

Application No: 17/0295N

Location: Land at Shavington Villa, Rope Lane, Shavington, CW2 5DT

Proposal: Residential development of up to 29 No. dwellings and associated infrastructure with access to be taken from Rope Lane.

Applicant: Mr & Mrs Kirkham and Country and Coastal

Expiry Date: 20-Apr-2017

## **SUMMARY**

The proposed development sought on the majority of the site would be contrary to Policy NE.4 and NE.2 and the development would result in a loss of Green Gap and Open Countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites then the presumption in favour of sustainable development applies at paragraph 14. LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS provision and economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Shavington.

The development would have a neutral impact upon education, protected species/ecology, trees, residential amenity/noise/air quality/contaminated land.

The adverse impacts of the development would be the loss of green gap and open countryside and the associated adverse impact upon the landscape, the loss of Best and Most Versatile agricultural land and a lack of information to demonstrate that the site can effectively drain surface water to acceptable levels.

In this case, it is considered that the adverse impacts of the development significantly and demonstrably outweigh the benefits.

## **RECOMMENDATION**

**REFUSE**

## **REASON FOR REFERRAL**

The application is referred to Southern Planning Committee as it proposes residential development of over 20 dwellings.

## **PROPOSAL**

Outline planning permission is sought for up to 29 dwellings, including matters of Access.

Matters of; Appearance, Landscaping, Layout and Scale are not sought for permission as part of this application.

## **SITE DESCRIPTION**

The application site is located to the west of Rope Lane and the north of Main Road, Shavington, Cheshire to the rear of existing properties. The site is predominantly rectangular in shape and comprises of a mixture of green field and domestic curtilage, extending 1.33 hectares.

The site predominantly falls within the Green Gap, but partly within the Shavington Settlement Boundary (the Shavington Villa plot).

## **RELEVANT HISTORY**

None

## **LOCAL & NATIONAL POLICY**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs: 14. Presumption in favour of sustainable development, 50. Wide choice of quality homes, 56-68. Requiring good design

### **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011. The relevant Saved Policies are:

NE.2 (Open countryside), NE.4 (Green Gap), NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), NE.20 (Flood Prevention), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), RES.5 (Housing in the Open Countryside), RES.7 (Affordable Housing), RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments), RT.9 (Footpaths and Bridleways), TRAN.3 (Pedestrians), TRAN.5 (Cycling)

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

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

The following are considered relevant material considerations as indications of the emerging strategy:

MP1 (Presumption in Favour of Sustainable Development), PG2 (Settlement Hierarchy), PG4a (Strategic Green Gaps), PG5 (Open Countryside), PG6 (Spatial Distribution of Development), SC4 (Residential Mix), SC5 (Affordable Homes), SD1 (Sustainable Development in Cheshire East), SD2 (Sustainable Development Principles), SE3 (Biodiversity and Geodiversity), SE5 (Trees, Hedgerows and Woodland), SE1 (Design), SE 2 (Efficient Use of Land), SE 4 (The Landscape), SE 5 (Trees, Hedgerows and Woodland), SE 3 (Biodiversity and Geodiversity), SE 13 (Flood Risk and Water Management), SE 6 (Green Infrastructure), IN1 (Infrastructure) and IN2 (Developer Contributions)

## **CONSULTATIONS**

**Head of Strategic Infrastructure (HSI)** – No objection, subject to a condition for the prior submission/approval of a Construction Management Plan (CMP) and an informative that the applicant will be required to enter into a Section 38 Agreement regarding the construction and future adoption of the internal road layout.

**Environmental Protection** – No objection, subject to a number of conditions including; the prior submission/approval of a piling method statement, the prior submission/approval of an environmental management plan, the submission of a travel information pack, the prior submission/approval of electric vehicle charging infrastructure, the prior submission/approval of a dust mitigation scheme, the prior submission of a contaminated land report, the prior submission/approval of a soil verification report and that works should stop if contamination is identified

**PROW Officer** – No objection, subject to the inclusion of an informative to remind the applicant of their responsibilities

**Housing (Cheshire East Council)** – Object due to the proposed affordable housing bedroom mix proposed not meeting local requirements.

**Education (Cheshire East Council)** – No objection, sufficient school capacity within catchment

**ANSA (Open Space)** - No objection, subject to the inclusion of 1015sqm of on-site POS and either a management company to maintain or a further commuted sum (to be agreed) for the Council to maintain. In addition, a commuted sum of £21,000 for the upgrade of children's play facilities on Vine Tree Street, Shavington

**United Utilities** – No objections, subject to a number of conditions including; that all foul and surface water shall be drained on separate systems; the prior submission of a surface water drainage scheme and the prior submission of a sustainable drainage management and maintenance plan

**Flood Risk Manager** – Object to the proposed development due to lack of information

**Ramblers Association** - No comments received at time of report

**Mid-Cheshire Footpath Society** - No comments received at time of report

**Shavington Parish Council** – Object to the proposal on the following grounds;

- The applicant has retained a large garden area for Rope Villa a consequence of which has been to increase the housing density to a greater degree than appears on the application.
- The line of sight is inadequate in terms of access and egress and will cause highway safety issues.
- It is the main access to the only grocery shop in the village centre.
- Road safety issues:
  - The development abuts the Santune development
  - The route is a school walking route. It is also the bus route to South Cheshire College
  - The line of sight is inadequate in terms of access and egress
  - The Wain Homes' development (130 dwellings) is in close proximity
  - Rope Lane is a relatively narrow road.
- Part of the development is outside the settlement boundary.
- Emergency vehicles and refuse collection vehicles will have difficulty accessing the site.
- There are power reductions in the evening for both gas and electric and the development will worsen the situation.
- Water pressure is already inadequate and the development will also worsen this situation.
- Inadequate infra-structure, viz: schools/doctors' surgery and there is no Post Office.
- Affordable housing should be 'pepper-potted' throughout the site.
- Erosion of green gap which is in conflict with the Crewe & Nantwich Replacement Local Plan 2011.
- Over-crowding on the site.
- This housing development is not needed. The parish has more housing than is required by the Local Plan and this application should be rejected on the grounds that the parish has now reached almost saturation level in respect of new housing.
- The Parish Council requests the Inspector to visit all the application sites both past and future to assess the cumulative effect.

## **REPRESENTATIONS**

Neighbour notification letters were sent to all adjacent occupants and a site notice was erected. To date, approximately, letters of representation have been received from approximately 22 residences. The main objections raised include;

- Loss of Open Countryside/Green Gap
- No further requirement for housing in Shavington
- Loss of agricultural land
- Impact upon the landscape
- Impact upon local facilities e.g. – medical centre, hospital, local schools
- Limited bus service / public transport
- Lack of affordable dwellings and housing for the aged
- Drainage and flooding - How will existing infrastructure cope
- Highway safety - Increase in traffic, suitability of road to cope with further traffic, pedestrian safety, safety of access, impact upon existing infrastructure, combined impact with other recently approved development upon the highway, limited access for emergency vehicles

- Amenity – noise pollution during construction contamination, Loss of privacy/overlooking, loss of light
- Design – Layout - position of affordable housing, too many dwellings (density) resulting impact upon local character
- Impact upon ecology/protected species - Birds, bats, newts, sparrow hawks, buzzards, rabbits, foxes, squirrels, pheasants, badgers and herons. Also impact upon flora and fauna.
- Loss of hedgerows
- Procedural matters - Inaccuracies on the submitted plans (neighbouring dwellings not shown correctly) and statements, not directly consulted on the proposal

Other issues have also been raised which are not material planning considerations such as loss of views, ownership and impact upon house values.

## **OFFICER APPRAISAL**

The key issues are:

- The principle of the development
- The sustainability of the proposal, including its; Environmental, Economic and Social role
- CIL Compliance
- Planning balance

### **Principle of Development**

Part of the application site (Shavington Villa plot - 0.345 hectares) falls within the Shavington Settlement Boundary where Policy RES.2 of the Local Plan advises that residential development will be permitted so long as the proposal adheres with the general planning policies in relation to; amenity (BE.1), design (BE.2), highway safety (BE.3), drainage, utilities and resources (BE.4) and infrastructure (BE.5).

These matters are considered further within the report.

Notwithstanding the above, the site predominantly lies within the Green Gap which is also subject to Open Countryside policies, as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Policy NE.4 states that in such areas, approval will not be given for the construction of new buildings which would;

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

In response, the location of the development would extend the built form closer to the Crewe Settlement Boundary, more specifically the Willaston suburb of Crewe.

### Landscape Impact

The application site is approximately 1.3 hectares in size and is made up of two parcels of land. The application site is partly formed by the garden of 13 Rope Lane and partly by an existing paddock.

The site is bound to the northwest by an existing hedgerow with a number of hedgerow trees; the north-eastern is formed by vegetation associated with a garden boundary and timber fencing. The south eastern and south western boundaries are formed by the rear boundaries of properties along Rope Lane and Main Road and are formed of a number of assorted boundary treatments. The application site is bound on three sides by residential development, but has a rural edge character that relates to the wider rural landscape to the north and North West, which like to application site, forms part of the Green Gap between Shavington and Crewe to the north.

As part of the application, a Landscape and Visual Appraisal has been submitted, this states that it has been carried out with reference to the guidance found within the 'Guidelines for Landscape and Visual Assessment' Third Edition, 2013 (GLVIA). This appraisal identifies the baseline landscape of the application site and surrounding area, these are the National Character Areas as identified by Natural England, and the Lower Farms and Woods, Barthomley Character Area (LFW7), as identified in the Cheshire Landscape Character Assessment 2008.

The submitted landscape appraisal identifies that the impact of the proposed development will cause long term effects on the landscape fabric through the removal of the existing field paddock and that the degree of change is considered to be major due to the obvious change to the fabric and cover of the landscape and by the introduction of housing and associated infrastructure. The appraisal identifies that on the physical fabric of the site, especially for the paddock part of the site, the magnitude of change will be major due to the introduction of the built form, and that the change will be permanent. The appraisal notes that potential effects on the landscape setting of the site will be to erode the quantum of open countryside and the extent of the Green Gap. For the broader landscape, the appraisal identifies that the proposals will not have any adverse effect on the broader landscape character.

The Council's Principal Landscape Officer has advised that whilst he would generally agree with the landscape appraisal, it should be noted that the appraisal has been based on the retention and enhancement of the north western boundary, along with the other existing hedges and vegetation associated with the site – along with robust planting. Since this is an outline application the detail remains unknown and so the effects could therefore be more adverse than the appraisal identifies.

The visual assessment a Zone of Theoretical Visibility and identifies 9 receptors. This identifies that residential properties located in the immediate vicinity of the application site along Rope Lane and Main Road, will experience a major change from the existing views to the rear of the properties and that the proposed development will advance the western settlement edge of Shavington. The appraisal also identifies the visual impact on nearby footpath – viewpoints 4, 5 and 6 (FP3 Rope) and indicates that the proposed development will visually advance the settlement edge of Shavington and that it will lead to moderate to major effects. The appraisal also identifies effects on nearby travelling receptors, identifying them as being minor to imperceptible. The visual appraisal is also based on the retention of existing vegetation, along with new planting; changes to the proposed strategy would almost certainly result in different impacts than those identified.

The Council's Landscape Officer has advised that he broadly agrees with the landscape and visual appraisal that has been submitted, which identifies that there would be a major magnitude of change on the physical character of the site due to the replacement of paddock with residential dwellings, that the development will erode the quantum of open countryside and the extent of the Green Gap and that for a number of visual residential receptors the proposed development would result in a major change and that for recreational users of FP3 Rope there will also be major effects.

The appraisal does identify that these will reduce - and with the retention and enhancement of existing vegetation this would be the case. However, it is clear from the appraisal that there will be some adverse effects, and as such, the Council's Principal Landscape Officer has advised that the proposals do appear to be contrary to Local Plan Policy NE.4. Green Gap policy was considered and supported in an interim letter issued by the Local Plan Strategy Inspector, and subsequently in appeal decision Appeal Ref: APP/R0660/W/16/3147420, relating to a site approximately 60m to the west of the application site.

As such, it is also considered that the proposal would adversely affect the visual character of the landscape, as advised by the submission documents. As such, the development would fail to adhere with the second bullet of Policy NE.4 of the Local Plan.

#### Erosion of the physical gaps between built up areas

Policy NE.4 (Green Gaps) 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.

A development of the scale proposed will clearly erode the physical gap between Crewe and Shavington. In dismissing the appeal within close proximity of this site the Inspector concluded that;

*'It seems clear to me that most built development of any substance would result in a degree of erosion and would thus conflict with policy NE.4 regardless of its visual impact. It is clearly not the case that a proposal would be acceptable in GG policy terms unless it were to result in actual coalescence. The policy is concerned with erosion, which is the process that eventually results in coalescence. However, in my opinion it is still necessary to consider the extent to which the erosion caused by the particular proposal in question would be harmful to the objective of maintaining the separation of settlements'*

And that

*'However, views across the gap are only one factor in the consideration of whether a proposal would result in unacceptable erosion. The fact of the matter is that each proposal would impact on the GG differently and in the case of the appeal development I judge that whilst there would be harm from erosion, the degree of that harm would be relatively small'*

It is considered that the same comments could apply to this proposed development and the impact upon the Green Gap will need to be considered as part of the planning balance.

#### Open Countryside

Policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a "departure" from the development plan and there is a presumption against the proposal, under the provisions of

sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “in accordance with the plan unless material considerations indicate otherwise”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection; this is considered as part of the assessment below.

### Local Plan / 5-year Housing Land Supply Update

On 13 December 2016 the Local Plan Inspector published a note which sets out his views on the further modifications needed to the Cheshire East Local Plan Strategy. This note follows 6 weeks of Examination hearings concluding on 20 October 2016.

This note confirms that his previous endorsement for the core policies on the plan still stand and that “*no new evidence or information has been presented to the examination which is sufficient to outweigh or alter my initial conclusions*”. This signals his agreement with central issues such as the ‘Duty to Cooperate’, the overall development strategy, the scale of housing and employment land, green belt policy, settlement hierarchy and distribution of development.

The Inspector goes on to support the Council’s approach to the allocation of development sites and of addressing housing supply. He commented that the Council:

*“seems to have undertaken a comprehensive assessment of housing land supply, and established a realistic and deliverable means of meeting the objectively assessed housing need and addressing previous shortfalls in provision, including assessing the deliverability and viability of the proposed site allocations”*

The Inspector went on to state that the development strategy for the main towns, villages and rural areas appeared to be “appropriate, justified, effective, deliverable and soundly based.” As a consequence there was no need to consider other possible development sites at this stage.

The Inspector’s recommendations on Main Modifications mean that under paragraph 216 of the Framework the emerging policies of the Cheshire East Local Plan Strategy can be attributed a greater degree of weight – as the Plan as revised is at an enhanced stage, objections are substantially resolved and policies are compliant with National advice.

The Inspector’s recommendations on housing land supply, his support for the Cheshire East approach to meeting past shortfalls (Sedgepool 8) indicate that a remedy is at hand to housing supply problems. The Council **still cannot demonstrate a 5 year supply of housing at this time** but it will be able to on the adoption of the Local Plan Strategy. This is highly relevant to the assessment of weight given to housing supply policies which are deemed out of date by the absence of a 5 year supply. Following the Court of Appeal decision on the *Richborough* case, the weight of an out of date policy is a matter for the decision maker and could be influenced by the extent of the shortfall, the action being taken to address it and the purpose of the particular policy. Given the solution to housing supply now at hand, correspondingly more weight can be attributed to these out of date policies.

### **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”*

The NPPF determines that sustainable development includes three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**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;

**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

These roles should not be undertaken in isolation, because they are mutually dependent.

The issue in question is whether the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection. These are considered below.

## **Environmental role**

### **Locational 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”*

On Rope Lane, the same road where the proposed development lies, planning permission was granted in April 2012 for 80 dwellings, allowed at appeal (ref: APP/R0660/A/12/2173294).

As part of this application the LPA considered that this nearby proposal was sustainably located close to shops, schools and other services in Shavington.

There is no reason why the same conclusion would not be made for the application proposal. =The proposal is therefore considered to be locationally sustainable.

### Agricultural Land Classification

Paragraph 26 of the Natural Environment NPPG advises that Local Planning Authorities should seek to use areas of poorer quality land in preference of higher quality land for development.

The Agricultural Land Classification system classifies land into five grades, with Grade 3 subdivided into Sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non food crops for future generations.

Policy NE12 (Agricultural Land) of the Local Plan advises that development on such land quality shall not be permitted unless; the need for the development is supported by the Local Plan, it can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality or, other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.

Within the submitted Planning Statement, para's 7.32 to 7.36 refers to Agricultural Land Quality. Within these paragraphs, it is advised that the land is classified as Grade 3A. As such, the land on which the development is proposed is 'Best and Most Versatile' agricultural land.

Despite this, the applicant considers that the proposal still adheres with Local Plan Policy NE.12 as they advise that the sustainability considerations of the scheme suggest that the use of higher quality land is preferable to the use of poorer quality land, with specific regards to the weight to be afforded to the Council's housing need.

This is a matter which shall be considered in the planning balance.

### Trees and Hedgerows

The application is supported by an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan.

The Council's Tree Officer has reviewed the proposals and advised that in order to facilitate the proposed access off Rope Lane, the submitted detail identifies the removal of 6 individual trees and groups, this includes T11 within the report which is protected as part of G2 of an existing Tree Preservation Order. The tree has been identified as a 'moderate value' specimen. With this designation, the Council's Tree Officer has advised that it's removal in terms of the road frontage is not considered significant. The Tree Officer further states that none of the remaining trees identified for removal are considered worthy of formal protection.

All the remaining protected trees on the site are not directly affected by the access detail and can be protected in accordance with current best practice BS 5837 2012.

However, the Council's Tree Officer does have some concerns should this layout come forward at Reserved Matters stage in respect of the plot located adjacent to T36-T39. The build of this closest dwelling would transgresses adjacent to the Root Protection Area presenting an unsustainable relationship with high category A trees. The Tree Officer advises that this needs to be designed out should the application proceed.

Given that the layout is indicative, it is considered that at reserved matters stage a revised layout could overcome this issue.

As such, subject to this revision and the submission of a revised package of arboricultural information to reflect this revision, no objection of tree grounds are raised and it is considered that the proposed development would adhere with Policy NE.5 of the Local Plan.

### Ecology

The application is supported by a Phase 1 Habitat Survey.

The Council's Nature Conservation Officer has advised that this survey was undertaken at a poor time of year. However, he advises that the grassland habitats which occupy the majority of the site are unlikely to be of significant nature conservation value so the timing of the survey is not a significant constraint on the reliability of the submitted report.

Hedgerows are a priority habitat and hence a material consideration. The proposed internal access road will result in the loss of a section of hedgerow from the interior of the site. The Council's Nature Conservation Officer advises that if outline planning permission is granted, it must be ensured that suitable compensatory planting is provided to compensate for this loss at the detailed design stage.

A full Great Crested Newt survey of a pond within 250m of the proposed development has not been completed. However, based on the available evidence the Council's Nature Conservation Officer advises that this species is not reasonable likely to be present and affected by the proposed development.

If planning consent is granted, the Council's Nature Conservation Officer recommends conditions that; any future application be supported by details suitable for the use of breeding birds (including house sparrow) and bats and any future application should be supported by boundary treatment which incorporate gaps for hedgehogs (between 10cm and 15cm at least every 5 metres).

It is also recommended that a landscaping condition which includes the provision of new native species hedgerows is also required should the application be approved.

Subject to the above, no issues with regards ecology are raised and the development would adhere to Policy NE.9 of the Local Plan.

### Design

Outline planning permission is sought with matters of access only. As such, the matters under consideration in relation to design are whether the site is large enough to accommodate 29 dwellings of an appropriate layout, scale and appearance.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

The development site would have a density of 22 dwellings per hectare. This is considered to be reasonable on this site.

In this case an indicative layout has been provided in support of this application. This layout shows that the site can accommodate the number of dwellings proposed whilst providing open space. It is considered that an acceptable design/layout that would comply with Policy BE.1 (Design), the Policies within the emerging Local Plan and the NPPF. The detail would be considered/negotiated at the reserved matters stage.

### Access

The application site comprises undeveloped land for the most part, with a single dwelling, and has little traffic movement associated with it. There is an existing access onto Rope Lane.

The application is in outline for 29 dwelling units with only access to be determined at this stage. A new access onto Rope Lane is proposed, just south of the existing.

### *Transport Statement*

The Council's Head of Strategic Infrastructure (HSI) advises that sufficient access visibility is achievable as shown on the highways technical note. The proposed access dimensions are to the Council's adoptable standards, at 5.5 metre width and 6 metre radii, and it has been shown that a refuse vehicle could safely enter and exit.

The Council's HSI advises that the footway widths south of the site approaching Main Road are narrow, but there are no existing safety concerns and the proposal will result in a small number of pedestrian movements, a proportion of which will travel north where footways are wider. The Council's HSI advises that footway access from the site to local destinations is considered adequate, including to nearby bus stops.

The HSI advises that the Rope Lane carriageway widths in the vicinity of the site are relatively narrow and in places x2 HGVs approaching each other would find it difficult to pass. This is a matter raised by a number of objectors. Although not ideal, the Council's HSI advises that this is an existing issue which will not be worsened if the application were approved.

For the most part, the HSI advises that the development would generate car trips and Rope Lane widths are capable of accommodating this alongside existing car or HGV movements.

The proposal will generate around 20 vehicle trips during each of the peak hours, the highway impact of which will be negligible, according to the Council's HSI.

### *Conclusion*

The Council's HSI concludes that safe and suitable access to and from the site will be available and the impact of the development on the local highway network will be minimal. As such, no highways objections are raised, subject to a condition seeking the prior submission/approval of a Construction Management Plan (CMP) and an informative that the applicant will be required to enter into a Section 38 Agreement regarding the construction and future adoption of the internal road layout.

The proposal is therefore considered to adhere with Policy BE.3 of the Local Plan.

### Flood Risk and Drainage

The application is supported by a Flood Risk Assessment and Drainage Management Strategy.

As Lead Local Flood Authority (LLFA) the Council would have an interest in any new development which may potentially result in an increase in runoff and adversely affect local flooding and/or flood risk.

The Council's Flood Risk Officer has advised that it is likely that flows from this site will need to be attenuated to greenfield equivalents to mimic exiting run-off characteristics.

The Council's Flood Risk Officer advises that there is a currently a lack of information to demonstrate that the post development run off rates would mimic pre-development rates.

It is noted that the proposed surface water strategy proposed by the applicant would be to discharge part/full surface water via infiltration. The submitted strategy states that *'Post development, surface water-runoff is to discharge to the public combined sewer system (225mm dia between manhole ref: 7701 to 8801) at a rate of 5l/s, which is typically required by United Utilities.'*

However, United Utilities would not accept a connection of surface water to a combined system; therefore it would not be a viable solution to drain surface water from this site.

The only potential viable surface water drainage option proposed in this FRA is solely infiltration and the developer/consultant must satisfy the LLFA that this option will be acceptable in principle.

United Utilities have advised that they have no objections, subject to a number of conditions including; that all foul and surface water shall be drained on separate systems; the prior submission of a surface water drainage scheme and the prior submission of a sustainable drainage management and maintenance plan.

### Environmental Conclusion

The proposal would result in the loss of a parcel of countryside and Green Gap and would have an adverse impact upon the visual character of the area. There would also be a loss of Best and Most

Versatile (BMV) agricultural land and insufficient information has been received on order to demonstrate that the proposed development would not creating surface water flood risk concerns.

Other environmental considerations such as; protected species, highway safety, design flooding and drainage are considered to be acceptable or neutral subject to conditions / mitigation. The application site is considered to be sustainably location.

However, it is considered that the environmental impacts created would result in the development being environmentally un-sustainable.

### **Economic Role**

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest facilities in Shavington for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new resident's spending money in the area and using local services.

As such, it is considered that the proposed development would be marginally economically sustainable, predominantly during the construction phase.

### **Social Role**

The proposed development would provide open market housing which in itself, would be a social benefit given the Council's 5-year housing land supply position.

### Affordable Housing

The Councils Interim Planning Statement: Affordable Housing (IPS) states that in Settlements with a population of 3,000 or more that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or larger than 0.4 hectares in size. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 29 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 9 dwellings to be provided as affordable dwellings. 6 units should be provided as Affordable rent and 3 units as Intermediate tenure.

The SHMA 2013 evidenced a requirement in the sub-area of Wybunbury & Shavington for 54 additional affordable dwellings per annum until 2017/18. Broken down the SHMA evidenced a need for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4 bed, 1 x 1 bed older person and 7 x 2 bed older person dwellings.

There are currently 62 households on Cheshire Homechoice who have selected Shavington as their first choice area for rehousing. They require 10 x 1 bed, 25 x 2 bed, 23 x 3 bed and 4 x 4 bed dwellings.

The applicant has proposed to provide 8 x one bed and 1 x three bed affordable dwellings on this site. This mix does not meet local housing need and for this reason, the Council's Housing Officer objects to the proposed development.

The Council's Housing Officer has advised that the affordable mix should also include a number of 2 bed or older person dwellings which should come at the expense of the 1 bed units, of which there are currently far too many for a site of this size.

However, as layout, scale and appearance is not sought for approval at this stage, such matters would be considered as reserved matters stage. Furthermore, the mix can be specified within any subsequent S106 Agreement should the application be approved.

The Affordable Housing IPS require that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration and also that the affordable housing should be provided no later than occupation of 50% of the open market dwellings.

The affordable housing should meet the HCA's housing quality indicator (HQI) standards.

The affordable housing should be secured by way of a S106 agreement, which: -

- Are of an appropriate mix of bedrooms and/or older person properties to reflect local need
- requires them to transfer any rented affordable units to a Registered Provider
- Provide details of when the affordable housing is required
- Include provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Council's allocations policy.
- Include the requirement for an affordable housing scheme to be submitted prior to commencement of the development that includes full details of the affordable housing on site.

### Amenity

Policy BE.1 of the Local Plan advises that development shall only be permitted when the proposal would not have a detrimental impact upon neighbouring amenity in terms of overlooking, overshadowing, visual intrusion or environmental disturbance.

According to the submitted indicative layout plan, the closest neighbouring properties to the application site would be the occupiers of the properties on the north-eastern, eastern, south-eastern, southern and southwestern boundaries which include properties on Lime Tree Mews, Rope Lane, Main Road and The Hollies.

The Development on Backland and Gardens SPD states within paragraph 3.9 that as a general indication, there should ideally be a distance of 21m between principal elevations and 13.5m between a principal elevation with windows to habitable rooms and blank elevations.

It is advised that if these standards are adhered to, there should be sufficient space to ensure that the privacy and amenity of neighbouring properties are not detrimentally affected.

The Council's Environmental Protection Team have advised that they have no objections, subject to a number of conditions including; the prior submission/approval of a piling method statement, the prior submission/approval of an environmental management plan, the submission of a travel information pack, the prior submission/approval of electric vehicle charging infrastructure, the prior submission/approval of a dust mitigation scheme, the prior submission of a contaminated land report, the prior submission/approval of a soil verification report and that works should stop if contamination is identified

With regards to the amenities of the future occupiers of the proposed dwellings, the dwellings would adhere to the separation standards between themselves on all occasions apart from at the southern end of the site where the gap between the proposed affordable dwellings and the dwelling proposed on plot 22 would be breached by 2.5 metres.

However, as the layout is not sought for approval in this instance, it is considered that the scheme could be amended at reserved matters stage to overcome this issue.

Sufficient private amenity space could be provided for each dwelling.

As such, subject to conditions, it is considered that the proposed development would adhere with Policy BE.1 of the Local Plan.

### Education

The proposed trigger for consideration of whether a proposal would have an impact upon the capacity of local primary, secondary and special education need schools is over 10 dwellings. As the proposal seeks up to 29 dwellings, this requirement is triggered.

However, the Council's Education Officer has advised that there is no claim sought in this instance due to the development picking up a number of schools in Crewe that when assessed collectively, show that the children will be able to be accommodated within these existing schools in the catchment.

### Open Space

Public Open Space is shown as being provided shown on the revised indicative layout 110 Rev B dated November 2016.

Policy RT3 of the Local plan requires a combined area of shared recreational open space and shared children's play space of 35sqm per dwelling equating this development to a minimum of 1015sqm. However, paragraph 7.77 within the Planning Statement states that 2000sqm is being provided. Details of the open space including layout are to be secured at a later stage.

Policy RT3 also allows for contributions for smaller developments rather than insisting on equipped play onsite. Vine Tree Avenue is less than 220 metres away from the development which capacity could be increased to mitigate the impact from the development. To upgrade the facilities at Vine Tree Avenue, the Council would need £21,000.

The Open Space Officer advises that maintenance of this space could be done by the Council. Costs for this would be determined at a later date once further landscaping details are available.

This provision would be secured via a S106 Agreement.

### Public Right of Way (PROW)

The application proposal would be adjacent to Public Footpath No.3 as recorded on the Definitive Map and Statement.

However, the Council's Public Rights of Way Officer has advised that the proposal would unlikely affect the PROW.

As such, no objections are raised, subject to the applicant being informed for their responsibilities via an informative.

### Social Conclusion

As a result of the provision of market housing and the policy compliant provision of on-site affordable housing, it is considered that the proposed development would be socially sustainable.

### **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 applicant has indicated that on-site open space to the policy required standard, based on the number of dwellings proposed of 1015sqm can be accommodated on site to cope with the demand of the proposed new occupiers of the site. A maintenance plan for this could be secured either via a management company or by the council for a fee. In addition, a contribution of £21,000 is sought of the enhancement of a nearby play facility, also to cope with the additional demand of the development.

The above requirements are considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

### **Planning Balance**

The proposed development sought on the majority of the site would be contrary to Policy NE.4 and NE.2 and the development would result in a loss of Green Gap and Open Countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites then the presumption in favour of sustainable development applies at paragraph 14. LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh

the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- The development would provide benefits in terms of needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.
- On-site POS provision and a financial contribution for off-site children's play space enhancement would both provide a facility for future residents and other residents in this part of Shavington and upgrade nearby facilities for all future users.
- The development would provide economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Shavington.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as there is sufficient capacity within existing schools within the catchment to accommodate the additional demand
- The impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation.
- The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/noise/air quality and contaminated land could be mitigated through the imposition of planning conditions.

The adverse impacts of the development would be:

- The loss of Green Gap and Open Countryside resulting in an associated adverse impact upon the landscape
- The loss of 'Best and Most Versatile' agricultural land
- Insufficient information to demonstrate that an acceptable surface water strategy can be achieved on site.

The development is contrary to both the Borough of Crewe and Nantwich Local Plan and the emerging Cheshire East Local Plan Strategy with regards to Green Gap and Open Countryside policies. However, these policies are considered to be out of date, a presumption in favour applies. However, with reference to the *Richborough* Court of Appeal weight can be given to those policies.

There is now a solution to the housing supply in hand through the forthcoming adoption of the Local Plan. As a consequence of the Inspectors most recent comments in December increased weight can be afforded to these 'out of date' policies. In addition given the progression of emerging policies towards adoption it is considered that greater weight can now be given to those emerging policies. A further factor that weighs against the scheme is the impact upon the landscape which is intrinsically linked to green gap policy, the loss of BMV agricultural land and the lack of information provided to demonstrate that the site can effectively drain surface water to acceptable levels.

Therefore taking a balance of the overall benefits, the current policy position and the scale of harm, it is considered that the presumption in favour is outweighed in this case and a recommendation of refusal is made.

## **RECOMMENDATION**

**REFUSE for the following reasons;**

- 1. The proposed residential development is unacceptable because it is located within the Green Gap and Open Countryside, contrary to Policies; NE.2 (Open Countryside), NE.4 (Green Gap) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011; Policy PG5 (Open Countryside) PG4a (Strategic Green Gaps) and of the emerging Cheshire East Local Plan Strategy Submission Version - 2016 and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.**
- 2. The proposed development would result in the loss of BMV Agricultural Land and have an adverse impact on the landscape character of the area. It is considered that the development is unsustainable because of the unacceptable environmental impact of the scheme in terms of loss of best and most versatile agricultural land and the adverse impact upon the landscape character. These factors significantly and demonstrably outweigh the economic and social benefits in terms of its contribution to boosting housing land supply, including the provision of affordable housing and Public Open Space. As such the proposal is contrary to Policies NE.2 (Open Countryside), NE4 (Green Gap) and RES.5 (Housing in Open Countryside) of the adopted Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and Policies PG5 (Open Countryside), PG4a (Strategic Green Gaps and SE2 (Efficient Use of Land) of the emerging Cheshire East Local Plan Strategy Version - 2016, and the provisions of the NPPF.**
- 3. Insufficient information has been provided to demonstrate that the proposal would not create any surface water flooding. The development is therefore considered to be contrary to Policy NE.20 (Flood Prevention) of the adopted Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011, Policy SE13 (Flood Risk and Water Management) of the emerging Cheshire East Local Plan Strategy Version - 2016 and the NPPF.**

**In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), 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 the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:**

- 1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:**
  - Dwellings of an appropriate mix of bedrooms and/or older person properties to reflect local need**

- **A requirement for the applicant/developer to transfer any rented affordable units to a Registered Provider**
  - **Details of when the affordable housing is required**
  - **Provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy.**
  - **The requirement for an affordable housing scheme to be submitted prior to commencement of the development that includes full details of the affordable housing on site.**
2. **Provision of 1015 square metres of on-site Public Open Space (POS) to be maintained by a private management company in perpetuity**
  3. **Committed sum of £21,000 for the enhancement of children's play facilities on Vine Tree Avenue, Shavington**

