

Application No: 20/0604N

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

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

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

Expiry Date: 31-Oct-2020

## **SUMMARY**

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

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

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

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

## **SUMMARY RECOMMENDATION**

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

## **PROPOSAL**

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

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

Condition 24 requires -

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

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

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

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

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

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

The proposed wording of condition 24 is -:

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

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

## **SITE DESCRIPTION**

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

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

## **RELEVANT HISTORY**

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

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

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

## **POLICY**

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

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

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

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

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

BE.6 (Development on Potentially Contaminated Land)

RES.5 (Housing in the Open Countryside)

TRAN.3 (Pedestrians)

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

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

TRA1: Sustainable Transport

### **Other Material Considerations**

National Planning Policy Framework (2012)

National Planning Practice Guidance

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

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

Development on Backland and Gardens

Cheshire East Design Guide

### **CONSULTATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Parking on either footway is an absolute rarity.

The RSA highlights five problems:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **OTHER REPRESENTATIONS**

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

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

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

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

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

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



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

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

## **APPRAISAL**

## Principle of development

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

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

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

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

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

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

The condition sought to be revised is as follows:

Original wording -

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

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

Proposed wording, as revised,

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

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

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

## Sustainability

The National Planning Policy Framework definition of sustainable development is:

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

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

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

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

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

## Social Sustainability

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

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

## Environmental Sustainability

### Highways

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

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

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

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

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

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

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

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

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

## **ECONOMIC SUSTAINABILITY**

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

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

## **Levy (CIL) Regulations**

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

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

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

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

## **PLANNING BALANCE**

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

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

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

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

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

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

## **RECOMMENDATION**

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

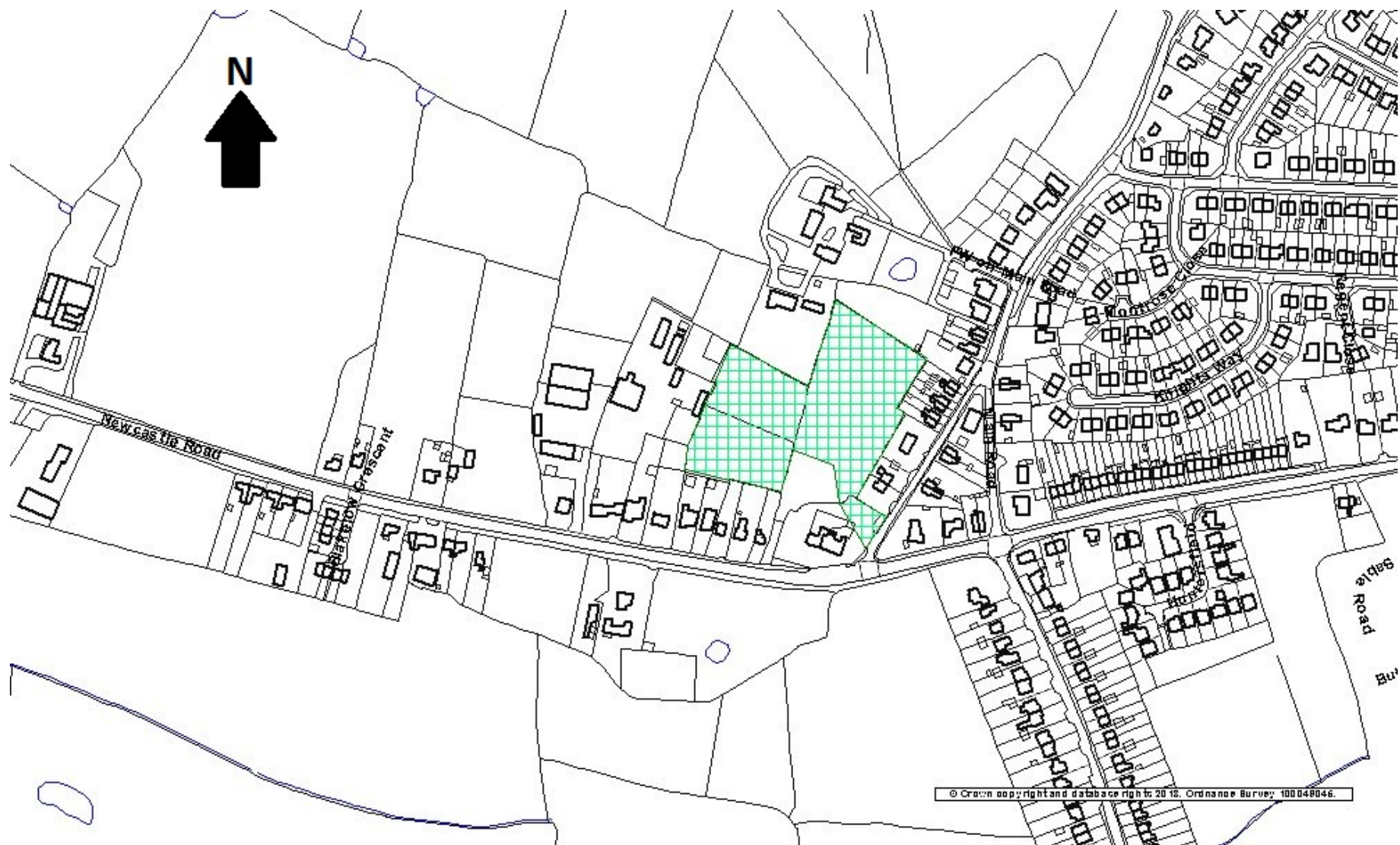
- 1. Commencement of development (3 years from date of original permission )**

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

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

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

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



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