

Application No: 14/0476N

Location: Land Off, MAIN ROAD, SHAVINGTON

Proposal: Erection of 17 affordable dwellings - 5 no. 3-bedroom houses, 8 no. 2-bedroom houses and 4 no. 1-bedroom apartments. (Resubmission)

Applicant: Mrs Anne Lander, Wulvern Housing

Expiry Date: 22-Apr-2014

**APPROVE subject to conditions and the completion of Section 106 Legal Agreement to secure the following:-**

**1. A contribution of £8,305.50 towards habitat creation/enhancement work to be undertaken offsite.**

**MAIN ISSUES**

- Principle of Development
- Housing Need
- Green Gap
- Sustainability of the Site
- Amenity
- Design
- Flood Prevention/Drainage
- Highways
- Trees
- Ecology

**REFERRAL**

The application is referred to the Southern Planning Committee as the application relates to a residential development of more than 10 dwellings.

**1. SITE DESCRIPTION**

This application relates to a linear parcel of land to the western side of Main Road within the Open Countryside and Green Gap as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011. Immediately to the east of the site is the settlement of Shavington.

The application site is currently undeveloped land. To the north, east and south of the site are residential properties which front onto Main Road and are of varying styles and sizes. To the

west of the site is agricultural land with a native hedgerow forming the boundary to this side. Along the western boundary are a number of trees which are subject to a Tree Preservation Order.

The land levels are uneven on the site with the level of Main Road being set at a lower level to the northern end of the site.

## **2. DETAILS OF PROPOSAL**

This is a full planning application for the erection of 17 residential units (13 dwellings and 4 flats). There would be a single access point which would be taken at the southern part of the site. The proposed dwellings would be affordable homes and would be two-stories in height.

## **3. PREVIOUS RELEVANT DECISIONS**

13/0003N - Erection of 17 affordable dwellings - 5 no. 3 bedroom houses, 8 no. 2 bedroom houses and 4 no. 1 bedroom apartments – Refused 2<sup>nd</sup> July 2013

- Reasons for refusal relating to lack of affordable housing need and the design and layout of the dwellings

7/17135 – Residential Development –Refused 8<sup>th</sup> June 1989

– Reasons for refusal the site is not allocated within the structure and local plan and harmful to the rural character

7/06604 - Residential development 4 no. bungalows – Refused 28<sup>th</sup> April 1980

– Reasons for refusal contrary to the structure plan, not a natural village extension, adverse impact upon rural amenity

7/06599 – 10 dwellings – Refused 28<sup>th</sup> April 1980

– Reasons for refusal contrary to the structure plan, not a natural village extension, adverse impact upon rural amenity

## **4. PLANNING POLICIES**

### **National Policy**

The National Planning Policy Framework

### **Local Plan Policy**

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

BE.5 (Infrastructure)

NE.2 (Open Countryside)

NE.4 (Green Gaps)

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

RES.2 (Unallocated Housing Sites)

RES.3 (Housing Densities)

RES.8 (Affordable Housing in Rural Areas outside Settlement Boundaries)

### **Regional Spatial Strategy**

DP1 – Spatial Principles

DP2 – Promote Sustainable Communities

DP4 – Make the Best Use of Existing Resources and Infrastructure

RDF2 – Rural Areas

L5 – Affordable Housing

EM18 – Decentralised Energy Supply

### **Other Considerations**

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

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

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land

Strategic Housing Market Assessment 2010

Cheshire East Development Strategy

### **Cheshire East Local Plan Strategy**

***Members are aware that the submission version of the new local plan is now in the public domain. This will be presented to the Strategic Planning Board and full Council at the end of February. Subject to this being accepted an update will be provided in relation to this issue.***

## **5. OBSERVATIONS OF CONSULTEES**

**United Utilities:** No objection providing that the following conditions are met;

- Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing foul or combined sewerage systems. Any surface water draining to the public surface water sewer must be restricted to a maximum pass forward flow of 5 l/s or the existing green field runoff, whichever is greater. The development shall be completed, maintained and managed in accordance with the approved details.

**Strategic Highways Manager:** Highways comments as for 13/0003N. In addition, the proposed highway boundary must be identified on plans and delineated by construction which must allow mutual maintenance without effect over.

A new access point will be provided onto Main Road almost opposite that to Greenfield Avenue. Although the position of the access would not meet the Council's guidelines on junction spacing, its location is determined by the need to provide adequate sightlines and in view of it serving a small infill site it is acceptable in this location.

The site will be served by two cul-de-sac arms formed by a 5-metre shared-surface road. The Strategic Highways Manager is content with the internal road system and level of parking provision.

Accordingly, there is no objection to the proposal, subject to imposition of conditions to the effect of:

*No development shall commence until full constructional details of all roads to be provided within the application site have been submitted to and approved in writing by the Local Planning Authority. No development shall be carried out otherwise than in accordance with the approved details unless the Local Planning Authority has first agreed to any variation in writing.*

*This application will be subject to a S278 Legal Agreement under the Highways Act 1980 in relation to all related "offsite works" which are identified. This agreement with Cheshire East Council will be signed by the developer prior to any development on the site.*

**Environment Agency:** No comments to make.

**Environmental Health:** Conditions suggested in relation to construction and piling hours, a piling method statement, external lighting, travel plan, electric vehicle infrastructure, dust control and contaminated land.

**Public Rights of Way:** Public Footpath Rope No. 4 is adjacent to the site. A diversion Order has been made and is currently advertised for part of this footpath.

It appears unlikely that the proposal would affect the public right of way, although the PROW Unit would expect the Development Management department to add an advice note to any planning consent to ensure that developers are aware of their obligations.

## 6. OTHER REPRESENTATIONS

Letters of objection have been received from 3 households in the area raising the following points;

- Lack of demand for affordable housing in Shavington
- There will be 30% affordable housing provided on the large sites at Basford West, Rope Lane and the Triangle.
- There is a disproportionate number of dwellings proposed in Shavington
- The proposed access would be opposite an existing busy junction
- Increased vehicular movements
- Loss of open countryside
- The application site is well used by wildlife
- Main Road is narrow at this point
- Loss of footpath through the creation of the access
- Construction traffic problems
- The proposed development is not in-keeping with the area
- The proposal will be contrary to Local Plan Policies BE.1 and BE.2
- Loss of a view
- Impact upon the character and appearance of the area

- Loss of the semi-rural character of this road
- Loss of habitat
- Impact upon the boundary trees
- Impact upon protected species
- Main Road already suffers from congestion
- Dangerous site access
- Sewage problems in this area
- Lack of facilities in Shavington
- Increased impact upon infrastructure

## **7. PARISH COUNCIL**

**Shavington Parish Council:** No comments received at the time of writing this report.

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

- Design and Access Statement (Produced by North West Design Associates Ltd)
- Reptile Report (Produced by Middlemarch Environmental Ltd)
- Bat Survey (Produced by Middlemarch Environmental Ltd)
- Herpetofauna Protection Strategy (Produced by Middlemarch Environmental Ltd)
- Planning Statement (Produced by Goodwin Planning Services)

These documents are available to view on the Councils website.

## **9. OFFICER APPRAISAL**

### **Principle of Development**

The site is located outside the Shavington Settlement Boundary and within the Open Countryside, where Policy NE.2 carries a general presumption against new residential development.

The site is also subject to Policy NE.4 (Green Gaps) and this policy states that approval will not be granted for the construction of new buildings which result in the erosion of the physical gaps between the built up areas or adversely affect the visual character of the landscape.

However, Policy RES.8 of the Replacement Local Plan makes an exception to the general policy of restraint for affordable housing, subject to compliance with three criteria which states that:

- the housing will meet the needs of people previously shown to be in local need in a survey specifically undertaken for that purpose;
- the site is in a sustainable location immediately adjacent to an existing settlement boundary (with reference to Policy RES.4)
- the scale, layout and design of the scheme are appropriate to the character of the settlement.

Furthermore, at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. In relation to rural exception sites the NPPF at paragraph 54 states that;

*'local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs'*

In relation to the rural exception sites the Interim Planning Policy on Affordable Housing states that *'Priority will be given to sites within or on the edge of villages with a reasonable level of services and public transport'*.

The site is also identified within the updated SHLAA as being suitable with policy change, available, achievable and developable. As part of the 5 year housing land supply the site has been identified for years 6-10 to deliver 14 dwellings.

Therefore, subject to there being sufficient affordable housing need in the Wybunbury & Shavington sub-area, the proposal is also considered to be acceptable in principle.

## **Housing Need**

The proposed development is for 4 x 1 bed apartments, 8 x 2 bed houses and 5 x 3 bed houses to be provided as affordable rented housing.

The Strategic Housing Market Assessment (SHMA) Update 2013 identified a requirement for 270 new affordable homes between 2013/14 – 2017/18 (54 per year) in the Wybunbury & Shavington sub-area, which is made up of a requirement for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4+ bed and 1 x 1 bed older persons dwelling & 7 x 2+ older persons dwellings.

This shows an increase in housing need from the SHMA 2010 where the net need per annum was 31 new affordable units or 155 between 2009/10-2013/14.

There are currently 56 applicants on the housing register with Cheshire Homechoice (which is the choice based lettings system for allocation social & affordable rented housing in Cheshire East) who have selected Shavington as their first choice, these applicants require 32 x 1 bed, 13 x 2 bed, 7 x 3 bed, 3 x 4 bed 1 x 5 bed properties.

There has been no delivery of the affordable housing required in the Wybunbury & Shavington sub-area to date within the 2013/14 – 2017/18 period of the SHMA Update 2013. There is however anticipated delivery of up to 241 affordable homes following planning approval for sites at Rope Lane, Shavington Triangle, Gresty Green Road and Basford West. However, it is not clear when all of these affordable homes will come forward. The affordable units at Stapeley Water Gardens were taken into account when calculating the SHMA Update housing need information.

This leaves a shortfall of 29 new affordable homes required in the Wybunbury & Shavington sub-area for the period of 2013/14 – 2017/18 if all the 241 affordable homes in the above paragraph were developed in this time period. However, it is unlikely that all the 241 units will be built before 2017/18.

The mix of types of dwelling proposed for the affordable homes would meet some of the identified need for the Wybunbury & Shavington sub-area and is in line with the type of affordable housing needed identified from the SHMA Update 2013 and also current applicants on Cheshire Homechoice.

In this case it is also considered that this application is supported by a number of recent appeal decisions within Cheshire East as follows:

Dunkirk Farm, London Road, Brereton (12/0036C)

An application for 18 affordable dwellings was refused by Southern Planning Committee on 18<sup>th</sup> April 2012 as it was considered that brownfield sites would deliver the required level of affordable housing.

As part of this appeal the Inspector found that;

*'there is convincing evidence before me of the pressing need for affordable housing within Holmes Chapel primarily through the Council's Strategic Housing and Market Assessment 2010 (SHMA). The SHMA is the most up to date evidence base for housing need within the area'*

In relation to previously developed land within Holmes Chapel the Inspector considered the potential delivery on the former Fisons Factory and the Victoria Mills site and concluded that:

*'Even if both sites make their full contribution to the supply of affordable housing before 2014 (91 units), it would only just exceed the identified need in Holmes Chapel (90 units) with little headroom for slippage. No other sites in Holmes Chapel have been put forward to meet any shortfall. The contribution of these PDL sites would also fall short of the combined total need for Homes Chapel and the Sandbach Rural sub area (95 units) to 2014.'*

*'In the absence of any convincing evidence before me to indicate otherwise, I consider that it is very likely that the identified need for affordable housing in Holmes Chapel will be left unmet, probably by some margin'*

As part of this decision there was also an award of costs against the Council where the Inspector found that:

*'Overall, I have come to the conclusion that the Council did not have reasonable planning grounds for its decision and that it has failed to produce evidence to show clearly why the development cannot be permitted having regard to the development plan, national guidance and other material considerations. Furthermore, the Council has been unable to show reasonable planning grounds for taking a decision contrary to the professional and technical advice of its Officers. In other words, the Council has prevented development that should clearly have been permitted.'*

*'I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified'*

Land off New Road, Wrenbury (11/0041N)

An application for 14 affordable dwellings was refused by Southern Planning Committee on 6<sup>th</sup> April 2011 as it was considered that brownfield sites would deliver the required level of affordable housing and that the site is unsustainable.

In relation to the use of the brownfield site the Inspector found that:

*'the Council is concerned that if approved, the appeal proposal would prejudice the development of a brownfield site that may be suitable for development. Planning Policy Statement 3 (PPS3) 'Housing' encourages the development of brownfield sites in preference to greenfield sites. An application has been made for the development of a brownfield site on land at the Former Goods Yard off Station Road which has been vacant for some time. However, this brownfield site is also outside the village settlement boundary and is not allocated as an exception site in the Local Plan. I have not been referred to any other document that has been subject to consultation that identifies the Station Road site as an identified and sequentially preferable site for affordable housing following an appraisal of potential sites. The application has not yet been determined. Indeed it had not been validated at the time the Committee refused the application at New Road. The planning merits of the site have not therefore been considered and it is unclear whether it is a suitable and deliverable site. It cannot be relied upon as contributing to the local housing needs identified at this time'*

This appeal was also subject an award of costs against the Council and the Inspector found that:

*'In refusing the application, the Council placed reliance on the availability of a brownfield site, referred to as the Station Yard site, as a preferable alternative site. However, this is not a site allocated for development in the Local Plan. Nor is it identified in any other document specific to the village that has identified preferred sites following a consultation exercise. An outline application to develop the Station Yard site had not been validated when the Committee reached its decision. Indeed that remained the case at the time that the statements were exchanged by the parties and final comments made. As such the planning merits of the case and its suitability for affordable housing had not been considered. Like the appeal site, it is outside the settlement boundary, in open countryside, and will therefore need to be assessed accordingly as a rural exception site, having regard to relevant development plan policies and any other material considerations.'*

*'In the absence of planning permission being secured for the development of the Station Yard site, the Council placed undue reliance on the likelihood of the unallocated site coming forward and contributing to or fulfilling the identified need for affordable housing, prior to any application being determined.'*

*'The Council failed to show reasonable planning grounds and produce relevant evidence on appeal to support the decision. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.'*

## Conclusion on Affordable Housing Need

Since the determination of application 13/0003N Cheshire East has updated its SHMA and this shows that there is now an identified need of 270 dwellings over the 5 year period up from 155 dwellings in the previous 5 year period. There has been no delivery within the current 5 year period and the anticipated delivery for the sites at Rope Lane, The Triangle, Gresty Green Road and Basford West is 241 dwellings which is a short fall of 29 dwellings within the Wybunbury and Shavington SHMA sub-area.

The two appeal decisions above are comparable to the appeal which is approaching for application 13/0003N on this site and in both cases the appeals were allowed with a full award of costs against the Council for unreasonable behaviour.

Therefore it is clear that there is an affordable housing need in Shavington and the first bullet point of Policy RES.8 has been met.

## **Loss of Green Gap**

Policy NE.4 states that approval will not be granted the construction of new buildings within the Green Gap which would:

- Result in the erosion of physical gaps between built up areas; or
- Adversely affect the visual character of the landscape

In this case the application site is surrounded by housing to the north, east and south with an existing mature boundary treatment to the western boundary. The development would not extend beyond the rear gardens of the properties to the north and south and would in effect result in a continuation of the existing ribbon development along this side of Main Road.

As the development would result in the loss of undeveloped land it is considered that the development would result in some erosion of the physical gaps between the built up areas and would conflict with Policy NE.4.

The site has no national landscape designation. The development would introduce built development to an area which currently provides a green gap on Main Road between residential development. However, the site is contained by the western boundary hedgerow and by the residential properties to the north, south and east. As a result the development would not significantly affect the visual character of the landscape.

In this case it is considered that the affordable housing need in Shavington would outweigh the limited harm to the Green Gap in this location.

## **Sustainability of the site**

Letters of objection refer to Shavington not being a sustainable settlement. However the proposal would meet the second bullet point of Policy RES.8, which states that affordable housing outside the settlement boundaries should be:

*'in a sustainable location, immediately adjacent to an existing settlement boundary (with reference to Policy RES.4)'*

In this case the site is immediately adjacent to the settlement boundary of Shavington which is listed as a settlement within Policy RES.4. It should also be noted that Shavington is the largest and most sustainable settlement within the Wybunbury & Shavington sub-area.

In this case the site is within walking distance of the village centre and the following facilities within 1km of the site: Post Office, Convenience Store, Leisure Centre, Village Hall, Primary school, Take Away, Scout Hut, Off Licence, Hairdressers and Play Area. In addition there is a secondary school just over 1km from the site and bus services to Crewe Town Centre and Railway Station. Given the wording contained within Policy RES.8 and the facilities available nearby it is considered that Hough is a sustainable settlement and a reason for refusal on sustainability grounds could not be sustained.

### **Amenity**

To the south of the site No 39 Main Road is a true bungalow which includes two principal windows in its side elevation facing the site with a 2 metre high wall and hedgerow to the boundary. Due to the position of a water main and the required easement plots 1-3 would be set behind No 39 Main Road and would not affect the windows to the side elevation. Plots 1-3 would be to the north of No 39 and would not raise any loss of light issues. Plots 1-3 would have a rear garden depth of 15 metres and given that they would be set an angle to No 39 it is not considered that there would be any significant amenity affect to this side.

To the north there would be a separation distance of approximately 7 metres to the nearest point of No 55 Main Road. Given that No's 55 & 57 are set at an angle it is not considered that the relationship would raise any significant amenity concerns. It should also be noted that there is currently a number of trees to this side which already impact upon these properties.

In terms of the properties opposite, the proposed dwellings would be set at a slightly higher level but the separation distances would comfortably exceed the 21m standard between principal elevations. From No 42 Main Road to Plots 6 & 8 there would be a separation distance of approximately 35 metres, from 44 Main Road there would be a separation distance of approximately 27 metres and from 48 Main Road there would be a separation distance of approximately 32 metres.

Due to the large separation distances and the scale of the development, it is not considered that there would be a detrimental impact upon the residential amenities of any surrounding properties.

### **Design**

This part of Main Road is characterised by ribbon residential development. The house types are of different styles from one to two stories in height.

Since the previous refusal which included a reason relating to design the applicant has amended the elevational treatment of the elevations to reflect the more traditional style of the area. The changes to the development include the following:

- The use of render and brickwork to the elevations to reflect the mixed pallet of materials along Main Road
- The introduction of header and sill details to the windows
- An alteration to the window proportions
- A more traditional glazing design with central glazing bar
- A more varied use of canopy detailing to the dwellings

The proposed development would be for a ribbon form of development with the dwellings fronting onto a service road which would run parallel to Main Road. Although plots 2 and 3 would not front onto the highway (due to an easement along the boundary) it is considered that the layout of these properties is still acceptable and would be similar to the properties to the north of the site.

The parking would be discretely located to some properties and there would be the provision of front gardens to ensure that there would not be a car dominated frontage. Furthermore a boundary hedgerow would be provided to ensure that there would be an additional layer of landscaping when viewed from Main Road. The layout is therefore considered to be acceptable and would respect the character and appearance of the area.

In terms of height the provision of two-storey dwellings, although taller than No 39 Main Road to the south would be consistent with the other residential properties in the area and is therefore considered to be acceptable.

In terms of the wider character of the development; the application site has a frontage of 130 metres and includes 15 dwellings fronting onto the highway (plots 2 and 3 would face north and would not front onto the highway). This is in comparison to the land to the area to the south of the site which includes 15 dwellings within a frontage of 175 metres. Although the development is of a greater density the affordable units are of a smaller scale and would not be out of character to other residential street within the wider vicinity of the site (e.g. a road frontage of 128 metres on Greenfields Avenue opposite the site includes 15 dwellings).

The detailed design of the proposed dwellings is relatively simple and there have been significant improvements since the previous refusal. The development would be consistent with those in the immediate vicinity of the site. The proposed dwellings would include the provision of a mixed material pallet, header and sill detailing, projecting gables, projecting porches, porch canopies and panelling to add interest and give a varied street scene. It is considered that the design of the dwellings would not appear incongruous in the area and is therefore acceptable.

### **Flood Prevention/Drainage**

A number of the letters of objection refer to drainage and flooding in the area. In this case the application forms indicate that surface water will be disposed of via a soakaway. As part of this application United Utilities and the Environment Agency have been consulted and raised no objection to the development. A condition will be attached to ensure that full drainage details are agreed.

### **Highways**

Main Road is a relatively quiet road within the Shavington Settlement Boundary and the development would result in the provision 17 dwellings accessed off a single access point.

The Strategic Highways Manager has confirmed that the visibility at the site access point and parking provision on the site is acceptable. Although the junction spacing does not meet current standards, it is not considered that a reason for refusal could be sustained on these grounds given the scale of the proposed development and the low number of vehicle movements involved.

## **Trees**

There are a number of trees which are located along the northern and western boundaries of the site including 4 trees which are protected by a TPO. A tree survey has been submitted with the application and this identifies the three of the TPO trees as Grade A (High Quality and Value) and one as Grade B (Moderate Quality and Value). Two further trees on the site are considered, one is graded Grade C (Moderate Quality and Value) and the other is identified for removal.

As part of the last application there were lengthy negotiations with the applicant's agent to ensure that the development does not have a detrimental impact upon the trees or result in future pressures for their removal. This has resulted in plots 4-8 being repositioned further forward to move away from the canopies of the protected trees and the Root Protection Areas (RPA). It is now considered that the amended layout would not cause significant harm to the trees or result in future pressures for their removal.

The Councils Tree Officer is happy with the additional information and the amended plans and has suggested a number of conditions should the application be approved.

## **Ecology**

### Protected Species

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places.

(a) 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, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 (Protected Species) states that development will not be permitted that would have an adverse impact upon protected species.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

### Great Crested Newts

Thirteen ponds have been identified within 500m of the proposed development. The submitted survey indicates that access was not granted to survey 4 ponds by the land owner and a further 4 ponds did not contain any standing water throughout the survey period. Of the remaining ponds the survey shows that only one pond was discovered to contain newts with a peak count of two GCN (this pond is 455m to the north of the application site).

Therefore the submitted GCN Survey concludes that:

*'Given the good value of habitats which surround Pond 1, the distance of the development works from the pond and the small area of habitats impacted by the works, it is not considered that this population would be impacted'*

This assessment is accepted by the Councils Ecologist and he has advised that GCN would not represent a constraint to the development.

### Bats

Two trees on the site have been identified as having bat roost potential. These trees would not be affected by the proposed development and would be retained in place. As a result there would be no deterioration or destruction of breeding sites or resting places and the impact upon bats is considered to be acceptable.

### Reptiles

A reptile survey of the site was undertaken on the site during 7 separate days from 15<sup>th</sup> April to 17<sup>th</sup> May during suitable conditions. This survey did not uncover any reptiles on the site and as a result the Councils Ecologist accepts that reptiles would not represent a constraint to the development.

## Barn Owl

Barn Owl is a protected and BAP priority species, and is known to occur in the locality of the proposed development. The site supports habitat that is likely to offer foraging opportunities for the species.

The Councils Ecologist advises that the proposed development has the potential to have an adverse impact on barn owls at the local scale and recommends that if planning consent is granted the potential impacts of the development be 'off-set' by means of a commuted sum that could be transferred to the local barn owl group to facilitate habitat creation works to be undertaken in the Borough.

In this case the Councils Ecologist has calculated a contribution of £8,305.50 using a DEFRA formula. This would be used to off-set the loss of Barn Owl habitat and the loss of semi-improved grassland (discussed below). The sum would be used to provide the erection of Barn Owl boxes off-site in partnership with a local Barn Owl group and to fund appropriate habitat creation/restoration projects in the locality.

## Breeding Birds

If planning consent is granted standard conditions could be attached to safeguard breeding birds.

## Loss of semi-improved grassland

The grasslands on site are not UK or Local BAP quality and so have not been identified by the submitted ecology reports as being of a 'notable consideration'. The submitted ecological assessment also states that the loss of foraging habitat for barn owls is not considered to be significant. However, the Councils Ecologist remains of the view that the loss of habitat at this site presents an overall loss of biodiversity which has implications in determining whether the application can be considered to be sustainable in accordance with the NPPF.

As discussed above to offset the loss of this habitat a commuted sum will be secured. This sum could then be used to enable habitat creation/enhancement work to be undertaken offsite.

## Other Protected Species

Evidence of other protected species has been recorded on this site. However none were recorded as being present on the site within 30m the application boundary.

In this case the loss of foraging is not considered to be significant and the Councils Ecologist accepts that the development can proceed without a harmful impact upon other protected species.

## **Other issues**

As the development relates to less than 20 dwellings there is no requirement for open space on site (Policy RT.3 relates to developments of 20 dwellings or more).

It is not considered that there would any be significant loss of agricultural land associated with this development given the size of the site and its characteristics (rough grassland and vegetation cover).

### **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 development would result in the loss of habitat which could potentially support BAP species and Barn Owls. In order to mitigate this impact in accordance with paragraph 109 of the NPPF a level of contribution has been calculated using a DEFRA formula to provide off-site improvements. This is necessary to make the development acceptable, directly related to the development and fair and reasonable.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

## **10. CONCLUSIONS**

The proposed development relates to the provision of affordable housing outside the settlement boundary of Shavington within the Green Gap. This type of development is appropriate in the open countryside when it is adjacent to a settlement boundary as identified in Policy RES.4. In this case there has been a very limited provision of affordable housing within the SHMA area and it is unlikely that the target will be met in the period up to 2017/18 furthermore the Council has not been successful at fighting similar appeals within the Borough and costs have been awarded against the Council for unreasonable behaviour. Therefore it is considered that the principle of affordable housing on this site is acceptable.

Although the site is located on land designated as Green Gap it would be consistent with the ribbon development in the area and the need for affordable housing would outweigh the limited harm to the Green Gap.

The impact upon protected species and habitats is considered to be acceptable subject to the contribution of £8,305.50.

Following the receipt of amended plans and the imposition of conditions the impact upon TPO trees and protected species is considered to be acceptable.

Finally it is considered that the site is located within a sustainable location, there are no issues relating to the highways impact, flooding or drainage, the development is of an acceptable design and it would not impact upon residential amenity.

## **11. RECOMMENDATIONS**

**APPROVE** subject to completion of Section 106 legal agreement to secure the following:-

- **A contribution of £8,305.50 towards habitat creation/enhancement work to be undertaken offsite.**

**And the following conditions:**

- 1. Standard time 3 years**
- 2. Approved Plans**
- 3. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays**
- 4. Pile driving limited to 09:00 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
- 5. No development shall take place until details of external lighting has be submitted to and agreed in writing by the Local Planning Authority.**
- 6. No development shall take place until a scheme to minimise dust emissions arising from construction activities on the site has been submitted to and approved in writing by the Local Planning Authority.**
- 7. Prior to the commencement of development a Phase I Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**
- 8. Submission and approval of materials**
- 9. Landscaping details to be submitted and approved**
- 10. Implementation of landscaping**
- 11. Boundary Treatment details to be submitted and approved**
- 12. Works to commence outside the bird breeding season**
- 13. A scheme of nesting bird mitigation measures to be incorporated into the development**
- 14. Dwellings to be retained as affordable housing**
- 15. No development shall commence until full constructional details of all roads to be provided within the application site have been submitted to and approved in writing by the Local Planning Authority. No development shall be carried out otherwise than in accordance with the approved details unless the Local Planning Authority has first agreed to any variation in writing.**
- 16. Implementation and supervision of all works in accordance with submitted AMS and tree protection measures on TPM plan1658-02.**
- 17. Submission / approval of full details of proposed levels.**
- 18. Submission / approval of details of services routes.**
- 19. Submission / approval of details of location of temporary site construction facilities.**

**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 Development Management and Building Control 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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