planning permission was granted for a 100% affordable housing scheme of 45 dwellings in early 2018. The site is now secured by security fencing.

## **RELEVANT HISTORY**



17/2483N - Affordable Housing Development Comprising 45 no. dwellings & Ancilliary Works – Approved subject to S106 Agreement February 2018

17/2484N - New access to car park, reconfigured car park, new garage (including access) and bin store, new garden area, paths and boundary treatment . Approved November 2017. Development completed.

19/1923N - Variation of condition 24 (concerning Traffic regulation Order) on approval 17/2483N - Affordable Housing Development Comprising 45 no. dwellings & Ancilliary Works - Approved subject to S106 Agreement 22 September 2020

## **POLICY**

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

PG1 - Overall Development Strategy  
PG2 – Settlement Hierarchy  
PG5 - Strategic Green Gap  
PG6 - Open Countryside  
PG7 – Spatial Distribution of Development  
SC4 – Residential Mix  
SC5 – Affordable Homes  
SC6 - Rural Exceptions Housing for Local Needs  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE3 – Biodiversity and Geodiversity  
SE5 – Trees, Hedgerows and Woodland  
SE 1 - Design  
SE 2 - Efficient Use of Land  
SE 3 - Biodiversity and geodiversity  
SE 4 - The Landscape  
SE 5 - Trees, Hedgerows and Woodland  
SE 6 – Green Infrastructure  
SE9 - Energy Efficient Development  
SE12 - Pollution, Land contamination and land instability  
SE13 - Flood risk and water management  
CO1 - Sustainable Travel and Transport  
CO4 - Travel plans and transport assessments  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **Crewe and Nantwich Local Plan**

NE.5 (Nature Conservation and Habitats)  
NE.8 (Sites of Local Importance for Nature Conservation)  
NE.9 (Protected Species)  
NE17 (Pollution control)  
NE.20 (Flood Prevention)  
BE.1 (Amenity)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

BE.6 (Development on Potentially Contaminated Land)

RES.5 (Housing in the Open Countryside)

TRAN.3 (Pedestrians)

RT.3 (Provision of recreational open space and children's play space in new housing developments)

**Shavington Neighbourhood Plan** - This Plan is at Regulation 16 Stage; Accordingly limited weight can be attached to any policy within it at this stage since it is yet to go through examination.

TRA1: Sustainable Transport

### **Other Material Considerations**

National Planning Policy Framework (2012)

National Planning Practice Guidance

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Development on Backland and Gardens

Cheshire East Design Guide

### **CONSULTATIONS**

**Highways Officer** - No objection subject to the revised plans being fully implemented prior to any residential occupation of the site

### **VIEWS OF THE PARISH COUNCIL**

This scheme has been revised and has therefore been the subject of 2 separate consultations.

**Shavington Parish Council** – Object to the revised scheme on the following grounds –

A) The authority being applied for is unclear. The assumption is that the applicant still intends to withdraw the TRO condition from the Decision Notice.

B) Why were the applicants allowed to submit these changes to Application 20/0604N after the closing date for submissions?

C) The new proposals on planning application 20/0604N are the latest attempt by the applicants to provide a solution to the safety concerns of residents using Main Road and the surrounding junctions with Newcastle Road

The proposal would mean that the development could commence before the details of access to the site or the road layout on Main Road have been determined.

D) The proposed layout of Main Road with kerb build-outs and some pavement widening is to the detriment and loss of amenity of the residents living along Main Road and will do little to improve road safety, either for them or the residents of the proposed new development of 45 houses.

E) The RSA does not consider new housing developments in Shavington completed since then including 15 affordable homes further along Main Road. The RSA team visited the site on Fri 28th August and spent 45 mins on site but do not state at what time of day. They report that all roads were lightly trafficked, so we assume it was not at peak times. The Road Safety Audit appears to be of poor quality with numerous errors -

- It makes no reference to the development site and makes frequent reference to a development on Main Road, Shavington.

- The scope does not include pedestrians using Main Road, one of the key highway risks. There is insufficient pavement space through Main Road causing pedestrians to walk in the road – this situation will get worse following the construction of these houses.

- Section 1.3 notes that traffic and speed data were not available for the RSA. Why? Speed is a constant concern through westerly Main Road particularly from the Nantwich direction, especially when considered alongside the movement of pedestrians, and should have formed part of the RSA.

- a 45-minute site visit during school holidays in the middle of a pandemic is not the most representative way of looking at Main Road.

- Section 1.6 – this proposal seeks to downgrade the carriageway width to a measurement falling foul of design standards, and actually have that endorsed within this RSA because ‘fire engines are 2.55m in width’. Should eliminate a hazard and not make it worse.

- Section 1.6 – footway widths: the lack of a westerly footway and insufficient width of the eastern footway puts pedestrians in the road. The situation is clearly made worse by the development as it will introduce the residents of 45 affordable homes into the system..

- Parking on either footway is an absolute rarity.

The RSA highlights five problems:

- 1) The residents currently enjoy the amenity of on street parking for visitors/deliveries, health workers etc. The RSA suggests that this is a problem which should be ‘dealt with by the authorities using other powers’. It should be borne in mind that these proposals are mainly to accommodate the building of 45 houses on the new development, all of which will be allocated 2 parking spaces.

- 2) The RSA recommends the trimming back of overhanging foliage along the pavement and that the Council should contact the residents to achieve this. Even if this was done, the pavement is still only 1m. wide The pavement on the East side is to be widened for some 60 metres but only to a maximum of 1.3 metres.

3) No mention is made in the drawings of any signage to indicate to drivers where the build outs are. Nor is there indication of any priority/give way scheme.

4) The scheme refers to uncontrolled crossing points at the Main Road/Newcastle Road and the Main Road-Dig Lane/Newcastle Road junctions and the new kerb lines proposed and suggest that the existing dropped kerbs be retained. There is no crossing point or dropped kerbs shown here. Pedestrians will need to cross here either back to the West pavement or to the East pavement. This means that any pedestrians using Main Road will need to make two crossings to get to the village – not ideal for mothers with children.

5) The scheme shows changed kerb lines at the priority junctions with Newcastle Road but does not show the visibility splays.

The scheme drawing SCP/13269/SK30 shows the minimum width of the carriageway on Main Road to be 3.25 metres which is below the minimum requirement for Fire and rescue vehicles of 3.7metres.

The Transport Statement in this application is still referring to Plan SK13289/SK21 and not SCP/13269/SK30 which is the latest drawing supplied.

The report refers to collision data over the last 5 years and reports one collision on 11/09/2018 at the Newcastle Road/Dig Lane junction with Newcastle Road. There was another collision on 22/11/2014 and two accidents in Main Road on 19/9/2013 and 01/11/2013.

F) The proposal again fails to satisfy key safety concerns.

G) This application should be rejected as it still fails to address many of the safety concerns previously raised and is lacking information. It compromises highway safety standards concerning carriageway widths and access for emergency vehicles. It would be unsafe for pedestrians, particularly parents with prams, disabled and partially sighted people and children on their way to school.

**Wybunbury Parish Council** – Wybunbury Parish Council has looked at the revised planning application to intended resolve the RTO for this application and considers that it does not address all the problems that apply to this planning application.

1.0 SCP states that there is a bus stop opposite the Elephant pub. This bus stop used to serve the Crewe/Shavington/Nantwich bus which no longer runs. The current bus service in the area of the application comes along Newcastle Rd from the East and leaves the same way via the East leg of Main Rd, leaving users to walk from Green fields to the site.

2.0 The access onto the Newcastle Rd from either Main Road is not the best for visibility in either direction due to the inward curve of the road, which is not improved when vehicles are parked along Newcastle Rd between the two Main Road junctions, both junctions force drivers from Shavington to move further onto the Newcastle Rd to see adequately in both directions so adding to the hazard of trying to enter Newcastle Rd which the proposals do not resolve.

This road is subject to a 40mph speed limit where traffic speeds up between the speed camera and either the Goodall's corner traffic lights or the pedestrian crossing by Shavington Park. If all the roads had the same speed limit it would be a different matter.

### OTHER REPRESENTATIONS

The initial neighbour consultation period was for the statutory time period. A further 14 days additional consultation period was undertaken for the revised scheme

41 objectors and an agent representing local residents objected to the scheme as originally submitted raising the following points:

- Principle of the housing development, no need for any more houses, brownfield land should be developed first
- Impact upon schools, health care etc
- Current housing development remains unsold and incomplete at build level and should be sold before more new housing
- For the increased traffic flow in and around Main Road and Newcastle Road
- Increased traffic in area as a result of new developments already undertaken will result in more accidents
- The owners of the Elephant have made changes to their land, in the corner between Newcastle Road, Main Road and the exit from the Elephant. The changes have included planting trees and shrubs which have further degraded the line of sight between a vehicle turning from Newcastle Road and the Elephant exit road. As a pedestrian, crossing Main Road from the Elephant to the opposite site is already hazardous because of cars suddenly appearing into view on Newcastle Road and turning left into Main Road, from a relatively blind area.
- Has anybody considered how emergency service vehicles would be able to negotiate their way down Main Road at speed if a vehicle is parked outside one of their houses along the section in question? It physically would be an impossibility and as far as we are aware this is a legal requirement that has been conveniently overlooked. There are also massive discrepancies in how the associated figures relating to vehicle movements have been derived. These cannot be taken seriously as to suggest 1 addition vehicle movement would be made during rush hour is ludicrous.
- The vehicle survey is out of date being done in 2017 it does not take into account all the new builds in the area. As for the bus stop on Newcastle Road opposite the pub this has not been used for a long time. The bus stop is in Greenfields Ave which pedestrians will have to walk down main road to access.
- All the reasons that the condition of the one way systems was imposed for the development to happen still apply, All the reasons that the one way, was not either agreed still apply. So the site should not go ahead. The amount of housing increase in Shavington would mean there is no need for the housing in the area of Shavington and any short fall should be met in other appropriate areas.
- The consultation on the TRO for the wider public of Shavington was fiercely objected to on the grounds that it was not safe. The Cheshire Highways Department listened to these concerns and made a professional judgement that the TRO one way system could not be supported on safety grounds.
- Restricting parking on this road will be unfair to the existing residents who have no other alternative. 4 parking spaces as way on compensation to address this is insulting. What about existing residents with disabilities or the elderly? Do we make them walk around the corner to the pub to get into their car? No we don't.

- The kerb build out on Main Road will send more traffic to the Dig Lane junction which has extremely poor visibility. No consideration has been given to this. The kerb build out on Main Road will not be practical for large vehicles (buses, bin trucks, delivery vehicles etc.)
- The plans still demonstrate that a refuse or delivery vehicle exiting the new junction will have to mount the pavement. Cannot believe that the council would be prepared to go on public record to approve an application, which in itself demonstrates a manoeuvre that places the public at risk.
- The proposal creates a danger for vulnerable residents, especially children and elderly pedestrians, Newcastle road is a 40mph busy carriageway and currently cars turn into Main Road West at speed.
- The paved areas will not reduce traffic speed and they will create extra noise and queueing traffic which in turn will create more pollution, not good for all pedestrians and cyclist using this part of Main Road.
- The Grampian Condition being satisfied the proposed development and associated planning permission are now legally defunct
- The proposal discriminates against people on the multiple basis of disability, age and religion. The Four replacement car parking spaces offsite and away from domestic dwellings creates capability issues which favours the younger and more able person, and discriminates against people on religious grounds if they are perceived to be driving on to a public house car park. This is considered 'HARAM'. The Equality Act 2010 states Public Authorities must have due regard to eliminate unlawful discrimination. To accept those four car parking spaces Cheshire East Council would be in breach of section 5. Our Equality and Diversity Policy of their own Equality and Diversity Strategy 2017-2020.
- Will the pull outs suggested result in build-up of traffic and people taking risks as they become impatient, extra pollution outside our home while they wait to move?
- emergency service vehicles will not be able to access Main Road
- pedestrians will have to cross the road this is dangerous
- Drawing number SCP/13289/SK21 shows alterations to the both the junctions of Main Road / Newcastle Road, (two in total) with both junctions having kerb re-alignments. Main Road junction with Main Road to the south, has kerb re-alignment too and an over run area. This amended drawing also shows Main Road being widened with a series of traffic calming features in place in the form of several build-outs with blocked paved areas. These features narrow the carriageway down to 3.5 meters and therefore create a priority system, but no priority signing is in place. This whole scheme should be supported by a traffic regulation order. Insufficient information is provided and the proposal should be refused

In respect of the revised proposals 25 objections from neighbours and the former Ward Councillor, Cllr Edgar, raising the following grounds :

- The latest RSA is superficial, and itself accepts that the proposed plans restrict the carriageway width at numerous locations to below the standards required. This is a straightforward matter; does the design meet the standards? It does not, therefore the proposals are not acceptable.
- The response to previous RSA(s) is cursory in the extreme and offsets most of the issues created by this development to the LA, or Highways Dept. In other words it increases the responsibility of others, for the benefit of the developers. There remains the issue of service vehicles which will continue to use this road irrespective of any build outs, and also the safety issues previous raised with respect to service vehicles at the development access junction adjacent to the Elephant, which have not been addressed.
- The proposal to realign the 40mph (or more!) Newcastle Road, and create local restrictions, introduces further hazards to an already unsound stretch of carriageway, and seems a needless

measure for a development of no value to the community. This application has no new credible design proposals; no new responses and little merit, and would appear to be a campaign of attrition against the council and the community.

- The revised information is incomplete and misleading
- Speeding is an issue in Main Road at many times of the day. It is seriously questioned whether signage warning drivers about the build-out areas referenced in the report will have any impact at all - and with no details included in the report of how this issue will be dealt with then surely has to be a worrying issue
- The build out will push traffic into already unsatisfactory narrow pavement
- The proposal will create a hazardous situation for vehicles coming too fast off Newcastle Road as there does not appear to be any proposal for advanced signage to warn drivers
- The TRO scheme no way should be changed at a whim or brushed aside to suit certain people to get there plans through.
- Some residents only have one off road parking space at their property (the new builds will have 2), this seems very unfair.
- The new proposals will not provide parking for Main Road residents so they will continue to park on the pavement.
- All the reasons for the planning committee to add the condition to make the road one way are still valid. Including extra volume of traffic and narrow pavements which would make it an accident waiting to happen
- Consideration has not been given to those residents who park within the kerb build outs.
- There has also been no outcome on the TRO from the Council since Feb 2020. This is still putting the need of affordable housing above safety and looks to undermine and backdoor this process.
- A new safety audit should be provided to cover the amended proposed design of 6/8/2020 as it consists of 4 build outs they will create 4 pinch points along Main Road making it dangerous for the residents entering and exiting there property. The proposal is unclear as to whether it is one way or two way traffic
- Facts are still the same as previous objections
- The RSA is based on data that is out of date (from 2017) and does not consider the housing built in Shavington since then including 15 Affordable dwellings built further down Main Road. Does not state at what time of day the safety Audit was done
- Drawing SCP/13269/SK30 shows the minimum width of the carriageway on Main Road to be 3.25 metres which is below the minimum requirement for Fire and rescue vehicles of 3.7metres. Have the emergency services been consulted?
- Visibility splay at the Main Road/pub & site and Newcastle Road is not sufficient
- The proposed footpath on the east side of Main Road is sub-standard
- The proposed changes at the intersection of Main Road and Dig Lane/Newcastle Road are conflicting and unclear
- A Grampian Condition is not negotiable. It is based in case law and has to be adhered to before any onsite works can commence. Once this TRO was refused, the planning application 17/2483N was void.
- All applications connected to 17/2483N consequently represent a threat to safety
- A Safety Audit was carried out over a Bank Holiday weekend during the Covid lock-down, no speed data shown. (Surely a traffic survey or Safety Audit should be carried out when the road is busy?)

## APPRAISAL

## Principle of development

The principle of development on the site has been established by the previous permission on this site comprising 45 affordable dwellings. Consequently, the principle of the development has already been established and this application does not present an opportunity to re-examine those issues.

The 17/2483N permission for this 100% affordable housing scheme on the field to the rear of the Elephant public house requires Main Road to be made a one way street for a section of the road. This requires a Traffic Regulation Order (TRO) under the Highways Act.

The TRO process has not been completed in respect of the 2017 application, having been the subject of some 300 objections and yet to be formally determined. The Applicant has therefore sought to redesign the highways works on Main Road to negate the need for the TRO

This scheme therefore now comprises a series of 4 build outs on Main Road with the road remaining a 2 way street rather than being made into a one way street which is the subject of the incomplete TRO process

The main issues in the consideration of this application are whether the proposed alterations on Main Road which are now designed to no longer require a TRO will safeguard the highway and pedestrian safety of users.

Planning legislation requires every planning application to be determined on its own individual merit having regard to all material planning considerations. This means that this variation of planning condition application can be considered afresh on its own individual merit as a scheme of highways works associated with the provision of the housing scheme and a judgement reached on the merits of this highways proposal.

The condition sought to be revised is as follows:

Original wording -

*24. The development shall not commence unless and until a Traffic regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK Rev C has been Made and any legal challenges concluded.*

*Reason: for the avoidance of doubt and in the interests of highway safety*

Proposed wording, as revised,

*24. No dwelling shall be occupied until the works to the highway along Main Road identified on Plans SCP/13269/SK30 Rev A and SCP/13289/ATR08 have been completed in accordance with the approved details'*

*Reason: for the avoidance of doubt and in the interests of highway safety.*

This condition, as now proposed, no longer needs to be a 'Grampian' type condition because the works as proposed no longer require a TRO. The impact of the additional residential dwellings only occurs after occupation.



## Sustainability

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

There are, however, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

**an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and These roles should not be undertaken in isolation, because they are mutually dependent.

## Social Sustainability

The development of 45 homes on this site as a 100% affordable housing scheme makes a very significant contribution to the social arm of sustainability. The Committee, when granting permission originally, gave significant weight in the planning balance to the proposal given that the local Housing Need Survey demonstrated that local delivery of affordable housing was insufficient.

This proposal was considered to contribute significantly to the social arm of sustainability. The impact is neutral in the case of the current proposals given that the proposals concern highways works for Main Road which allow Main Road to remain a 2 way street and the affordable housing provisions and benefits to the local community seeking affordable housing are unchanged.

## Environmental Sustainability

### Highways

There have many been numerous objections raised by neighbouring properties in relation to highway issues and the impact on the surrounding road network and the TRO application itself has been the subject of more than 300 objections.

The TRO process is separate to the planning application and this planning application should only consider the highways issues arising from the change in design of the highways improvements as submitted to vary condition 24 on the original permission.

The Highways Department have undertaken their own traffic survey to inform their assessment of this application. This showed that traffic volumes were low at approximately 1000 vehicles per day while average speeds were also contained to around 21mph.

A Road Safety Audit (RSA) has also been provided as part of the revised scheme. The Strategic Highways Manager considers that the observations made in the RSA have been satisfactorily addressed by the applicant through the designer's response to that RSA.

The Strategic Highways Manager acknowledges that the highways mitigation now put forward is not as comprehensive as the original scheme; however, such measures have been proven to not be deliverable through the TRO process. The TRO process has been active for over 2 years and is still not resolved.

The issue for consideration is whether or not the proposed revised highways works which now retain Main Road as a 2 way street and provides for 4 individual build outs on the Road is safe for pedestrians. This is instead of the TRO scheme which would have seen part of Main Road become one way and resulted in 300 objections to the TRO consultation.

The Strategic Highways Manager advises that the minimum width of road for a emergency vehicle is 2.75m and the proposals will not detrimentally impact upon the ability for emergency or any other vehicle to traverse Main Road.

The scheme will require S278 Highways Act approval which will further deal with the information signage required.

Overall, having regard to the information and safety audit submitted and having also considered the objections to the proposed variation to condition 24 from the local community, the Strategic Highways Engineer advises that the proposed revision to the design of the highways works to Main Road will not be detrimental to highway or pedestrian safety and as such, the proposed variation of the condition can be supported from a highway and pedestrian safety view point.

## **ECONOMIC SUSTAINABILITY**

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

It is considered that the proposals represent sustainable development in terms of the economic sustainability of the scheme which will provide benefits to the local area through the construction process and the use by residents of local businesses and the economic activity of future residents.

## **Levy (CIL) Regulations**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The original permission on this site is subject to a Unilateral Undertaking requiring an education contribution which is necessary having regard to the oversubscription of secondary schools and SEN places and the demand that this proposal would add to the local provision. This is considered to be necessary, fair and reasonable in relation to the development.

A S106 Deed of Variation will be required to link this proposal to the original permission 17/2483N to secure the same Heads of Terms as previously approved.

## **PLANNING BALANCE**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan; the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

The principal of the development of the site for 45 affordable units is already accepted and this application is not an opportunity to revisit that principle. This application can only assess matters that have changed since the original permission.

The proposal will allow an alternative highways scheme which retains Main Road as a 2 way street and which will allow the delivery of the much needed affordable housing on this site. Whilst the objections of neighbours are noted, they can not be sustained as a reason to refuse the proposals.

The Council's Strategic Highways Manager considers that the revisions will be safe for pedestrians and road users and will adequately mitigate for the impact of the development.

On this basis, the revised condition is considered to pass the tests of Paragraph 55 of the NPPF and is considered reasonable and enforceable in planning terms.

The balance weighs in favour of the development and there are no material planning considerations which would outweigh that assessment.

## **RECOMMENDATION**

**Approve subject to a Deed of Variation S106 / Unilateral Undertaking to link to the original permission 17/2483N and the following conditions:**

- 1. Commencement of development (3 years from date of original permission )**

2. Development in accordance with approved plans on 17/2483N except as varied by this permission
3. Materials as application 17/2483N
4. Surfacing materials as approved 18/3014D
5. 100% affordable housing as 19/2671D
6. Removal of permitted development rights for extensions classes A- E and means of enclosure/ boundary treatments forward of building line
7. Nesting bird survey to be submitted
8. Provision of features for breeding birds as approved under 18/3014D
9. Compliance with Flood Risk Assessment (FRA) (ref: ES/16365/FRA Prepared by SCP) dated August 2016
10. Implementation of landscaping
11. LEAP (min 5 pieces of equipment) children's play area /POS in accordance with details as approved under 18/3014D
12. Contamination - Phase II investigation to be submitted prior to operational commencement
13. Contamination - Importation of soil
14. Remediation of unexpected contamination
15. All Arboriculture works in accordance with Tree Care Consultancy Arboricultural Implication Assessment (Ref AIA1-CSE-SW) dated 11<sup>th</sup> May 2016
16. Boundary treatments (inc 1.8m high close boarded to rear gardens adj in accordance with Noise Report recommendations) as approved under 18/3014D
17. Levels, existing and proposed as approved under 18/3014D
18. Noise mitigation scheme compliance with recommendations of report
19. Details of construction and highways management plan, inc on site parking for contractors/storage during development as approved under 18/3014D
20. Electric vehicle charging points to be provided for dwellings as approved under 18/3014D
21. Residents Travel Information Pack
22. Cycle storage details as approved under 18/3014D
23. Bin Storage details as approved under 18/3014D
24. No dwelling shall be occupied until the works to the highway along Main Road identified on Plans SCP/13269/SK30 Rev A and SCP/13289/ATR08 have been completed in accordance with the approved details
25. Drainage strategy detailing on and off site drainage work to be submitted and implemented as approved
26. Detailed calculations to support the chosen method of surface water drainage to be submitted and implemented as approved
27. Compliance with bat report as application 17/2483N
28. Updated badger survey as approved under 18/3014D
29. Submission and implementation of a scheme for the future management and maintenance of all communal open space be submitted and implemented as approved
30. Bungalow/single storey accommodation - priority of occupation for over 55's/ persons reliant upon wheelchair
31. Garden sheds provided as approved under 18/3014D

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Development Management in consultation with the Chair (or in his absence the Vice Chair) of Southern

**Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.**

**Should this application be the subject of an appeal, authority is approved to enter into a S106 Agreement/UU to provide a Deed of Variation to link this proposal to the original permission under 17/2483N**

