

Application No: 16/4787N

Location: Land to Rear of, 21 , Main Road, SHAVINGTON, CW2 5DY

Proposal: Construction of Three Detached Dwellings on Former Garden to rear of 21 Main Road, Shavington CW2 5DY

Applicant: S Shaw

### **SUMMARY**

The site is within the Open Countryside and Green Gap, where there is a presumption against residential development.

Policy NE.4 aims to prevent the erosion of the physical gaps between existing settlements. However, in this case, with regard to a nearby appeal decision, it is considered that as the application site is well screened and lies in a gap between existing development that the proposal will not lead to a loss of the physical gap between Shavington and Nantwich.

Subject to conditions the proposal is considered to be acceptable in terms of its impact upon residential amenity and the character of the area satisfying the environmental sustainability role.

The proposal would satisfy the economic sustainability roles by providing employment in the locality.

In terms of the social role of sustainable development, the proposal would create additional residential accommodation in a sustainable location on the edge of the existing Shavington Settlement Boundary.

### **RECOMMENDATION**

**Approve subject to conditions**

### **REASON FOR REFERRAL**

This application had been referred to the Southern Planning Committee at the request of Cllr Steven Edgar for the following reasons:

*The Shavington Parish Council have requested that I call in this application on their behalf, reasons*

*Site is within the Green Gap*

*Access would be difficult for developer*

*Access difficult for emergency services*

*Access difficult for dustbin collection and would mean that bins are left on a narrow pavement for collection*

## **PROPOSAL**

Full planning permission is sought for the construction of three detached dwellings with detached garages within garden/paddock area to the rear of number 21 Main Road, Shavington.

## **SITE DESCRIPTION**

The site comprises of a garden/paddock area and is found to the rear of 21 Main Road, Shavington within the Green Gap between Shavington and Crewe.

Existing linear residential development lies to the east of the site with Puseydale Farm to the north-west. To the south is a field and linear development along Newcastle Road, while to the north of the site garden of Puseydale Farm beyond which is farmland.

## **RELEVANT HISTORY**

**P07/1587** – Certificate of Lawful Existing Use for Change of Use of Area of Land to Garden – positive certificate issued.

## **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

14 - Presumption in favour of sustainable development, 47-50 - Wide choice of quality homes / affordable housing, countryside and 56-68 - Requiring good design

### **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The relevant saved policies are:

BE.1 – Amenity

BE.2 – Design

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

BE.5 – Infrastructure

BE.6 – Development on Potentially Contaminated Land

NE.2 – Open Countryside

NE.4 – Green Gap  
NE.5 - Nature Conservation and Habitats  
NE.9 – Protected Species  
NE.17 – Pollution Control  
RES.5 - Housing in the Open Countryside

### **Supplementary Planning Documents:**

Development on Backland and Gardens

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

MP1 - Presumption in favour of sustainable development  
PG1 - Overall Development Strategy  
PG4a – Strategic Green Gaps  
PG6 - Spatial Distribution of Development  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
IN1 – Infrastructure  
IN2 - Developer contribution  
SC4 - Residential Mix  
SC5 - Affordable Homes  
SE1 – Design  
SE2 - Efficient use of land  
SE3 - Biodiversity and geodiversity  
SE4 - The Landscape  
SE5 - Trees, Hedgerows and Woodland  
SE6 - Green Infrastructure  
SE9 - Energy Efficient Development  
SE12 - Pollution, Land contamination and land instability  
SE13 - Flood risk and water management  
CO1 - Sustainable Travel and Transport  
CO4 - Travel plans and transport assessments

**Shavington Neighbourhood Plan** – Not yet reached Regulation 14 Stage

### **CONSULTATIONS**

**Environmental Protection** – No objections subject to conditions relating to contaminated land.

**Head of Strategic Infrastructure (HSI)** - No objection.

**Archaeology** – No objection with recommended mitigation condition

**United Utilities** – No objection

**Shavington Parish Council – Object for the following reasons:**

- Three dwellings on the site is over-development in the local area.
- Visibility: Shared access will be dangerous in terms of highway safety; access is onto a busy road.
- The site will inhibit access for emergency vehicles.
- Refuse vehicles will also have difficulty accessing the site.
- Refuse bins on waste-collection day will be hazardous to pedestrians.
- This housing development is not needed. The parish already has more housing than is required by the emerging Cheshire East Local Plan (both built and planned). Moreover, the need, as identified through the emerging Neighbourhood Plan process, could show a need for more bungalows.
- The application will result in erosion of the Green Gap.
- Do the services currently available meet planning requirements? (eg, walking distance to schools, doctors.)
- If the Borough Council is minded to approve the application, it should be conditioned to require the retention of the hedges.

**REPRESENTATIONS**

One letter of representation has been received from the occupiers of a neighbouring property. This objects to the proposed development for the following reasons:

The proposed development would erode the green gap and potentially lead to further development on green gap around the village.

**APPRAISAL**

Principle of Development

The site lies within in the Open Countryside and Green Gap as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “in accordance with the plan unless material considerations indicate otherwise”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Approval has been granted at appeal (Ref APP/R0660/A/14/2225255) for a single dwelling on a site on the opposite side of the access track to the application site. In reaching his decision

the Inspector concluded that the proposed dwelling would fill a gap between the farm house and the existing dwellings fronting on to Main Road. This can also be said of the site that is the subject of this application.

The Inspector further concluded that although small in nature, the proposal would generate some limited economic and social benefits and the utilisation of a small enclosed paddock area for the development would have little environmental impact.

With the application site being close to the appeal site, and of the same nature, it can be considered that the Inspector's conclusions also apply.

Policy NE.4 seeks to maintain the physical gap between existing settlements, in this case Shavington and Crewe.

With regard to the Green Gap the Inspector for the appeal site concluded that the site is well screened from most views from the surrounding open countryside and the proposed development would be seen against a backdrop of existing residential development. For this reason it was considered that the proposed development would not result in an erosion of the physical gap between existing settlements.

With the above in mind it is considered that the application also shares similar characteristics with the appeal site to the north. With the existing surrounding residential development the site is indented into the Green Gap and also well screened from most viewpoints from the surrounding open countryside. The application site forms a small parcel land which is contained by existing and approved development on three sides.

It is therefore considered therefore this proposal would not materially compromise or undermine the purpose of the green gap of maintaining the separation between existing communities or preventing settlements from merging.

## **Housing Land Supply**

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

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

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

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

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

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

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

## **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

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

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

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

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being;

**an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural

resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

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

### **Economic and Social Role**

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

The provision of 3 additional dwellings to the housing land supply will contribute to the economic and social arms of sustainability. Access to the services and facilities of Shavington can be made on foot.

### **Environmental role**

#### **Protected Species**

With regards to protected species there are a number of mature trees and hedgerows around the site as well as a pond to the north of the site. These have the potential to support breeding bird and bats, while the pond could provide a habitat for great crested newts.

Following the submission of an Arboricultural Report the Council's Ecologist is satisfied that the trees on the site have a very low potential to support bats. Further to this, a condition will be attached to any permission in respect of the protection of breeding birds.

The pond to the north of the site is stocked with fish, therefore there is negligible potential for Great Crested Newts.

With the above in mind it is considered that the proposed development will not have a harmful effect upon Protected Species.

#### **Design**

In terms of design Policy BE.2 of the Local Plan states that the proposal should be sympathetic to the character, appearance and form of the site and the surrounding area in terms of: The height, scale, form and grouping of the building, choice of materials and external design features. Policies SE1 and SD2 of the Cheshire East Local Plan Strategy – Submission Version, largely reflect the Local Plan policy.

The surrounding development is characterised by two storey dwellings to the western side of Main Road with the large detached Puseydale Farm House and a complex of barn conversions to the north-west of the site.

The proposed dwellings will be two storey and detached with roof ridge heights of 8 metres. While the proposed detached garages will have a height of 4.6 metres.

In terms of design the proposed dwellings are of a typical traditional style similar to several in the immediate area. Therefore, it is considered that the design of the proposed dwellings are sympathetic to the character of the surrounding area.

As such, subject to the conditioning of the proposed materials, it is considered that the development would be of an acceptable design that would adhere with Policy BE.2 of the Local Plan and policies SE1 and SD2 of the Cheshire East Local Plan Strategy – Submission Version.

### Trees and Landscape

The actual application site has been cleared of much of the previous vegetation with the boundary hedges and trees remaining.

There are two trees that are subject to Tree Preservation Orders, both are located on the northern boundary of the site.

These are a pair of mature Oaks identified as T1 and T5 within the arboricultural submission. Both trees are protected as part of the Borough of Crewe and Nantwich (Main Road, Shavington) Tree Preservation Order 1985 and identified as high value Category A specimens. However, the Council's Landscape Officer suggests that these could be downgraded to moderate value Category B in respect of T5, but the tree is still certainly worthy of retention.

The build footprints of all three plots respect the Root Protection Areas of the identified trees (RPA), but the access road which serves the dwellings extends through the RPA of both T1 and T5, with a 'no dig solution' proposed to prevent damage to the respective protected trees. Specific construction details will be required with the no dig surfacing over engineered to facilitate construction traffic onto the site; this can be resolved by condition.

The two protected Oaks stand on the northern edge of the proposed development plot with the majority of any restriction of light attenuation restrict to off site and Puseydale Farm. The off site large mature Lombardy Poplar (beyond the eastern boundary of the site) dominates plot 3 including the associated garden. The tree cannot be considered given its age for long term retention with the species prone to hollowing of the main stem at maturity.

An amount of lateral pruning of the southern canopy associated with T1 will be required in order to establish adequate working space, and improve the tree property relationship, this again can be dealt with by condition.

Tree protection has been included within the submitted Arboricultural detail, but given the need to possibly amend the ground protection this will be covered by condition should approval be granted.

On balance the openness of the majority of the sites southern aspect and the anticipated short term life expectancy of the Poplar the Landscape Officer is comfortable for the development to proceed from an Arboricultural perspective. The two TPO trees are defendable, should any post development application be received is considered excessive.



The site as a whole is well screened and contained, mostly by existing built development, from public viewpoints and in the wider context. Therefore, it is not considered that the proposed development would have a significantly harmful effect on the visual amenity of the surrounding Open Countryside.

With regard to the landscaping of the site the submitted information states that the existing boundary hedges will be restored with new post and rail and closed board fencing. No further details of the proposed boundary treatments or landscaping of the site have been given, therefore appropriate conditions will be attached should permission be granted.

### Residential Amenity

In terms of neighbouring residential amenity there are existing residential properties to the east of the site. These dwellings lie 32 metres from the proposed dwellings when measured at the closest point.

The farmhouse of Puseydale farm is located to the north west of the site and lies 26 metres from the northern edge of the application site.

To the west of the site are a range of outbuildings, while to the south is an open field.

The proposed development will be served by an existing access point off the main drive.

With the above in the proposed development exceeds the recommended separation distance of 21 metres between principle windows as stated within the Supplementary Planning Document: Development on Backland and Gardens.

As a result of the above, it is considered that the proposed development would adhere with Policy BE.1 of the Local Plan.

### Highway Safety

The proposed development would be accessed off an existing private track which itself is accessed from Main Rd.

The Strategic Highways and Transport Manager is satisfied that visibility onto Main Road is sufficient. For the proposed properties, refuse collection can continue as it does for the existing properties and a refuse collection point has been shown on the latest plan.

The private track is wide enough for 2-way car movement and off-road parking provision is sufficient.

With the above in mind it is considered that the proposed development will not have any significant traffic impacts.

As such, it is considered that the proposal adheres with Policy BE.3 of the Local Plan.

## Archaeology

The application site has previously been the subject of some form of development, the Wybunbury Tithe map of 1839 depicts a structure within the proposed development area which is labelled 'house, garden & enclosure'. This structure had gone by the first edition OS survey of 1875 and the development area has remained vacant to this date.

Whilst no archaeological grounds have been identified for refusal of planning consent, the site does hold the potential to yield below ground archaeological remains which would be destroyed by the groundworks involved in the proposed development. Therefore Cheshire Archaeology Planning Advisory Service (APAS) would advise that a programme of archaeological mitigation be made as a condition of any planning permission that might be granted.

In this instance the mitigation would take the form of a strip, map and record exercise, whereby the footprint of the building (c.15m x 8m) identified on the tithe map would be stripped using a suitable machine under archaeological supervision and control, down to the first archaeological layer, after which excavation would proceed by hand. An agreed excavation and recording methodology would then be implemented to excavate and record those archaeological features/layers that survived. The results of the work would then be written up into a report at which point the relevant background documentary research would also be undertaken, to be submitted for inclusion in the Cheshire Historic Environment Record. The work may be secured by condition should the application gain approval.

## Conclusion

The proposed development would be of an acceptable design that would not create any significant issues in relation to highway safety, drainage or flooding. As such, it is considered that the proposed development would be environmentally neutral.

## **Planning Balance**

As the site is within the Open Countryside and the green gap, the proposed residential development is contrary to Policies NE.2, RES.5 and NE.4 of the Crewe and Nantwich Local Plan.

Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development

Whilst the emerging Local Plan Strategy is at advanced stage in the adoption process, the Council still cannot demonstrate a 5 year supply of housing at this time. Policies RES.5, NE.2 and NE.4 restrict the supply of housing and should not therefore be considered up-to-date. However the weight to be afforded to the conflict with these policies is a matter of judgement, having regard to the circumstances of the case.

Given the context of this site, and also the close similarity with the nearby site where residential development was granted on appeal, it is considered that the development would

not materially compromise the purpose of the green gap of maintaining the separation between existing communities or preventing settlements from merging.

The proposal would bring positive planning benefits such as the provision of market housing, a minor boost to the local economy and on balance is considered to be locationally sustainable.

Applying the tests within paragraph 14 of the framework it is considered that the benefits outweigh the dis-benefits. As such, on balance, it is considered that the development constitutes sustainable development and should therefore be approved.

## **RECOMMENDATION**

### **APPROVE subject to conditions**

- 1. Time (3 years)**
- 2. Plans**
- 3. Materials as per application**
- 4. Scheme of landscaping**
- 5. Removal of PD rights A-E**
- 6. Tree protection**
- 7. Tree Pruning/Felling Specification**
- 8. Engineer Designed no dig construction**
- 9. Boundary treatments**
- 10. Levels**
- 11. Nesting birds**
- 12. Drainage scheme**
- 13. External lighting**
- 14. Dust control**
- 15. Piling**
- 16. Contaminated land**
- 17. Construction Management Plan**
- 18. Programme of archaeological work**

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in her absence the Vice Chair) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

