

Planning Reference No:	10/1865C
Application Address:	6, Rowan Close, Sandbach, CW11 1XN
Proposal:	Proposed Detached Dwelling (4 Bed) within the Garden of 6 Rowan Close, Sandbach
Applicant:	Mr Flowers
Application Type:	Full Planning
Grid Reference:	374676361100
Ward:	Sandbach
Earliest Determination Date:	28-Jun-2010
Expiry Dated:	09-Jul-2010
Date of Officer's Site Visit:	17-Jun-2010
Date Report Prepared:	18-Jun-2010
Constraints:	

SUMMARY RECOMMENDATION

APPROVE subject to conditions

MAIN ISSUES

- Principle of Residential Development
- Drainage
- Flood Risk
- Sustainability and Climate Change
- Protected Species
- Nature Conservation and Habitats
- Trees
- Amenity
- Design
- Highway Safety
- Contaminated Land

1. REASON FOR REFERRAL

This application has been called in to the Southern Area Planning Committee by Councillor B Moran for the following reasons:-

- “1. The proposed development would result in the erection of a dwelling in close proximity to house no.7 Rowan Close which may have a harmful impact to residential amenity by reason of the residents' enjoyment of their property may be adversely impacted, and that this aspect should be assessed, in due course. Policy GR1[iii] is designed to afford protection.
2. The proposed dwelling could be unsympathetic to the character and form of the small development of 7 houses and should be assessed against Policy GR2 [i].
3. The proposed dwelling may not respect or enhance the area. Policy GR5 should be reviewed to assess any adverse impact.

4. Visual intrusion impact, and any detrimental effect, should be assessed against Policy GR6 [iii].
5. Any adverse impact on wildlife in the pond should be reviewed carefully against Policy NR3.
6. Appropriate flood mitigation measures should be assessed against Policy GR21 in view of the expected part pond infill to effect the development, and the subsequent, possible effect on other nearby ponds.”

2. DESCRIPTION OF SITE AND CONTEXT

The application site measures 1023 sq. m and comprises an existing two storey detached dwelling and its residential curtilage known as no. 6 Rowan Close which contains half of a large pond which is shared with the neighbour at no. 7 Rowan Close and a number of mature deciduous trees. The site is a Greenfield site located within the settlement boundary of Sandbach. The site backs onto Sandbach golf course which is a designated recreational facility located in the open countryside.

3. DETAILS OF PROPOSAL

The proposals relate to the infilling of half of the existing pond and the construction of a four bedroomed, two storey detached dwelling on garden land forming part of the residential curtilage of 6 Rowan Close, Sandbach. The dwelling would have a footprint of 304 sq. m. The existing dwelling on the site has a floor area of 334 sq. m. The overall area of the site is 1023 sq. m and the revised size of the plot which would serve the existing dwelling would be 896 sq. m.

The area of private garden space to be provided to serve the proposed dwelling would amount to some 150 sq. M.

The house would be sited in the garden to the north east of the host dwelling utilising the part section of the garden pond which is within the applicant's ownership. The proposed dwelling would front towards and have its own dedicated vehicular access onto Rowan Close.

The following is to occur:

- subdividing of existing pond with a York stone wall and infilling of existing pond and planting of a proposed reed bed
- proposed retaining structure
- proposed driveway
- proposed tree root protection measures and bridge
- 2m high fencing and hawthorn hedging to boundaries
- proposed wildlife pond
- waste/recycling storage area.
- turning area
- The dwelling would measure 15.3m x 11.8m reaching a height of 9.6m to the ridge of the pitched roof. The design incorporates a half hipped roof, gabled dormers, projecting gables, bay windows and integral garage, chimney breast, Juliet balcony and tile cladding.
- The front garden area would provide car parking space, turning space and a driveway approach across a short landscaped bridge

Amended plans have been received demonstrating that the dwelling has been lowered by 450mm.

4. RELEVANT HISTORY

10/1987T Fell Maple and Prune Other Trees not determined

5. POLICIES

Local Plan Policy

PS3 Settlement Hierarchy
PS4 Towns
GR1 New Development
GR2 Design
GR6 Amenity and Health
GR9 New Development
GR17 Car Parking
NR1 Trees and Woodland
NR3 Habitats
NR5 Non Statutory Sites
H1 Provision of New Housing Development
H2 Provision of New Housing Development
H4 Residential Development in Towns

Other Material Considerations

Planning Policy Statement 1 (Delivering Sustainable Development)
Planning Policy Statement 3 (Housing)
Planning Policy Statement 9 (Biodiversity and Geological Conservation)
Planning Policy Guidance 13 (Transport)
Planning Policy Statement 23 (Planning and Pollution Control)
SPG2: Provision of Private Open Space in New Residential Developments

6. CONSULTATIONS (External to Planning)

Cheshire Wildlife Trust; objects on the following grounds

- Incomplete ecological survey and assessment

The Report on Great Crested Newts etc does not include 3 ponds that are within 500m of the proposed site; one on the opposite side of the Middlewich Road and two on Sandbach Golf Course. Best practice requires that ponds within this range should be included in Great Crested Newt surveys in order to ascertain the presence of local populations and their potential movements between water bodies.

The ponds have not been surveyed for protected invertebrate species.

The use of the site by bats has not been acknowledged – however, bats are anecdotally known to forage across this site

The Report itself contains several inconsistencies with other documentation:

Para 3.2.1 refers to ‘two mature trees scheduled for removal’ – however, the Arboricultural Implication Assessment (March 2010) states that no trees will be removed or pruned to facilitate the development (para 9.6 page 6)

South and North are confused in the Executive Summary (third paragraph) and para. 4.2

- Lack of assessment of potential impact on local hydrology

The application fails to consider and make provision for the potential hydrological implications of backfilling this area of open water on:

- Water supply and levels in the surviving retained area of open water (on adjacent property, under different ownership)
- Ground water levels in general on the site and adjacent property
- Run-off to adjacent land (Golf Course)
- Loss of historical pond and inadequate replacement

Review of earlier Ordnance Survey and Tithe Maps indicates that there has been a substantial pond in this location since at least the mid-C19th.

The replacement of the major part of a substantial well-established natural pond with a new, much smaller, semi- formal pond is not considered to be acceptable either with regard to maintaining/enhancing biodiversity or to retaining local natural amenity.

- Conflict with local planning policy

This proposal is contrary to Policies H12 (Tandem/Backland development), GR2 (Design) and NR3 (Habitat – ponds) of the adopted Congleton Local Plan 2005.

With regard to backland development, the Government's Coalition Agreement of 20th May 2010 includes a commitment to 'giving councils new powers to stop 'garden grabbing' – an indication of the importance now placed on this subject.

Further comments received after completion of the original report:

As previously advised we intended to do a survey of the pond affected by the above planning application. This was carried out 15th June 2010, and our observations are as follows:

- None of the species recorded are of conservation significance, however earlier observations, and photographic evidence, requires the need for further investigations. In this respect English Nature guidelines on Newts, section 5.7 survey standards, 5.7.1 Presence/Absence survey states: Timing, mid March to mid June, with at least two of these mid April to mid May.
- Therefore to conclude the next survey will have to be as above, 2011.

Having read through the Planning Officer's draft report, the Cheshire Wildlife Trust has the following comments in addition to those previously submitted:

- English Nature Great Crested Newt Guidelines require ponds within 500m to be surveyed for Great Crested Newts. Although, in some opinions, this is a conservative estimate of how far Great Crested Newts will range, all professional surveyors look at ponds within 250m as a minimum distance.
- This type of large individual house is unlikely to be meeting a specific housing need or target.
- The Planning Officer's reference to Eric Pickles (page 57) is not strictly accurate in that EP's letter of 27.5.10 to all Council Leaders said: *'consequently decisions on housing supply ... will rest with LPAs without the framework of regional numbers and plans... I expect LPAs ... to have regard to this letter as a material planning consideration in any decisions they are*

currently taking'. Thus the references to RSS requirements on page 58 now appear to be irrelevant to the consideration of this application.

- The Planning Officer's point about demand for additional land, which also rests on RSS provision, appears also to be irrelevant, for the same reason (i.e. the RSS no longer applies). In any case the argument to justify the extra dwelling is unsupported, given a) the current over-allocation and b) the fact that the allocations are based on inapplicable provisions.

- In the absence of any suitably qualified person's opinions in the Design and Access Statement, there remain reasons for doubt over the potential result of piling and filling in half of such a sizeable pond, and the applicant should, before being given consent, provide an impact assessment to show that there will not be a damaging outcome on the local water table and water levels in the retained pond area.

- It is unlikely that the carbon footprint of resourcing the materials for and building the house will be less than that of reduced car use by the occupants.

- Local Planning Authorities have a duty to conserve and enhance biodiversity. The CWT does not consider the new much smaller pond to be an adequate replacement for the loss of half of the existing pond. Most Cheshire ponds are 'man-made' for various purposes – this is mostly irrelevant to their wildlife value, especially if they are as well-established as this one is (at least 135 years old).

- It is proposed to create a narrow reed bed below the new piled pond edge. The health and longevity of this feature will rely on the maintenance of water levels in the remaining area of original pond. Owners of the new property will have no control over the retained pond area or its water level.

Environmental Health: no objections

Environmental Health Advisory Notes:

- Where piling of foundations is necessary this is to be undertaken between 9am – 5pm Monday to Friday and no works of this nature to be undertaken on Saturday, Sunday or Bank Holidays.
- Construction hours (and associated deliveries to the site) shall be restricted to 08:00 to 18:00 hours Monday to Friday, 09:00 to 14:00 hours Saturday, with no working Sundays or Bank Holidays.

Contaminated Land Comments:

This section has no objection to the above application subject to the following comments with regard to contaminated land:

- The application is for a new residential property which is a sensitive end use and could be affected by any contamination present.

Please ensure the following condition is attached to the above planning application to ensure the development is suitable for its end use and the wider environment and does not create undue risks to site users or neighbours during the course of the development.

Prior to the commencement of development:

(a) A contaminated land Phase 1 report shall be submitted to, and approved in writing by the Local Planning Authority (LPA).

(b) Should the Phase 1 report recommend that a Phase 2 investigation is required, a Phase 2 investigation shall be carried out and the results submitted to, and approved in writing by the LPA.

(c) If the Phase 2 investigations indicate that remediation is necessary, a Remediation Statement including details of the timescale for the work to be undertaken shall be submitted to, and approved in writing by, the LPA. The remedial scheme in the approved Remediation Statement shall then be carried out in accordance with the submitted details.

(d) Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.

Forestry and Landscaping section;

Policy NR1 of the Adopted Congleton Borough Local Plan First Review provides protection for trees.

The site lies within Area A4 of the Middlewich Road No 2. Sandbach TPO 1988.

There is insufficient information within the submission to allow full consideration of the impact on the protected trees:

1. The site layout plan does not provide a true representation of the crown spread of trees on the site. (The plans in the Lowther tree survey report are not reproduced to scale therefore comparison is not possible).
2. The levels data does not show how levels would alter in the vicinity of the pond in relation to the banking to the north and east of the site and trees thereon. (In addition to datum points, site sections showing existing and proposed levels may assist).
3. The Tree Data table is missing from the tree survey report.
4. The tree report states that the driveway access bridge would provide access to the property once construction is complete and that the bridge would not be used for construction access. If this is the case, information needs to be provided on how the site would be accessed and managed for construction without breach of tree root protection zones or threat to trees.

In the absence of the above, the application could be refused. Please re consult should further information be obtained.

Additional comments received after completion of the original report and receipt of further details:

I have reached the following conclusions:

1. I anticipate that the proposed new dwelling, the retaining structure and the 2 metres high boundary fence could appear incongruous when viewed from the house and garden of No.7 Rowan Close. Whilst stone facing appears to be proposed for at least part of the length of the retained ground, it is not entirely clear if it is intended that such facing would extend to the section facing west. The submission does not provide definitive levels for the base of the pond although it appears that this is at least 2.1 metres below the water level. Unless I have mis-interpreted the proposals, with water at such depth, I am not clear how a temporary waterproof membrane divide across the pond would operate and I am not convinced that the sheet piling could be stone faced or a reed bed established without draining the whole pond

and engineering works outside the site edged red. Without stone facing and any mitigating soft landscape treatment the appearance of the retaining structure would be completely unacceptable in my view.

2. Notwithstanding the statement at 12.4 of the arboricultural statement, 'There are no trees to be removed or pruned to facilitate development', from recommendations in the tree table and my assessment of the proposals it is clear that some pruning would be necessary. Provided the pruning proposed was undertaken in accordance with the relevant British Standard, this action would not necessarily harm the health or amenity value of the trees in question. Nonetheless, if screening of the site is considered important, the present level of screening in the vicinity of the access would be reduced when viewed from Rowan Close.

3. It is clear from the submission that the proposed development would involve complex engineering operations. Whether or not such operations could be implemented successfully without harm to TPO protected trees would be entirely reliant on comprehensive tree protection measures and close arboricultural supervision. Whilst protection measures have been proposed, and in principle these appear reasonable, I consider it would be prudent to secure a greater level of information in this respect. In particular I would want assurance in respect of arboricultural supervision throughout construction works. This could be covered by a condition requiring an amended Arboricultural Method Statement, together with approval and adherence thereof.

Strategic Highways Manager: No objection

Further response In light of local and member concern regarding the issues of construction traffic visiting the site – in particular heavy commercials delivering materials:

The Strategic Highways Manager considers that this would be a temporary situation for the duration of the build with some of that time generating heavy commercial deliveries for materials.

Any issue regarding damage to the highway can be addressed through before and after site inspections to identify necessary remedial works which would be the liability of the developer.

Should the Local Planning Authority wish to attach Grampian conditions in this regard the Strategic Highways Manager would recommend the following:

Condition: Prior to first development the developer will agree current highway condition with CEC Highway Authority.

Condition: Prior to first occupation the developer will agree necessary remedial works with CEC Highway Authority, together with a programme for their completion.

Environment Agency: No objection

Response to additional information: We have no additional comments to add to our previous letter

Ecology:

As you are aware the proposed development would result in the loss of a substantial area of an existing pond. Ponds are subject to Local Plan policy NR3 and are also a material consideration due their status as Local Biodiversity Action Plan priority habitats. Ponds of high ecological value may also qualify as priority habitats under the National Biodiversity Action Plan.

Protected species

The loss of part of this pond is not likely to have a significant adverse impact upon protected species.

Overall nature conservation value of the pond

Based upon the survey undertaken by the applicant's ecologist and Cheshire Wildlife Trust it appears that the overall value of the pond is low in comparison with other ponds in the county. This is due to a number of factors.

Proposed mitigation/compensation

To compensate for the loss of the pond the applicant is proposing to create an additional 'wildlife' pond and wetland feature in the garden of the proposed residential property and also to establish a reed bed and a native species hedge along the boundary of the retained portion of the pond.

These measures have the potential to adequately compensate for the loss of part of the existing pond and may lead to an overall enhancement of the site's ecology, however their effectiveness greatly depends upon how well designed and implemented the schemes are.

No specific detail of the design of these features has been submitted with the application. I therefore advise that if planning permission is granted a condition should be attached that the design and specification of these features be agreed with the LPA.

Breeding Birds and provision for Bats

If planning consent is granted I recommend that the following two conditions are attached to ensure breeding birds are not disturbed during the construction phase and to ensure that additional provision is made for birds and bats as part of the development:

Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting should be confirmed by a suitably qualified person and a report submitted to the Council.

Reason: To safeguard protected species in accordance with PPS9.

Prior to the commencement of development the applicant shall submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds and roosting bats. Such proposals to be agreed in writing by the LPA. The proposals shall be permanently installed in accordance with approved details.

Reason: To secure an enhancement for biodiversity in accordance with PPS9.

Further comments received following receipt of a response made by the applicant's ecologist to Cheshire Wildlife Trust's objection:

The local residents' ecologist report refers to the potential presence of Great Crested Newts and he suggests that all ponds within 500m of the proposed development should be surveyed.

I forwarded the ecological report from the local residents to the applicant's ecologist. He responded to refer me to the response he had made to Cheshire Wildlife Trust's objection.

In summary, I consider that enough survey effort has been expended to be satisfied that the pond affected by the development is unlikely to support Great Crested Newts. The pond in the adjacent garden is also unsuitable for breeding Great Crested Newts. This is only covered briefly by the applicant's ecologist, but I have examined this pond myself.

With regards to other ponds in the area, I do not feel that a survey radius of 500m is justified in this instance. Most Great Crested Newt activity is accepted to occur within 250m of a breeding pond and recent research suggests that this may be limited to just 50m in some circumstances. The Cheshire East local validation requirements produced in association with Natural England and the Association of Local Government ecologists requires a survey radius of 100m for developments under 10 houses or less than 0.5ha. In addition, the applicant's ecologist states that some of the ponds are isolated by the main road and others by the golf course. Finally, the local residents' ecologist points out a pond in the school grounds. As this pond is over 250m from the proposed development and the development is minor in nature I am satisfied that the potential impacts of the proposed development on Great Crested Newt breeding at this pond would be negligible. I therefore feel that on balance a further survey of this pond or any other of the ponds is not justified under the terms of PPS9.

Additional Response:

In response to the photographs provided by Mr Harrison, I am afraid that I do not feel that these are adequate to establish the presence of Great Crested Newts at this pond. In addition I have also spoken to Cheshire Wildlife Trust who has confirmed that all newts observed by them at the site were not Great Crested Newts. Likewise Clear Environmental state that newts observed by them were also not Great Crested Newts.

My view therefore remains that for the purpose of PPS9 it is not reasonably likely that Great Crested Newts are present or will be affected by the proposed development.

On a related issue, the ecologists appointed by the local residents have highlighted the lack of a desk study as part of the ecological assessment undertaken on behalf of the applicant. Whilst, such a study may have been beneficial Cheshire East does not currently have a policy of insisting that one is always submitted in support of planning applications.

Building Control:

Further to your recent correspondence requesting Building Control to comment on the Construction Method Statement submitted with this application for the erection of a new detached dwelling built over half of what is an existing pond which requires filling half the pond in the area of the proposed, whilst maintaining insitu the remaining half of the pond.

Having read the statement we would comment, that in general structural processes it is feasible to fill an area such as a pond and provide new foundation supports to the proposed structure in the form of driven concrete piles supporting in turn concrete ground beams and floors which in turn support the main superstructure.

However in order to achieve this final outcome, a considerable number of temporary works some of which become permanent have to be undertaken and as the Structural Engineer for Building Control would point out these works are not covered by the remit of Building Control under the Building Regulations.

In this instance most of the temporary works are a civil engineering process or are aimed at not having have been put forward to try and show the proposed works would not have a direct impact on the environment and would not cause any harm to surrounding trees, or affect the half of the pond that is to remain.

Therefore we can only comment in general terms with regards to the statement submitted and listed below are comments we feel are relevant to the proposal that you need to consider.

- It would appear from the size of the pond and following a site visit that this is not an ornamental pond, as during the recent long dry spell water levels have dropped which shows the pond is not lined and relies on natural water table levels.
- No site investigation would appear to have been undertaken and therefore the length of the proposed sheet piling is unknown which may cause a problem when lifting sheeting in place due to the length and the close proximity of the adjacent tree crowns.
- It is unlikely that stopping the sheet piling at the existing edges of the pond will be sufficient to maintain a barrier between the two sections to stop water loss or pollution to the remaining section of pond. However any extension of the piling may cause damage to the root systems of the adjacent trees.
- The introduction of a barrier within the pond to try and prevent pollution to the remaining half of the pond whilst piling is undertaken would have to be very closely monitored to be effective and specialist design and instalment together with guarantees would we feel be required to satisfy the feasibility of such a barrier.
- Likewise any covering membrane to the bottom of the pond to keep any silt in place whilst filling takes place would be extremely difficult to fit and hold in place to a pond of this nature and specialists' guarantees should again be put in place prior to any work commencing.
- It needs to be asked if the pond is not ornamental and fills naturally from water tables and then if it is reduced in size by half does the remaining garden or adjacent areas flood during long wet spells.
- Areas of filled ground sometimes have long standing problems with regards to methane gases and it should be recommended that should the development go ahead that a gas membrane with sufficient venting is provided within the construction.
- As the sheet piling is to remain as a permanent barrier what is the life span of this whilst partially merged in water? Also this barrier will be visible above the existing water table level by quite a distance based on the levels shown.

As noted above we make these comments in general terms and you may need to seek the advise of a Civil Engineer with regard to some of these matters if you require more in depth comments, however it can be seen that recent objections received by an engineer make some similar observations and comments regarding this matter.

Senior Engineer (Bridges): it would appear that the works are feasible from an engineering point of view

7. VIEWS OF THE PARISH COUNCIL

Response to Original Proposal dated 9 June 2010

Mr Twidale, a resident of Rowan Close, informed members of residents' strong objection to the proposed development stating that the application is not for a 'run of the mill' garden house but will require heavy civil engineering before a point is reached at which a house can be built.

Residents feel that the application does not clearly describe the full works involved in this development and the significant impact on wildlife and neighbouring properties. Heavy cranes will be used, together with piling machinery and numerous large vehicles to deliver materials to the site. Mr Twidale believed works access to the site may not be viable once the existing trees are protected with extensive barriers, as per the Lowther Forestry Group Arboricultural Statement.

Members were advised that residents are greatly concerned that the building works will result in pond pollution and also have a significant environmental impact. As such, residents will object to the application based on the contravening of several policies within the Congleton Borough Local plan, including GR2 (unsympathetic with the character of the site being a wildlife pond), GR3 (not respecting the areas of nature), GR5 (landscape should be protected and not developed) and GR21 (potential flood risk for neighbouring properties).

Mr Flowers, applicant and owner of no. 6 Rowan Close, informed members that they should visit the site from his garden as this would give an entirely different viewpoint of the development than from the garden of Mrs Preston's property (no. 7 Rowan Close).

Mr Flowers explained that piling would be in small stages and that ecological studies had been undertaken in advance of the application submission.

Through researching, Mr Flowers has learnt that the pond is not considered to be a natural wildlife pond but was designed as an ornamental pond which was not showing on early maps of the area.

Resolved: Members unanimously **object** to the application based on the following:

1. Arising from the Design and Access Statement accompanying the application it is asserted in 3.4 that this is a brownfield site indicating its appropriateness in principle for use for housing purposes. We find this totally inaccurate as 'brownfield' is the accepted description of a previously developed site which this certainly is not.
2. This proposal, if approved, would mean the loss of garden area of 6 Rowan Close and half the area of the existing pond. This loss would decimate the character, appearance and form of that site and the surrounding area and therefore this application is directly in conflict with Policies GR2i, a, c and d of the Congleton Borough Local Plan and should be refused.
3. The Rowan Close development was initially carefully planned to create an area where the natural features such as the pond would form a backdrop, along with the landscape features, for an attractive environment to live in. Had the developers believed that another dwelling could be included would they not have done it? The proposed development does not respect the landscape character of the area and so conflicts with Policies GR5 and GR6i, ii, and iii.
4. This Council remains concerned about construction on the pond. The effects of this will, by infilling, cause a higher water table for adjacent land owners as well as the remaining pond area. Furthermore, the existing pond is likely to become highly polluted during any

construction work. This means that the proposed development is in conflict with policies GR21 on Flood Prevention and GR8 for pollution.

5. This Council believes Policy GR6 is contravened, in that through this development neighbours' amenity will be unduly affected by (i) loss of privacy, (ii) loss of sunlight and daylight (iii) visual intrusion and (iv) environmental disturbance and pollution.

Response to amended plans dated 20 July 2010

Mr Richard Preston, Solicitor representing residents of Rowan Close objecting to the application, echoed the feeling of the previous speaker having encountered difficulties in contacting and receiving response from CEC. However, CEC Cllr Moran has been incredibly helpful to all residents.

Mr Preston requested observations of the Planning Committee be submitted directly to the CEC Planning Officer Lauren Thomson and that a Town Councillor attend the Southern Planning Committee 11 August.

Mr Preston confirmed resident's objections are based on the principle of development, in particular the current planning policy guidelines against 'garden grabbing' and believes the development could be refused on this alone. Additionally, residents believe the application should be challenged on design and landscape issues and drainage and flooding risks, in accordance with Local Plan Policies GR8 and GR24 following receipt of reports which illustrate the significant negative environmental impact of the proposed development.

Cheshire Wildlife Trust question the methods used in the Ecology reports submitted by the developer and do not consider the study guidelines were followed. Due to the unsatisfactory reports presented to CEC with the application, residents commissioned additional reviews of the area which highlighted the potential ecological risks.

Findings of drainage and flooding experts validate concerns of residents and the neighbouring golf club that risk of flooding is intensified should the pond be halved; contravening policy GR21 of the Local Plan.

Mr Twidale, Engineer and resident of Rowan Close, expressed his concerns at the potential breach of policy GR4 of the Local Plan through lack of safeguarding for the TPO protected trees on the grounds of the proposed development through installation of the pond barrier and further explained the impact of dividing the pond. Mr Twidale believed the revised plans to cover, rather than remove, the silt in the pond would be both difficult to implement and dangerous to residents due to the risk of methane production.

Mr Preston confirmed the serious effect of this development, should it be approved, for residents of Rowan Close and reiterated his request for a Town Councillor to speak at the Southern Planning Committee.

A petition was received from the Sandbach Golf Club opposing to the proposed development.

Resolved: Councillors **unanimously object** on the following grounds:

1. In light of recent Government announcements this Council considers that this application is contrary to current planning policy. Private residential gardens should now benefit from a change in classification to Greenfield. National Planning Policy PPS3, we believe, gives power to authorities to use this guidance as a material consideration in refusing this application.

2. This proposal, if approved, would mean the loss of garden area of 6 Rowan Close and half the area of the existing pond. This loss would decimate the character and appearance, and form of that site and the surrounding area and therefore this application is directly in conflict with Policies GR2i, a, c and d of the Congleton Borough Local Plan and should be refused.

3. The Rowan Close development was initially carefully planned to create an area where the natural feature such as the pond would form a backdrop, along with the landscape features, for an attractive environment to live in. Had the developers believed that another dwelling could be included would they not have done it? The proposed development does not respect the Landscape Character of the area and so conflicts with Policies GR5 and GR6i, ii, and iii.

4. This Council remains concerned about construction on the pond. The effects of this will, by infilling, cause higher water table for adjacent land owners as well as, more significantly, the remaining pond area. Furthermore, the existing pond is likely to become highly polluted during any construction work. This means that the proposed development is in conflict with policies GR21 on Flood Prevention and GR8 for pollution.

5. This Council believes Policy GR6 is contravened, in that through this development neighbours amenity will be unduly affected by (i) loss of privacy, (ii) loss of sunlight and daylight (iii) visual intrusion (iv) environmental disturbance and pollution.

6. This application could affect the playing area of Sandbach Golf Club due to the increased risk of flooding through halving and building up on the pond. This could in turn harm the recreational facilities of members of the golf club.

8. OTHER REPRESENTATIONS:

Letters of objection from Sandbach Golf Club received:

- increased flood risk
- loss of habitat
- amenity and health
- design
- environmental considerations

Letters of objection received from the occupants of 2, 3, 4, 5, 8 and 7 Rowan Close, 357 Newcastle Road and 155 Middlewich Road. The main concerns are as follows:

- loss of habitat/ environmental quality
- removal of trees, damage to trees at the entrance to Rowan Close,
- drainage/ flood risk not assessed, impact on flooding and water table, leakage from membrane
- amenity; light pollution, loss of sunlight, loss of daylight, loss of outlook, overlooking, overshadowing, loss of privacy, disturbance during construction
- protected species and nature conservation issues; the mitigation measures do not go far enough, protected species present, pond will be in shadow, replacement pond not big enough, errors in report, harmful to landscape character, tree removed without surveys undertaken, surveys insufficient, disagree with conclusions
- access and highway safety; damage to existing highway, impact on pedestrian safety, vehicles cannot manoeuvre within the site, emergency services vehicles access,
- works associated with infilling of pond
- development of Greenfield site
- impact on structural stability of adjacent dwellings and land movement
- unwanted precedent

- inaccuracies in submission and associated calculations in respect of infill material
- design: adverse impact on the character of the area, steel piling will be visible, incongruous form of development
- engineering works not described in description
- nature conservation: reed bed not possible
- concerns construction equipment would not be able to manoeuvre within the site
- vehicle movements associated with construction
- integrity of piling
- contamination/toxic waste/pollution/ health and safety/ ground gas
- impact on existing services infrastructure
- impact on property prices

Letter from 2 Rowan Close response from qualified civil engineer; received on 4 July 2010;

- With regard to Drawing 1016-02A and Appendix 6 of the Method Statement, the horizontal extent of the proposed steel retaining structure is insufficient to prevent loss or gain of water from or to the adjacent remaining half of the pond. The sheet piles are shown as only extending to the edge of the banks.
- In the event that the water level is lowered or raised in Mr Flowers' half of the pond the bank sides are likely to become unstable and blow out due to the development of critical hydraulic gradients in the sandy soil caused by the difference in water levels between the two halves of the pond. If the sheet piled wall were to be extended further into the banks of the pond to try to prevent such blow out, the root systems and canopies of protected trees T954, and T944, T945 would be severed and damaged [GR6 iv].
- No ground investigation has been carried out by Mr Flowers so the horizontal extent and vertical depth of the sheet piling remains conjecture until it can be determined by the pile designers once the ground conditions are established from borehole data. The stability and safety of the steel pile wall will depend on the ground conditions and the pile section size used. If planning permission is granted it must be a planning condition that the design of the pile wall must be checked and approved by East Cheshire Council before work commences.
- To construct even the limited extent of sheet piled wall shown at Appendix 6 of the Method Statement it is certain that there will be extensive damage to the canopies of protected trees T954, T944, and T945 due to the need to suspend 12m to 15m lengths of pile from the crane gantry in order to align the piles into the piling machine [GR6 iv].
- The revised site levels shown on Drawing 1016-02A confirm the non-viability of the landscaping proposals in that the 'ground level' of 97.6 on the unfilled pond side of the sheet piled retaining wall is in fact a water level. Now that Mr Flowers has confirmed a water depth of 2.1m at this point the water depth is too great to allow the establishment of the reed bed shown on the drawings. The 1.4m high industrial type steel wall will thus remain permanently exposed on the west elevation[GR4 ii and iii and GR2 i A & B]
- Under 'Phase 1' of the Construction Method statement a temporary waterproof membrane divide is to be suspended underwater between the two halves of the pond to prevent pollution of the No 7 Rowan Close half of the pond by mud and silt disturbed during pile driving operations. Unless this barrier is properly designed and installed it is likely to be completely ineffective in protecting the wildlife and water quality in the undeveloped half of the pond. If planning permission is granted it should be on condition that such design and installation is approved as being effective by East Cheshire Council.
- under 'Phase 3' of the construction method statement 'that all existing silt shall stay insitu with a Terram felt type material laid over the bottom of the pond' before backfilling. Whilst Terram geotextile can be laid underwater the lengths of material require stitching together and winding onto a steel tube to stop floatation before being placed and weighted in position underwater by divers. Even then there is no guarantee of complete coverage of the pond

floor which would be necessary to prevent breakthrough of the silt with consequent inadequate filling and compaction and consequent pollution of the other half of the pond.

- because Mr Flowers is no longer removing the mud, silt and decaying vegetation at the bottom of the pond which is in excess of 1.5m deep, it is very likely that methane gas will be evolved as this material is compressed by the fill material and undergoes long term consolidation. For the safety of the occupants of the new house it should be a planning condition that boreholes be installed to monitor gas evolution from the decaying vegetable matter and silt for a period determined by the Council.

A petition received on 28 June 2010 against the development which contains 55 signatures.

Letter of objection from John Rose Associates on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close received on 28 June 2010:

- Not in accordance with development plan
- Adverse impact on ecology
- Adverse impact on drainage
- Inaccurate description
- Contrary to Government guidance in PPS3
- Design grounds: shoe horned in/ lack of sensitivity to surroundings
- Amenity- vehicles passing principal windows
- Insufficient information in respect of trees and ecology
- Engineering difficulties associated with infilling of the pond
- Drainage issues: increased water levels for other side of pond and flooding issues for golf course

Amended Letter of objection from John Rose Associates on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close received on 7 July 2010:

- Not in accordance with development plan
- Adverse impact on ecology
- Adverse impact on drainage
- the proposed development is fundamentally contrary to current government guidance which seeks to direct development to previously developed land.
- the proposal is contrary to Policy GR2 criteria I.- design
- contrary to Policy GR2 criteria III.- nature conservation
- in the absence of sufficient survey information, the local planning authority cannot be in a position to approve the planning application based on the details before them.
- The proposal has not provided sufficient mitigation measures to deal with the loss of the pond, and that the impact of the development on the surrounding land drainage systems would be detrimental.

Letter of objection from 8 Rowan Close received on 17 June 2010:

- Construction method statement demonstrates that the proposal will result in harm to amenity, protected trees, water quality and wildlife habitat and could also cause instability and collapse of the adjacent ground.
- un-viability of the landscaping proposals
- solid wall would result in visual damage to a neighbour's amenity and an inappropriate design feature
- existing pond is long developed wildlife habitat and a habitat worthy of protection
- wildlife and habitats will be destroyed
- water pollution during construction and loss of sunlight in perpetuity

- proposed steel retaining structure is insufficient to prevent loss or gain of water from or to the adjacent remaining half of the pond.
- Impact on canopies and roots of protected trees
- The sheet piles are shown as only extending to the edge of the banks. In the event that the water level is lowered or raised in Mr Flowers' half of the pond the bank sides are likely to become unstable and blow out due to the development of critical hydraulic gradients in the sandy soil caused by the difference in water levels between the two halves of the pond. If the sheet piled wall were to be extended further into the banks of the pond to try to prevent such blow out, the root systems and canopies of protected trees would be severed and damaged
- Suggests condition that the design of the pile wall must be checked and approved by East Cheshire Council before work commences.
- non-viability of the landscaping proposals
- The visual and physical relationship to the neighbouring property and to the adjacent remaining half of the pond is incongruous and disproportionate to the adjoining ground and water levels
- temporary waterproof membrane divide -Unless this barrier is properly designed and installed it is likely to be completely ineffective in protecting the wildlife and water quality in the undeveloped half of the pond. If planning permission is granted it should be on condition that such design and installation is approved as being effective by East Cheshire Council.
- Whilst Terram geotextile can be laid underwater the lengths of material require stitching together and winding onto a steel tube to stop floatation before being placed and weighted in position underwater by divers. Even then there is no guarantee of complete coverage of the pond floor which would be necessary to prevent breakthrough of the silt with consequent inadequate filling and compaction and consequent pollution of the other half of the pond.
- methane gas from silt- suggests condition that boreholes be installed to monitor gas evolution from the decaying vegetable matter and silt for a period determined by the Council.
- Replacement pond is insufficient mitigation for loss of existing pond
- The development in no way improves or enhances the landscape character of the area
- Site is Greenfield not Brownfield
- The application does not assess the likely ground water and flooding effects on adjacent land of infilling such a large natural drainage sump
- Incorrect Statements on Planning Application Form
- There is also a financial risk to the Council in that the large number of heavy lorry movements and turning within the very narrow and confined Rowan Close will cause significant damage to the highway which will need reinstatement at the Council's cost.

Letter from Peter Mason Associates on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close dated 28 June 2010:

- pond formed from water table
- fails to consider engineering difficulties
- infill must be inert
- waste licence may be required
- impact upon existing half of pond to remain
- adverse impact upon drainage and flooding of adjacent properties
- there is no reference in the applicant's additional submission to any further investigations that need to be carried out before the pond is filled, to check to see if there are any inlet and outlet pipes that service the pond and how they will be treated if any are found

Amended Letter from Peter Mason Associates on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close dated 7 July 2010:

- pond formed from water table and water level varies
- acts as a balancing pond
- fails to consider engineering difficulties
- if rainwater harvesting is utilised this must be assumed to be full and overflowing during any necessary drainage design calculations
- waste and environmental considerations not taken into account
- impact upon existing half of pond to remain
- adverse impact upon drainage and flooding of adjacent properties and golf course
- there is no reference in the applicant's additional submission to any further investigations that need to be carried out before the pond is filled, to check to see if there are any inlet and outlet pipes that service the pond and how they will be treated if any are found
- effect of climate change needs to be taken into account
- no evidence that the pond is not connected to the land drainage ditches

Letter from Absolute Ecology on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close dated 28 June 2010:

- insufficient information in respect of protected species
- not all ponds within 500m surveyed
- omission of baseline data not justified
- may be a requirement for site licence

Amended Letter from Absolute Ecology on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close dated 7 July 2010:

- Report mentions small ornamental pond 100 m to the west and that it was 'considered to be of minimal potential to Great Crested Newts' although there is no explanation of how this conclusion was drawn. It should at least have been subject to an HSI assessment regardless and results included in the report.
- They did an HSI of the pond on site which is generally fine but I noticed a minor error on the HSI table (Pond drought years 0 = never dries. Score 0.9 rather than 1). Although this would actually lower the score slightly.
- There is also mention of using 'a number of survey methods to indicate presence and absence including visual search, inspection camera, pond netting and torching'. Pond netting and torching are recognised methods for surveying ponds for Great Crested Newts but a single visit is not sufficient.
- If the pond was deemed to be unsuitable for Great Crested Newts through a site visit and HSI then these further methods would not have been necessary. The report states that the netting was followed up with a torch light survey as recommended by Natural England. Natural England does not recommend surveying for Great Crested Newts with a single torch survey.
- They carried out a netting survey for inverts. One survey session is not sufficient to prove presence and absence of invertebrates
- Legislation section out of date. The Conservation (Natural Habitats &c.) Regulations 1994 (as amended) have been replaced by The Conservation of Habitats and Species Regulations 2010.
- Licenses no longer issued by DEFRA. They are now issued by Natural England. This has been the case since October 2006.
- Generally speaking they seem to say that the pond is ecologically poor. However, despite saying this they still went on to do protected species surveys which were nowhere near the minimum survey effort to establish likely absence. Either there is potential

and they need to do the correct surveys or there is not and they do not need to do any. It all seems rather contradictory.

- From Absolute Ecology site visit of the golf course a visual assessment was made of the ponds suitability for Great Crested Newts. From this it was found that the ponds have high suitability for breeding Great Crested Newts due to abundance of marginal vegetation for egg laying and shelter. It was also identified that there is a connecting hedgerow close to these ponds leading to Rowan Close which Great Crested Newts could potential use to commute to other ponds or use during their terrestrial phase.

- It has been identified by the clients that video evidence of bat foraging and commuting within the back of no 6 Rowan Close. As it is accepted this evidence is not detrimental to the application being granted, we would hope that the local authority would support that a detailed survey of the existing trees be conducted by conforming to the Bat Conservation Trust Best Practice Guidelines 2007.

Photo montage received from the occupants of 7 Rowan Close and photo of Great Crested Newt at the site (authenticity cannot be verified) received on 8 July 2010.

Video evidence of Bats received from the occupants of 7 Rowan Close (authenticity cannot be verified) received on 8 July 2010.

Copy of a letter dated 2 July 2010 from the previous owner of no 6 Rowan Close, Mr. David Smyth, confirming the existence of newts, bats and other protected wildlife in or around the pond at no 6 Rowan Close

Copy of a letter dated 1 July 2010 from Mr. Les Dutton, the former gardener of no 6 Rowan Close confirming the existence of Greater Crested Newts at the pond at no 6 Rowan Close and his description of the same.

Flood Risk report undertaken by Clear Environmental Consultants Ltd on behalf of Sandbach Golf Club received on 7 July 2010;

- The water level within the pond varies seasonally.
- Any alterations to the water table in this location is likely to have an effect on the water levels beneath the surrounding ground including within any nearby ponds such as those within the golf club and in the rear gardens of surrounding properties.
- As there are drainage connections into the pond, it is still likely that this pond acts as a balancing pond holding water prior to its infiltration into the surrounding ground and downstream towards the golf club and ponds
- Evidence of a pipe draining to the pond from No 7 was located during the site visit and anecdotal evidence suggests that this pipe carries the roof drainage from No 7 to the pond.
- Soakaways are also highly unlikely to be of benefit given the underlying ground type being high in marl content
- Recommended that a topographical survey be undertaken of the surrounding area to fully assess the area naturally draining to this pond
- The proposed reduction in the surface area of the pond will dramatically reduce evaporation from the surface of the pond potentially causing higher water levels within the remaining half of the pond.
- If there is a drainage connection from the pond to this ditch, then the in-filling of the pond will increase the volumes of water conveyed to this ditch and through the golf course. This may worsen the saturated ground that occurs within this part of the golf course.
- If there is no drainage connection to the ditch then the volume of water, including roof runoff connection, will need to be contained within the reduced size of the pond, which is likely to increase the risk of flooding

- It is unlikely that flooding will occur from overtopping of the banks in the direction of the golf course however the main concern would obviously be in relation to the natural below ground drainage paths linking the pond at Rowan Close to the drainage / balancing pond system within the golf course.
- It is considered that there is currently insufficient detail on the existing drainage paths leading to and from the pond at Rowan Close and that further consideration of the potential flood risk to third parties is required before the planning decision is determined.

Letter in respect of Ecological Matters undertaken by Clear Environmental Consultants Ltd on behalf of Sandbach Golf Club received on 7 July 2010;

- request permission is refused on the following grounds:
- concur with those views shared by the Cheshire Wildlife Trust and Absolute Ecology that the information provided by Ecologically Bats is insufficient with which to determine this application and we would ask that further survey work is undertaken to establish potential impacts upon European Protected Species and most specifically Great Crested Newts
- One tree remains along the hedgerow boundary of the proposed development. Further survey work is required to establish whether bats are using this tree for roosting purposes as it is considered that this tree is likely to be impacted either directly or indirectly as part of the development proposals.
- One of the residents of Rowan Close has in their possession some video evidence of bats foraging and commuting within the back garden of no 7 Rowan Close and over the pond in question. Whilst we except this evidence is not detrimental to the application being granted we would ask that the Local Authority request detailed survey work on the potential for the remaining tree to support bats and to assess which areas of the site specifically are currently used by foraging and commuting bat species
- ask the Local Authority to review in detail the comments made by both the Cheshire Wildlife Trust and Absolute Ecology with which we concur to prevent us repeating in too much detail what has already been established
- Assuming that the methodology for the Newt survey set out in the report prepared by Ecologically Bats is correct there appears to be a gap in both the number of survey visits undertaken to site and the number of survey methodologies applied at this site.
- Based upon the lack of survey information on ponds within 500 meters of the proposed development and an apparent lack of detail for the survey that was undertaken, we would ask that the Local Authority request a full Great Crested Newt Survey before determining this application.
- We disagree with the statement made in Section 4.2 of the survey undertaken by Ecologically Bats in which a conclusion is drawn that 'the open aspect of the golf course in relation to the property offers poor foraging habitat and minimal refuge potential or commuting habitat.' It is our opinion that a golf course does not act as an adequate barrier to dispersal in a way that a major road may. We would recommend that the Local Authority consult applications in relation to Golf Course Developments or extensions where Great Crested Newt Populations are often found and require adequate mitigation proposals. If required, Clear Environmental Consultants are able to reference examples of Golf Course Developments where Local Authorities require full Great Crested Newt surveys prior to determination.
- Based on a visual assessment of the ponds within the golf course a Great Crested Newt licensed surveyor from Clear Environmental Consultants deemed that the ponds had a high potential for supporting Great Crested Newts.
- We would request that a full desk study, including data sourced from the Local Ecological Records Centre be requested to inform all parties of any historical interest on this site that in some cases provides a justification for the need for additional surveys of various protected species groups. As this does not appear to have been

requested all parties are not able to comment fully on the extent of other protected species present in the area. Of particular interest would be the possibility of reptile species in the grassland and scrub on the golf course immediately adjacent to the proposed development.

- We would request that the local badger group be consulted in relation to this application.

- We would request that the local bat group be consulted in relation to this application.

Brine Report dated 2007 submitted by John Rose Associates on behalf of 2, 3, 4, 5, 7 and 8 Rowan Close dated 7/7/2010 in respect of no. 5 Rowan Close:

- site lies outside any defined coalfield area
- the property is situated within the Cheshire Brine Subsidence Compensation District but is not within any consultation area
- should the property suffer damage at some future date through subsidence due to brine pumping compensation provisions of the Cheshire Brine Pumping (Compensation For Subsidence) Acts 1952 and 1964 would be expected to apply.

9. APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement; summary

- Background and Site History
- Use
- Amount
- Layout
- Scale
- Landscape and Ecology
- Appearance and Design
- Access
- Sustainability and Climate Change

Protected Species Survey; summary

- would result in loss of habitat but not significant disturbance to Great Crested Newts
- there is some potential impact in the short term which can be addressed with reasonable avoidance measures (RAMs)
- creation of additional habitat features during development would be desirable and is an ideal opportunity to improve the wildlife value of the area
- no evidence of bats or barn owls or breeding birds

Protected Species Survey Addendum; summary;

- no evidence of bats, breeding birds, barn owls or water voles

Response to Cheshire Wildlife Trust's comments; summary;

- based on local and national requirements only ponds within 100m are required to be surveyed
- the 3 ponds mentioned have major problems which would limit their value to Great Crested Newts
- conditions of pond unsuitable to Lesser Silver Water Beetles

Tree Report; summary

- Survey identified and recorded 11 trees which could potentially be affected by the development of the site
- 4 trees recorded as category A those of high quality and value
- 4 trees recorded as category B those of moderate quality and value
- 2 trees recorded as category C those of low quality and value
- 1 tree recorded as category R due to the presence of white rot
- No trees would be removed or pruned
- Trees 945 and 949 require crown lifting
- The proposed driveway would enter the site between trees. The access road would be bridged over the root protection area of these trees with no excavations or ground disturbance within these areas.
- Recommends all trees protected by semi-permanent barriers
- For traffic movements in root protection areas (RPAs), the ground protection should be designed by an engineer to accommodate the likely loading.
- The bridge would be sited on beams located outside of the RPAs- this would prevent any damage to the tree root system
- The bridge would then be lowered into place in sections

Construction Method Statement; summary

- looks at surrounding neighbours (noise, dust, traffic movement)
- working environment (existing pond, trees and surrounding habitats)
- construction design (design reduction impact, fast track build)
- construction process (consideration of construction techniques to minimise impact)
- Phase 1: erect tree protection fencing, lay temporary track for construction traffic, vertical waterproof membrane to be suspended on pond boundary line
- Phase 2: pond to be divided with steel sheet piles driven in by Still Worker piling press , a mobile crane will lift the steel piles into the Still Worker
- Phase 3: back filling the pond and water removal: silt will remain insitu, a terram felt type material to be laid over the bottom of the pond and backfilled with certified clean washed stone fill compacted in layers. Pond water to be pumped and removed by tanker. The washed fill initially to be tipped at a local yard in Sandbach and used as a holding yard. The pond will be filled within 1 week
- Phase 4: foundations/ piling/ bridge: a piling rig is to be used. The pile type will be precast concrete piles to be driven through stone fill into load bearing strata. A reinforced concrete ring beam to be cast with a concrete block and beam suspended floor over the bridge to be delivered in sections and to be lifted into position
- Phase 5: A timber framed solution has been selected for the main structure.

Supporting Information in respect of land levels and historical maps

Amended plans showing:

- existing and proposed site levels
- tree survey
- root protection areas

Additional information-table from arboricultural report that was missing

Response from ecologist on Cheshire Wildlife Trust's comments:

- development defined as minor therefore ponds within 100m radius not 500m radius are required to be surveyed
- pond not suitable for Great Crested Newts and phase 1 report carried out

- three ponds have major problems which limit their value to Great Crested Newts
- development would have minimal impact on bats even if they are present
- errors corrected

Letter from PB Lancashire (Civil Engineer) summary;

- as the stone is placed the displaced water will be pumped into a temporary holding tank from where it will be tankered to a licensed disposal facility. The rate of pumping will be controlled to ensure that the water level will remain approximately the same throughout the operation.
- the point raised about the effect on the banks of dropping water will not be valid. At present the natural water level varies and this does not have any effect on the stability of the banks.
- it is not intended to completely drain the water from the stone filled side of the sheet piling, it will be allowed to fluctuate within the stone. The sheet piling will not be completely water tight but will allow the water levels either side to maintain a balance. Terram matting will be laid under the stone and up the pile faces to prevent any migration of fine silt into the remaining pond.
- it is not proposed to extend the piling into the banks and risk damage to the tree roots.

10. OFFICER APPRAISAL

Principle of Residential Development

On 9th June 2010 the Coalition Government amended PPS3. Garden land is now classed as Greenfield rather than Brownfield land. Nevertheless the application site is situated within the settlement zone line of Sandbach as defined on the adopted Local Plan where there is a general presumption in favour of new development as indicated by policy PS4 of that Plan.

Notwithstanding the comments from Cheshire Wildlife Trust, policy H12 Tandem/ Backland Development within the Local Plan has not been saved and therefore does not comprise part of the statutory development plan.

Drainage

Foul sewerage would be disposed of via the mains sewer and surface water would be disposed of via soakaways. Neighbours and Cheshire Wildlife Trust have expressed concerns that infilling the pond would exasperate drainage issues within the area.

However in terms of the implications for drainage to the adjacent golf course the topographical levels of the golf course are some 1.44m below the actual water level within the pond and therefore any drainage issues surrounding run-off or a high water table would ensue in any event.

As the proposals would undoubtedly affect the amount of porous surface areas available for water percolation, it is considered reasonable and necessary to condition sustainable urban drainage measures.

Whilst concerns have been expressed by neighbours that if the pond has formed due to its situation below the water table, infilling may result in flooding to the remaining half, the applicant intends to use masonry to infill the pond which would enable water to percolate down and therefore this would not increase the water pressure on the remaining half or put pressure on the banks of the pond.

A replacement albeit smaller pond would be provided as part of the proposals which would help to mitigate for the loss of the existing pond as a water storage area.

Comments have been received in respect of the impact of the development on flooding the golf course however there is no conclusive evidence to suggest that there are drainage connections into the pond, or that water drains into the pond from surrounding surface water run off.

Objectors have indicated that soakaways have been saturated and that this should be taken into consideration in respect of drainage matters. No comments have been received from United Utilities and therefore in the absence of this it is considered prudent to condition drainage details.

Flood Risk

The site is not within a designated area of flood risk.

Notwithstanding the comments received, the Environment Agency has no objections to the proposals; whilst residential development is sensitive development and should therefore not be encouraged within areas at risk of flooding, the site is not situated within a flood plain. There are no known issues in relation to flooding associated with drainage issues and in any event drainage details are to be conditioned accordingly as stipulated above.

Sustainability and Climate Change

The site is within easy cycling and walking distance of Sandbach town centre and is accessible by public transport. As such the occupants of the proposed dwelling would have the opportunity to travel to and from the site by more sustainable modes of travel and thus the proposals would contribute to reducing emissions of carbon dioxide.

The proposed dwelling would have a regular shaped floor plan which would help in minimising heat loss through external wall areas.

The house would be constructed to reach code For Sustainable Homes Code 4. Wherever possible sustainable sources of materials, particularly for timber and joinery products, would be used and waste materials from the construction process would be recycled. The structure would be insulated 44% in excess of the requirements of Part L of the current Building Regulations and all new windows would be double glazed.

Water use would be reduced by the installation of aerated taps so as to reduce flow rates and dual flush toilets with reduced capacity cisterns would be installed. A water meter would be installed which discourages excessive consumption.

Rainwater would be collected in underground water harvesting tanks and would overflow to soakaways. This water would be recycled for flushing wc's and also outside watering of plants. Permeable surfacing would be employed where possible and a significant proportion of the plot would be available for soft landscaping which would reduce surface water run off during periods of heavy rain.

The fenestration to the rooms of the house has been designed to ensure that a good level of natural daylight would reach all the principal rooms and thus the requirement to use artificial (and energy consuming) light sources would be reduced.

Energy efficient light fittings for both internal and external illumination would be installed as too would a high efficiency gas boiler.

Protected Species

Ponds are suitable habitats for Great Crested Newts which are listed as a protected species under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and the existing mature trees on the site are suitable habitats for Bats, Barn Owls and Breeding Birds. Protected species are considered to be a material consideration in the determination of a planning application, and therefore any impact must be considered and mitigated accordingly.

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

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is
- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- a licensing system administered by Natural England.

Local Plan Policy NE.9 (Protected Species) seeks to prevent harm to protected species and their habitats.

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

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where significant harm cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

Notwithstanding the neighbours' and their advisors' comments, the document Guidance on Local Requirements for the Validation of Planning Applications: Biodiversity and Geodiversity Conservation Statements March 2009 produced in association with Natural England and the Association of Local Government ecologists states that the impact of development on Great Crested Newts is highly variable and site specific. The distances stated in the document are for guidance only. For large developments it may sometimes only be necessary to survey ponds 250m away. Conversely, for minor developments it may be necessary sometimes to consider ponds further than 100m. An impact assessment in the absence of a full survey may be appropriate in some circumstances.

The Council's ecologist has confirmed that due to the site circumstances a 100m radius of the site will suffice.

As proposed tree work (felling or lopping) is to occur, the protected species survey has surveyed bats, breeding birds and barn owls. The guidance document also indicates that Water Voles, Great Crested Newts and Lesser Silver Water Beetles should have been surveyed.

The results section of the survey as originally submitted however omitted the results for bats, barn owls and breeding birds. Further information has since been received in respect of these indicating that the development will have no impact on these species.

The ecologist's report explains that following detailed survey work the existing garden pond divided between no. 6 and no. 7 Rowan Close was found to have a very low ecological value. A purpose designed and suitably planted and populated wildlife pond would by way of contrast add to local biodiversity. The Council's ecologist has confirmed that the details of the survey and additional information is acceptable and has taken into consideration the comments from Cheshire Wildlife Trust and the ecological survey received from Absolute Ecology in coming to this conclusion. The Council's ecologist has suggested conditions in respect of bats, breeding birds and the replacement pond which will be conditioned accordingly along with the recommendations of the protected species survey submitted by the applicant.

There have been numerous criticisms by the objectors of the methodology, content and extensiveness of the protected species surveys undertaken. However there are inevitably professional variations in the ways in which protected species surveys are carried out. In this instance, the survey has been undertaken by a suitably qualified and experienced ecologist who is satisfied that the development will not have a reasonable likelihood of affecting protected species. This has been verified by the Council's qualified ecologist.

In conclusion the proposals if conditioned to be in accordance with the recommendations of the protected species survey and addendums would not have an adverse impact upon protected species.

Nature Conservation and Habitats

As recommended above, the rear garden of the new dwelling would feature a purpose designed and suitably planted and populated wildlife pond which would assist in increasing the habitats and biodiversity of the locality, as would the planting of native species hedgerows to define the side boundaries of the rear garden and the creation of a

marsh/wildflower area in the space enclosed beneath the proposed bridge in the front garden.

The proposed pond would be partially infilled with a reed bed (common reed being planted), and the hedging proposed would incorporate hawthorn and blackthorn hedging. Whilst the replacement pond would be smaller, it would be possible to enhance the wildlife value of this in comparison to the nature conservation value of the existing pond.

Notwithstanding the comments from Cheshire Wildlife Trust the applicant has demonstrated that the existing pond is ornamental and was man made. Whilst this does not necessarily diminish its conservation value, the pond contains fish, ducks and has been domesticated considerably all of which have adversely affected its conservation value.

Whilst policy NR3 seeks to protect against the loss of nature conservation resources, in this instance the existing pond has limited nature conservation value and the proposals offer an opportunity to improve the nature conservation value of the site. As such the proposal would not conflict against nature conservation objectives at a local or national level, provided that details relating to the replacement pond and its continued retention are conditioned accordingly.

Trees

The site contains a number of trees which are protected by area A4 of the Middlewich Road II Sandbach Tree Preservation Order which came into effect on 22 June 1988. The first schedule to the order describes the trees concerned as mixed deciduous and coniferous trees. A Maple and Silver Birch have been felled with the benefit of tree preservation order consents and a further application will be made to fell a Maple tree infected by honey fungus. Tree planting is proposed within the hedgerow along the north eastern boundary of the new property using native species which are known to be more resistant to honey fungus. The tree survey also suggests some crown lifting to trees 945 and 949. However, this is not as a result of the proposals but due to the presence of crossing branches and encroachment to adjacent trees. A further tree (952) contains white rot and potentially honey fungus but it is not proposed to remove it at this stage.

The landscape architect is now satisfied that provided the scheme is appropriately conditioned, that the proposals would not have an adverse impact upon the protected trees. Conditions are recommended.

The neighbours have expressed concerns regarding the impact of construction traffic and HGVs on protected trees both at the application site and at the entrance to Rowan Close. Whilst this would be no different than the impact of a bin wagon or delivery vans, it is acknowledged that the volume of vehicles would increase the chances of damage, as such the details required to be submitted in respect of mitigation will require details of how the impact upon these trees can be mitigated.

Concerns have also been expressed in respect of the extent of the sheet piling associated with the subdivision of the pond and the implications of this on the tree and roof protection areas. Provided that the works are supervised by a suitably qualified and experienced arboriculturalist as suggested by the Council's landscape architect, this should minimise the damage to the trees. A landscaping scheme will also be conditioned to ensure sufficient replacement planting is undertaken and retained.

In conclusion the proposals if conditioned accordingly would not have an adverse impact upon the protected trees.

Amenity

Overlooking/ Overshadowing

The principal windows would all be contained within the front and rear elevations of the house in order to avoid overlooking and any consequent loss of privacy to adjoining dwellings. The windows in the front elevation of the proposed house would face across its own front garden and have a view beyond that along the length of the close. This latter view would be filtered by the existing trees on the house frontage which are protected and would remain. The minimum distance between the front elevation of the proposed dwelling and that of the nearest house it faces towards no. 8 measured corner to corner would be in the region of 38m. The windows to the rear elevation of the proposed dwelling would face north eastwards over the Sandbach Golf Course. There would be no windows at all in the side elevation of the proposed house nearest to no. 7. In any event that elevation would not directly face the frontage of no. 7 and at its nearest point it would be some 27m from the side elevation of the proposed house. The side window serving the kitchen/ dining room would be at ground floor level and face away from the host dwelling at an oblique angle. At its nearest point the window would be approximately 14m from that property and would be screened from it by the proposed boundary treatment. The layout and design of the proposed dwelling would thus ensure that no mutual overlooking or loss of privacy would be occasioned between it and any of the existing adjoining dwellings.

Conditions relating to boundary treatment and removal of permitted development rights for alterations should be imposed in the interests of safeguarding amenity.

The orientation of the garden of no. 7 and the existing tree cover results in overshadowing at present. Whilst the dwelling would undoubtedly overshadow the pond, it would not overshadow a significant proportion of the garden and therefore the impact would be limited rather than significant as such a reason for refusal on these grounds could not be sustained. Whilst the neighbours have expressed concerns regarding a loss of view/ outlook, the courts have indicated that this is not considered a material planning consideration in the determination of planning applications.

Amenity Space Requirements

Even allowing for the space to be taken by the proposed wildlife pond, sufficient useable private garden area would be available to the occupiers of the proposed dwelling.

The area of amenity space to be provided for the purposes of the dwelling, excluding the hardstanding and garden area to be provided at the front of the property and the pathways on either side of the dwelling, is above the minimum 65 sq. M in the former Congleton Borough Council's SPG 2 private open space.

The area of private amenity space which would remain attached to the parent dwelling would be approximately 265 sq. M ,excluding the side/ front garden.

The rear garden lengths of both the proposed house and the parent dwelling at no. 6 would be in excess of the 10.7m minimum set out in SPG2.

Noise/ Disturbance

The use of the site for residential development is considered compatible with the existing surrounding land use which is predominantly residential.

Noise and disturbance associated with domestic use would not have a detrimental impact upon neighbouring amenity.

Traditionally, noise and disturbance associated with the construction phase of development is not considered to have a significant adverse impact upon neighbouring amenity as it is for a finite period and disturbance can be controlled under Environmental Health legislation. However due to the complexity of the works associated with the redevelopment of the site, Environmental Health has recommended that conditions be imposed in respect of construction hours and piling of foundations. These will be conditioned accordingly.

The neighbours have raised concerns regarding the noise and disturbance from vehicle movements passing principal windows to no. 6 Rowan Close. However Inspectors have considered that whilst this does undoubtedly have an impact upon occupants, the impact does not tend to be detrimental. Given the likely additional vehicle movements associated with the proposed dwelling and the amount of windows affected, this impact would not be detrimental.

Design

The properties of Rowan Close, having been built by the same builder and being part of one development, have a consistency of architectural style and size. They are all executive detached houses of contemporary appearance having 4 bedrooms or more and are set in their own gardens. Usually the boundaries to the front gardens are marked by low walls or hedges or remain open. The scale, massing and design of the proposed house seek to respect these characteristics of the locality.

The proposed dwelling would be set back on a building line similar to that of no. 5 and 6 Rowan Close and slightly further back from the frontage private drive of no. 8 Rowan Close.

The proposed siting of the dwelling would ensure that an appropriate continuity of built frontages would be maintained around the head of the cul de sac and that the new building would not appear incongruously positioned in relation to the other dwellings in the locality. The new house would form an appropriate visual end stop to the built development on Rowan Close.

The proposed footprint of the new dwelling is similar to the parent dwelling at no. 6. The proposed dwelling would have a ridge height of 9.6m which is above the ridge height of the neighbour which is 9.4m. However because the ground floor level of the proposed house would be some 850mm lower than that of the host dwelling there would be a visible step down in the ridge heights of the respective dwellings of 650mm when viewed from the close. Having regard to its setting and the screening provided by existing and proposed landscaping and because of the congruity in size and appearance between the dwellings in the close and that now proposed, it is not considered that the proposed house would appear prominent, over dominant or inappropriate within the streetscene. The proposed size of the dwelling is synonymous with the size of the existing dwelling.

The design of the dwelling incorporates existing design features on properties within Rowan Close including a 45 degree pitched roof, brick plinth details, projecting bays and gables, vertical tile hanging to give architectural emphasis, simple vertically proportioned windows set in dark frames, stone lintels and stone step, and quoin and cill details to give visual articulation to the main entrance area to the dwelling.

Permitted development rights for alterations and extensions should be removed to ensure that the property remains sufficiently respectful to its context and does not become increasingly overdominant or prominent within the context of the existing properties along Rowan Close.

In summary the design of the dwelling has been informed by its context and would sit comfortably within the close. As such the proposals would not have an adverse impact upon the appearance of the streetscene, the existing dwelling on the site or surrounding properties and such is considered to accord with the relevant local and national policies in respect of design considerations.

Highway Safety

The existing access drive to no. 6 Rowan Close from the public highway would be retained and adapted to serve both the parent dwelling and the proposed dwelling. Intervisibility between the two private access drives and also onto the public highway would be good and the proposals would provide a safe and convenient means of vehicular and pedestrian access for both the existing dwelling at no. 6 and the proposed dwelling.

There would be very little additional traffic generated onto Rowan Close arising from the addition of one dwelling and the capacity of the public highway would not be exceeded.

The layout provides for vehicles to enter and exit the front drive of the proposed dwelling in a forward direction. The visibility for users of the proposed access entering and leaving the site is good and it is also the case that vehicular speeds for traffic manoeuvring at the cul de sac head would of necessity be low. It is not considered that the proposal would result in any danger to users of the public highway or the private driveway leading to the property.

Emergency access would be readily available from the kerbside of Rowan Close to the proposed house and to the parent dwelling.

The scheme would fully comply with part M of the Building Regulations; paths would be at least 900mm wide and have cross-falls no greater than 1 in 40. Level access would be provided from the front drive and the main entrance would be ramped.

The Highways Authority has indicated that they have no objections to the proposals.

In light of the sustainable nature of the location and the provision of appropriate access and car parking facilities for both the existing dwelling and the proposed dwelling, it is considered that the additional vehicle movements associated with the development would not have a significant adverse impact upon highway safety.

In response to neighbours' comments regarding the impact of construction traffic upon the surface of the highway the Strategic Highways Manager has suggested a number of conditions to mitigate for this which can be attached to the decision notice in the event of an approval.

Contaminated Land

PPS23 states that the presence of contamination in land can present risks to human health and the environment, which adversely affect or restrict the beneficial use of land but development presents an opportunity to deal with these risks successfully; contamination is not restricted to land with previous industrial uses, it can occur on Greenfield as well as previously developed land and it can arise from natural sources as well as from human activities.

Despite there being no known contaminants on the site, given that the site already has been developed for residential use and housing is a sensitive land use, it is appropriate to follow national guidance and adopt a precautionary approach to contaminated land issues. In light of the above and the comments from Environmental Health it is considered necessary to impose the conditions suggested in respect of contaminated land.

Other Matters

Inconsistencies

The comments received indicate that there are several inconsistencies within the protected species survey report and the other documentation. The applicant has corrected and clarified his submissions.

Structural Stability and Engineering Works

In respect of the structural stability of the proposed dwelling, this is a matter for Building Regulations rather than a matter for consideration under the planning application process.

Whilst one of the objectors who is also a qualified civil engineer has expressed concerns regarding the feasibility of the works associated with implementing the development, the Council's Building Control department, a qualified civil engineer employed by the Council and the applicant's own civil engineer have all indicated that the subdivision and infilling of the pond is feasible. Moreover the impact of the associated works upon drainage, flooding, protected species and protected trees can be mitigated via condition.

Methane Gas and Health and Safety

Objectors have raised concerns regarding the release of gases as a result of the works to the pond. Building Control has indicated that this can be mitigated and details in this respect will be conditioned accordingly.

11. CONCLUSIONS

The provision of an additional dwelling on this Greenfield curtilage site within the settlement boundary of Sandbach and within an established residential estate is acceptable in principle. The proposed development, as conditioned, will not have an adverse impact upon neighbouring amenity, highway safety, nature conservation, protected species, protected trees, land contamination issues, drainage, flood risk and represents a sustainable form of development which accord with the relevant development plan policies.

12. RECOMMENDATIONS

APPROVE subject to conditions

- 1. Commence Development within 3 years**
- 2. Materials To Match Existing**
- 3. Development in Accordance with the Approved Plans**
- 4. Permitted Development Rights Removed**
- 5. Submission of Drainage Details Including Sustainable Urban Drainage Measures**
- 6. Submission of Pond Infilling Details**
- 7. Submission of Replacement Pond Details**
- 8. Submission of Mitigation As Suggested In Protected Species Survey**
- 9. Submission of Tree Protection Measures**
- 10. Landscaping Scheme To Be Submitted**
- 11. Landscaping Implementation**
- 12. Recommendations Of Tree Report To Be Implemented and Amended Tree Method Statement**
- 13. Construction Hours Restricted**
- 14. Submission of Foundation Pilling Details**
- 15. Submission of Contaminated Land Survey**
- 16. Submission of Boundary Treatment Details**
- 17. Submission of Access And Parking And Visibility Splay Details**
- 18. Submission of Bridge Details**
- 19. Check for Nesting Birds Before Any Works Between 1 March- 31 August**
- 20. Submission Of Proposals For Incorporation Of Features For Breeding Birds And Roosting Bats**
- 21. Highway Condition Details to be Agreed**
- 22. Highway Condition Reinstatement Works To Be Agreed**
- 23. Gas mitigation**

