

Application No: 17/2483N

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

Proposal: Affordable Housing Development Comprising 45 no. dwellings & Ancillary Works

Applicant: Mr Lee Dawkin, Renew Land Developments, Punch Taverns, MCI Developments and Magenta Living

Expiry Date: 30-Nov-2017

## **SUMMARY**

The site is within the Strategic Green Gap where, under policy PG5 of the Local Plan applies and is also within the Open Countryside where policy PG6 applies. Within PG6 there is a presumption against new residential development with some exceptions.

The proposed development although 100% affordable with a Registered Social Landlord with HCA funding involved, can not be classed as a Rural Exception Site as defined in Policy SC6 because it exceeds the 10 no units defined as being a small scheme. Accordingly the proposal does not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. The issue in question is whether there are other material considerations associated with this proposal, which are sufficient material considerations to outweigh the policy objection.

The Housing Need Survey for Shavington and Wynbunbury for the period 2013 -2018 notes a Affordable Housing Need of 275 units (55 units to be provided per annum). Notwithstanding schemes such as the Shavington Triangle locally being developed, there has been a significant under-provision in affordable housing locally. This scheme comprising 100% affordable tenure will help to redress the shortfall which the market has failed to address.

The development would therefore provide significant social benefits in terms of much needed affordable housing through the provision of a 100% affordable housing scheme. It would provide economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses. Due to its landscape designation and the fact that it is surrounded by housing and industrial development to 3 sides, it is not considered that the proposal will have a significant landscape impact.

A viability appraisal has been submitted and reviewed by an Independent consultant appointed by the Council which has reached a negotiated mitigation to education of £80,000. This is approximately half the mitigation required in terms of the education impact of the proposal.

The Developer proposes to fund the Traffic Regulation Orders (£12,000) to provide for Main Road to become a one way street and to provide pavement widening on Main Road

Balanced against this are the adverse impacts of the development including the limited loss of open countryside and the lack of full mitigation for education infrastructure which is a limited social cost of the development. However the contribution of 100% affordable housing is also considered an important and overriding consideration, constituting a significant social benefit.

It is therefore considered that the benefits arising from proposed scheme of 45 Affordable Dwellings on this site weighs significantly in the planning balance, and would outweigh the disadvantages of the scheme, and justify a departure from the Development Plan.

### **SUMMARY RECOMMENDATION**

Approval subject to a Unilateral Agreement under S106 and conditions

### **PROPOSAL**

The application seeks full planning permission for 45 affordable dwellings. The access road is created over part the existing public house car park and would be to adoptable standards. This new road also forms part of the proposed re-configured car park access. A sister application for the works to the public house is elsewhere on the agenda (17/2484N refers).

The scheme comprises a mix of 6 x four bed dwellings, 18 x three bed dwellings, 15 x two bed dwellings/ 2 x two bed bungalows and 4 x one bed maisonettes. The tenure mix 23 units (51%) made available for shared ownership and 22 units (49%) will be affordable rented units.

The layout has been subject to some design changes over the course of the application process, and the number of units has been reduced from 47 to 45. Public open space is provided in the form of a square with a LEAP. A further area of POS is located to the main entrance and adjoining a proposed underground pumping station

### **SITE DESCRIPTION**

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

The field is relatively level and is regularly mown. The public house landlord has rented out the field for car boot sales for the last 3 years or so (April to September) and a bi-annual dog show and an annual car show have been temporary uses organised by the publican to generate additional income for the public house. Such uses are temporary and form no part of the lawful planning history of the site. The field is private land and the publican does not allow dog walkers or children to use it. It is therefore not a community asset in land use terms.

The site is located within the Open Countryside as identified by the Development Plan and covers an area of 1.23 ha.

### **RELEVANT HISTORY**

17/2484N - New access to car park, reconfigured car park, new garage (including access) and bin store , new garden area, paths and boundary treatment - sister application to be determined separately on the Agenda

## **POLICY**

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

The following are considered relevant material considerations as indications of the Adopted Local Plan Core Strategy:

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

The Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There is however policies within the legacy Local Plan that still apply and have not yet been replaced. These policies are set out below.

NE.5 (Nature Conservation and Habitats)  
NE.8 (Sites of Local Importance for Nature Conservation)  
NE.9 (Protected Species)  
NE17 (Pollution control)  
NE.20 (Flood Prevention)  
BE.1 (Amenity)  
BE.3 (Access and Parking)  
BE.4 (Drainage, Utilities and Resources)

BE.6 (Development on Potentially Contaminated Land)

RES.5 (Housing in the Open Countryside)

TRAN.3 (Pedestrians)

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

**Shavington Neighbourhood Plan** - This Plan is at Regulation 7 Stage, Accordingly no weight can be attached to any policy within it at this stage

### **Other Material Considerations**

National Planning Policy Framework (2012)

National Planning Practice Guidance

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

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

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land

Development on Backland and Gardens

Cheshire East Design Guide

### **CONSULTATIONS**

**Environmental Health** – No objections subject to conditions regarding the implementation of the Noise Mitigation measures, charging for electric vehicles, travel information pack, remediation of contamination, piling information, construction waste environmental management plan, including dust/burning control. An Informative relating to hours of construction is recommended.

**Highways Officer** - No objection subject to conditions for the creation of one way system to Main Road to be fully operational prior to 1st occupation of development (TRO required funded by the Applicant) and construction management

**Education** - Objection without a Total education contribution of £159,899 towards Secondary School( £114,399) and Special Educational Need (SEN) (£45,500).

**Flood Risk** – No objections subject to conditions requiring approval of the detailed design, associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods and details of ground and finished floor levels

### **VIEWS OF THE PARISHCOUNCIL**

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

- There is no requirement in the parish for an additional 45 houses. Moreover, there is no requirement for additional affordable homes. This is unnecessary as there are more than 400 affordable homes approved in the Shavington/Wybunbury area which is more than 5 years supply given the current Cheshire East requirements

- Access and egress problems will be exacerbated, especially at close of business.
- The one-way system proposed on Main Road and the widening of the footway (pavement) will cause problems, particularly in respect of the manoeuvrability for heavy commercial vehicles. There will also be a dangerous situation created by vehicles exiting the development turning right towards Newcastle Road when the traffic coming from Newcastle Road is entering a one-way system.
- The proposed increase of the footpath will decrease the road width and cause a dangerous situation when vehicles are parked in the road. If local residents park on the footpath to reduce the potential danger they will block the footpath and negate the suggested widening.
- The bus service is inadequate.
- The social infrastructure is inadequate, e.g. local school will be unable to accommodate additional pupils; there is no GP practice in the parish; no Post Office; and the application provides for an inadequate play area.
- The Parish Council requests that no construction commences until the adoption of the one-way system
- The physical infrastructure will be unable to cope with the development, in particular, there will be a damaging effect on sewers/drains/broadband particularly on Main Road as the sewer is continuously being overwhelmed, damaged and repaired.
- The development proposed is outside the settlement boundary.
- The development will result in erosion of the Green Gap.
- The proposals generally produce a more dangerous highway situation particularly at the intersections of Main Road/Dig Lane/Newcastle Road.
- This development is not included in the recently adopted Local Plan.

If the Borough Council is minded to approve the application, the Parish Council recommends that it be conditioned as follows:

- There should be no building commenced until the required physical infrastructure is in place.
- There shall be no development activities on site until the one-way system is in place.

**Wybunbury Parish Council** - Consider the application should be refused on the following grounds

- There is an adequate supply of affordable housing within current planning approved sites in the Shavington area
- Site is outside the village envelope in open countryside
- The road that the entrance to the development is proposed is Main Rd Shavington which is very narrow. Consider this short section should become one way

## **OTHER REPRESENTATIONS**

Representations from 53 individual properties received to both rounds of neighbour consultation raising the following points:

- Loss of open countryside
- Development should utilise brownfield land

- Existing permissions have provided sufficient affordable houses and no more is needed
- Design out of keeping with existing homes which are older style properties
- 400 affordable houses either built or being built within the village do we really need anymore?
- Too much traffic
- Main road is dangerous
- . Making the triangle area one way will not help the situation as it will just increase traffic down the slightly wider side.
- The one way system will stop me from obstructing the road with my van and inconveniencing others and make life more difficult for me
- Increased pressures on local schools, doctors, hospitals and community infrastructure.
- Lack of on site amenity space/ play areas
- Site access has inadequate visibility
- Increase in traffic will exacerbate highway safety problems along Main Road which is a busy, narrow lane with on street parking
- Cumulative impact on highways from all other development planned in this area
- In the last 3 years nearly 1400 houses given permission in the parish, this application needs to be seen in that context
- Bad Internet connection will be made worse
- Exacerbate existing parking problems for residents
- The car boots/dog show/car show is a community benefit during the summer
- No capacity on local road network to accommodate increase in traffic and exacerbating traffic congestion
- Main road is a poor walking environment
- Proposed one way system is dangerous
- Light pollution
- Increased noise and disturbance
- Loss of light
- Education mitigation inadequate
- Shavington can cope with no more housing
- Housing scheme should not be permitted until the consultation on making Main road one way is complete
- Contrary to recently adopted Plan and outside settlement boundary
- Ownership of the ditch to the western boundary
- The field has historic field furrows

## **APPRAISAL**

### **Principle of development**

Policy PG1 of the CELPS requires that for a period from 2010 to 2030 a minimum of 36000 homes shall be delivered in the Borough. This is to be delivered at an average of 1800 homes per annum.

The site lies, however, within the Open Countryside. Policy PG6 of the Adopted Local Plan Strategy states that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development is restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development although affordable has not been put forward as a Rural Exception Site and therefore 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”.

Policy SC6 (Rural Exceptions Housing for Local Needs) of the CELPS only applies to developments which adjoin a Local Service Centre or Other Settlement and are for small schemes (10 dwellings or fewer). As a result the proposed development does not comply with this Policy.

The issue in question is whether there are other material considerations associated with this proposal which is 100% affordable, which are sufficient enough to outweigh the planning policy objection to the proposal.

### **Housing Land Supply**

Paragraph 49 on the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. 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.

The Inspector’s Report published on 20 June 2017 signalled the Inspector’s agreement to the plans and policies of the Local Plan Strategy, subject to the modifications consulted on during the spring of 2016 and 2017. On adoption, all of these sites and policies will form part of the Statutory Development Plan. In particular sites that were previously within the green belt are removed from that protective designation and will be available for development. Other sites also benefit from the certainty that allocation in the development plan affords.

In the light of these new sources of housing supply, The Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his Report he concludes:

*“I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years”*

Given this conclusion from the examining Inspector, the Council now takes the position that it can demonstrate a 5 year supply of housing land.

### **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us.*

*Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

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

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

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

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

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

The application proposes 45 affordable dwellings, to be provided by a registered provider. Magenta Living will fund the scheme with the aid of grant funding from the Homes and Communities Agency (HCA). The Applicant advises that development would commence early in 2018 and be complete in 2020.

Given the highways issues surrounding this development, considered below, this time frame is somewhat optimistic but it is possible that development could commence in the middle part of 2018.

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

The Local Plan Strategy's annual affordable housing target for the borough is 7,100 across the Plan period (average of 355 per year). Affordable housing completions since 2010 are reflected in the table below taken from the Councils Annual Monitoring Report (AMR).

	10/11	11/12	12/13	13/14	14/15	15/16
Affordable housing	170	214	184	131	638	448

Given the rates of the completion a Key Action of the AMR in, relation to planning for housing in Cheshire East is to;

- Make sure that affordable houses are being provided on appropriate sites

The SHMA 2013 shows the majority of the demand in Wymbunbury and Shavington PER YEAR until 2018 is for 8x 1 bedroom, 20x 2 bedroom, 7x 3 bedroom, 12x 4 bedroom dwellings for general needs.

The SHMA is also showing an annual need for 1x 1 bedroom and 7x 2 bedroom dwellings for Older Persons.

The Cheshire Homechoice Register is currently showing 104 applicants that have Shavington and Wymbunbury as their first choice. This can be broken down to 13x 1 bedroom, 51x 2 bedroom, 35x 3 bedroom and 5x 4+ bedroom dwellings.

Therefore a mix of 1, 2, 3 and 4 bedroom dwellings including a provision for 1 and 2 bedroom Older Persons units on this site would be acceptable. 29 units should be provided as Affordable rent and 16 units as Intermediate tenure.

The proposal seeks 23 units are to be for shared Ownership and 22 are to be Affordable Rent due to viability reasons and that the Shared Ownership dwellings generate a higher capital receipt to fund the Affordable Rent.

The Mix is to be 1, 2, 3 and 4 bedroom dwellings including bungalows on the site. This is meeting the identified housing need.

The Total Affordable dwellings that have planning permission is 317 units

The current completion figures for the Affordable housing in Shavington and Wymbunbury are as follows:

13/14	<b>16</b> (16 at Stapeley Water Gardens (SWG))
14/15	<b>7</b> (7 at SWG)
15/16	<b>24</b> (9 at SWG)
16/17	<b>72</b> (24 at SWG)
17/18	<b>23</b> (5 at SWG)
<b>Total</b>	<b>142</b> (61 at SWG)

Projection for the remainder of 17/18 is **29** (5 at SWG).

Therefore giving potentially **166** units completed against the target of **270** (54 units/year x 5 years) over the 5 year period

Accordingly, notwithstanding the developments that have been approved locally such as the Triangle site (at 30% affordable provision as a proportion of a market led development), in the light of this evidence there has been a significant under-provision of affordable housing, both historically and cumulatively in this area. In no year has the affordable housing target been met.

There remains therefore a pressing need for affordable housing of all tenures to meet the existing shortfall in **delivery** of affordable housing in the area. This application will include 23 units which will be made available for shared ownership and 22 units will be affordable rented units and is a 100% affordable housing scheme, with HCA funding agreed. The scheme if approved is earmarked to commence in 2018, thereby, will be available to make a meaningful contribution to the shortfall in the current Affordable Housing Need Survey, as well as future requirements.

The proposal is strongly supported by the Strategic Housing manager, and the percentage split in one, two, three and four bedroom and bungalow units has been negotiated by the Housing Manager to meet the local need. Therefore the proposal makes a significant contribution to the community in its own right and therefore is socially sustainable and is a matter to which considerable weight is given in the planning balance.

Development proposals for housing can traditionally contribute to social sustainable development through the provision of some community benefit; this is often brought about through contributions (financial or otherwise). A main community benefit is in itself the provision of affordable housing. However, alongside this, for large developments, other benefits are required to make the development acceptable in planning terms, and to ensure that it does not have a detrimental impact on the community it is to serve.

The Viability report submitted by the Applicant has been peer reviewed by the Council and the review undertaken also considered the development in the light of the 49%:51 % tenure split offered together with other S106 requirements would make the proposal unviable. The review undertaken by the Council's appointed Consultant has confirmed that if the tenure split required by the IPS were imposed then the development would be unviable. It therefore follows, in the light of the advice contained within the NPPF and the IPS, that this scheme cannot sustain the 65%:35% tenure split in terms of affordable housing.

The Strategic Housing Manager has confirmed that in the light of the viability evidence that there is no objection to the proposal's tenure split.

## **Education**

The education impact is another element of the social sustainability of the scheme to be assessed within the overall planning balance.

The development is forecast to increase an existing shortfall for secondary provision (7 Pupils) in the immediate locality and SEN (1 Pupil ) provision as set out in the table below ;



scheme, it could not bear the full costs of financial planning obligations and could therefore not be fully policy compliant.

The NPPF, when considering viability as a material planning issue, states as follows:

*‘To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable’*

The Report states that this scheme can afford a £30,000 financial contribution, in this case, to secondary education, based on the submitted affordable housing tenure mix.

The Council’s appointed consultant has considered the findings of the Applicant’s Viability Appraisal and advised that in her opinion a financial contribution of £80,000 to education is appropriate in this case and would not adversely affect the viability of this scheme. This has been accepted by the Applicant.

Accordingly, a financial contribution of £80,000 to education is now provided. This is all that can be sustained in the context of this 100 % affordable housing scheme. This is therefore a circa 50% contribution to the education mitigation as required by the Education Department. On this basis, almost 4 secondary school places are provided.

It is important to note that unless the full financial contribution to education and full compliance with the tenure split requirements of the IPS affordable housing are foregone, this scheme is not viable and any benefits from developing the affordable housing scheme, including the significant benefits to the social arm of sustainable development which is much needed in this area, will not be achieved.

In this case, given the unviable nature of the development, the full education contribution as requested cannot be fully secured.

Accordingly, whilst the provision of the dwellings contributes significantly to social sustainability, that contribution is diminished by the fact that the education contribution is half what is the true cost of the impact of the development. This will need to be assessed within the overall planning balance.

### Social Sustainability Conclusion

It is considered that, although the proposal will not make a full education contribution, that contribution has been significantly increased due to the independent revue undertaken as part of this application.

The scheme makes a very significant contribution to the provision of affordable housing to meet a significant need which the Housing Need Survey demonstrates is not being delivered in this area. On balance, this contribution in the form of the affordable housing alone is considered to provide significant community benefit, and it is unfortunate that the scheme is unable to provide a full financial educational contribution however this has been robustly tested through a viability

appraisal which shows that £80,000 can be afforded by the scheme. This is a significant improvement achieved during the planning application assessment process.

Although it is finely balanced, this proposal will be socially highly sustainable by providing for the delivery of much needed affordable housing and whilst the full education contribution is proven to be unobtainable in viability terms, it is considered that the need for the additional social housing outweighs the harm in terms of the reduced education contribution achievable.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Archaeology**

The County Archaeologist has assessed the site against the Cheshire Historic Environment Record (CHER) and advises historic mapping did not show anything of interest within the field which is the subject of this application. She has also assessed this site against the Historic Landscape Characterisation report (HLC), produced by Cheshire County Council in consultation with English Heritage in November 2007. The HLC identifies the proposed development area as containing some degraded remnants of an earlier field system (most likely post-medieval), which has been subject to re-organisation and remodelling during the 20<sup>th</sup> century. Given the disturbance which will have been caused by modern farming techniques it is unlikely that the proposed development would disturb any significant below ground archaeological remains and as such the County Archaeologist advises that no archaeological mitigation is required at this site.

### **Amenity of existing and future residents**

Environmental Health have advised that they have no objections subject to the implementation of a number of conditions. These include hours of piling, the prior submission of a piling method statement, the prior submission of details of an environmental management plan, EV charging, residents travel pack and the inclusion of contaminated land conditions.

For housing proposals, saved Policy BE1 requires consideration to be given to the occupiers of both neighbouring properties and the future occupants of the site with regards to privacy, loss of light, visual intrusion and pollution. Interface distance standards for neighbours is adhered to

The standard amount of space required for dwellings within the Crewe and Nantwich Area is 50 square metres as detailed by the Borough of Crewe and Nantwich Development on Backland and Gardens SPD. This scheme complies with that standard. Likewise the proposal meets the interface standards where it adjoins existing dwellings

### **Open Space**

Saved Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. There is therefore a requirement for open space as part of the proposal. The layout indicates 3 areas of open space within the site. A LEAP comprising 5 pieces of equipment are provided to the Central area of POS which is well overlooked. Conditions can control the design/siting. Overall the areas of POS through the site are acceptable and comply with the standards in RT. 3.

## **Site Location**

Accessibility is a key factor of sustainability that can be measured. A methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The checklist has been specifically designed for this region and relates to current planning policies set out in the North West Regional Spatial Strategy for the North West (2008).

With regard to environmental sustainability, it is considered that the proposals are sustainable the proposed development is adjacent to the Shavington service boundary which is a local service centre with a variety of amenities and services and is within close proximity to public transport connection, there is a footpath along Main Road. The site location therefore performs well against the desired distances to local facilities which developments should aspire to achieve as set out within the toolkit of the checklist. The site is accessible to a bus route (12 and 12E) which operates 7 days a week. The site is therefore considered to be locationally sustainable.

## **Landscape Impact**

Whilst the site is designated as Open Countryside, the quality of the landscape is however strongly influenced by the residential and industrial surrounding development. There are boundary hedgerows and a number of trees on and adjacent to the site. Although development would result in the loss of several existing trees and lengths of hedge, given the context of this site, the proposal will not have a significant landscape or visual impact.

## **Impact on Trees**

An Arboricultural Impact Assessment (AIA) method statement submitted in support of the amended proposals.

The application identifies the loss and removal of six individual trees. These have been categorised five un-classified specimens with only one tree is noted as a category C low value and whilst the tree (T9) is a prominent specimen the tree on close inspection presents numerous significant areas of decay associated with historic poor pruning practices and previous branch failures, retention is not a viable option, the tree is not considered worthy of formal protection.

The retained trees, which are insignificant in number can be protected in accordance with current best practice, significant post development issues are not anticipated.

A detailed hedgerow assessment has been undertaken by CES Ecology; the conclusions identify the hedgerow (H2) which extends through the central aspect of the site as being important in relation to the ecological criteria of The Hedgerow Regulations 1997, hedgerow 2 also qualifies as a BAP priority habitat. A section of the hedgerow requires removal to facilitate the spine access road and access to the field located to the west, whilst the intention is to retain the remaining sections of H2 and the other hedgerows once a hedge forms part of a domestic garden curtilage, they cannot be considered important under the hedgerow regulation, and could be removed at a latter date, the planning balance prevails

## **Ecology**

## **Bats**

Evidence of bat activity in the form of a minor roost of a relatively common bat species has been recorded within the surveyed building. This building is to be demolished to facilitate the (shared) access to this development. The usage of the building by bats is likely to be limited to small-medium numbers of animals using the building for relatively short periods of time during the year and there is no evidence to suggest a significant maternity roost is present. The loss of the building surveyed on this site in the absence of mitigation is likely to have a medium impact upon on bats at the local level and a low impact upon the conservation status of the species as a whole.

The submitted report recommends the installation of 2 bat boxes on the new dwellings as a means of compensating for the loss of the roost and also recommends the timing and supervision of the works to reduce the risk posed to any bats that may be present when the works are completed.

### **Important**

It should be noted that since evidence of a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. The Habitat Regulations 2010 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

### **EC Habitats Directive Conservation of Habitats and Species Regulations 2010 ODPM Circular 06/2005**

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations which contain two layers of protection:

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities (“Ipas”) to have regard to the directive’s requirements.

Current case law instructs that if it is considered clear or very likely that the requirements of the directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

### ***Overriding Public Interest***

The provision of mitigation would assist with the continued presence of bats

### *Alternatives*

There is an alternative scenario that needs to be assessed, this are:

- No development on the site

Without any development, specialist mitigation for bats, protection would not be provided which would be of benefit to the species.

The Council's Nature Conservation Officer has advised that if planning consent is granted the proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of the species of bat concerned. As such, the implementation of such mitigation shall be conditioned if the application is approved.

### *Great Crested Newts (GCN)*

The Council's Nature Conservation Officer has advised that there is a considered low risk that the proposed development may have an adverse impact upon GCN's which may occur in the surrounding habitat. The Council's Nature Conservation Officer is satisfied that the risks will be adequately mitigated against by the implementation of the reasonable avoidance measures detailed within the provided *Amphibian Reasonable Avoidance Measures Method Statement (RAMMS)* report dated September 2017. Should the application be approved, it has been recommended that these measures be implemented.

### **Flood Risk**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. Flood Zone 1 defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site is more than 1 hectare, a Flood Risk Assessment (FRA) has been submitted in support of the application.

The Councils Flood Risk Team have been consulted as part of this application and have raised no objection to the proposed development subject to the imposition of a planning condition to require compliance with the recommendations of the FRA. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

### **Contaminated Land**

The Environment Agency and Environmental Health have been consulted with regard to contamination, the Contaminated Land team has risen no objections however the Phase I report recommends a Phase II ground investigation be undertaken in order to further investigate the potential contamination risks at the site.

The Phase II report has now been submitted and is currently under review by Environmental Health.

## **Air Quality**

Following consultation with Environmental Health it is clear that the cumulative impact of a number of developments in the area, (regardless of their individual scale) has the potential to significantly increase traffic emissions, and as such adversely affect local air quality for existing residents by virtue of additional road traffic emissions.

The NPPF requires that development be in accordance with the Council's Air Quality Action Plan.

Modern Ultra Low Emission Vehicle Technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such, it is considered appropriate to create infrastructure to allow home charging of electric vehicles in new, modern, sustainable developments. Conditions in relation to air quality have been recommended.

## **Noise Impact**

The Council's Environmental Health Officer has considered the noise report submitted in support of the application and is satisfied that the amenities of future residents can be safeguarded. Conditions are suggested

## **Design**

The importance of securing high quality design is specified within the Framework. Paragraph 61 states that:

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

The local area comprise a variety of house types including modern semi-detached and detached housing, and Victorian terraced dwellings which back onto the site. The site is contained within the landscape, and other than the access points into the site and distant views from the Bradfield Road railway bridge to the south, it would not be prominent from public vantage points.

Following discussions with the Council's Design Officer, the proposals have been amended during the application process and various improvements have been made to the layout to create a greater sense of place and a more sustainable environment for the future residents of the site.

The amendments have achieved a greater cohesiveness of the grouping of buildings particular around the main square and focal point buildings. Building heights are no more than 2 storey, in keeping with the wider area. The amended layout has included the removal of some car parking from frontages and the creation of some driveways, and improvements in the road layout with a hierarchy of surfaces and road widths reduced within the inner part of the site

The highways design, including the shared surfaces has been agreed with the Highways Officer and is designed to an adoptable standard.

It is considered that the amended scheme is of an acceptable design/layout has been achieved it is considered that the proposed development accords with the principles of the Cheshire East Design Guide and Policy SE.1 of the Adopted Local Plan Strategy .

## **Highways**

There have many been objections raised by neighbouring properties in relation to highway issues and the impact on the surrounding road network as a consequence of this application in isolation and in conjunction with the application for the associated works at the public house (reported elsewhere on this Agenda).

As part of the determination of this application, a proposal to make Main Road a one way system and selective pavement widening has been negotiated. This will need to be the subject of a S278 Agreement under the Highways Act.

### Proposed One-way Traffic Regulation Order (TRO)

The wider Shavington area is to the north of the site, including local destinations such as the Co-op, and primary and secondary schools. The pedestrian desire line from the site to these destinations follows along Main Road. The footway width along Main Rd is sub-standard at no more than 1m on its eastern side and less so along the western side.

Given the existing constraints along Main Road the applicant has proposed a one-way system in order to reduce the carriageway width to allow for footway widening. It has been proposed to begin the one-way just north of the site access to allow for customers of the pub or for residents of the new development to exit onto Newcastle Road if need be.

The width of Main Road varies but is approximately 4.7m and reduces further at the northern end. The proposal would reduce the carriageway width to between 3.1m and 3.5m, and provide a footway along the western side with a width between 1.6m and 2m. There would be a build-out at the northern junction to slow vehicles down on approach to the give-way and to enable right turning. The one-way would be in place along Main Road for an approximate length of 120m.

The footway widening would be a significant improvement on the existing situation and would be a safety benefit for the current community. Currently some pedestrians from existing dwellings or from the PH would have to walk along the road. The new footway will be wide enough for 2 adults with a pram to walk alongside each other or a wheelchair user to pass an adult.

The proposal one way system still provides sufficient width for HGVs or emergency vehicles to pass down the road.

As this section of Main Road would be one-way in a northbound direction, it could be assumed that the existing southbound drivers along it would instead use the other section of Main Road which also exits onto Newcastle Road approximately 90m to the east. From peak hour traffic

surveys this proposal would therefore result in an additional 50 vehicles using this road during the AM peak and an additional 20 during the PM peak. Spread over an hour the impact would be minimal.

The Strategic Highways Manager confirms that the proposed TRO is a necessity in this case and as such a Grampian planning condition would be required to provide the highway alterations in the TRO prior to any development on this site commencing and delivery of the highways matters in the TRO prior to any residential occupation of the site.

A safe and suitable access can be provided for all users and a development of this type and size would generate approximately 20 vehicle trips in the peak hour.

The additional development, subject to the delivery of the one way system to Main Road (TRO matter) in the view of the Strategic Highways Manager will not have a material traffic impact that warrants an objection to the application. The internal road, in conjunction with the access to the public house (as detailed in application 17/2484N) technically meets standards.

Overall, notwithstanding the widespread objections to the proposal on highway grounds, the Strategic Highways Engineer advises that the proposal will, subject to the suggested TRO and conditions not be detrimental to highway conditions.

## **ECONOMIC SUSTAINABILITY**

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

### **Agricultural Land**

It is considered that the lawful use of the site is likely to comprise lawful grazing land. Policy SE2 of the Local Plan Strategy sets out that development should safeguard natural resources including high quality agricultural land (grades 1, 2, and 3a), whilst recognising that some reduction of agricultural land is inevitable if new development is to proceed.

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this case, the site is small and constrained by built/ approved housing and development to all boundaries. Whilst the land as grazing land may be categorised as being agricultural land, it is divorced from other farm premises with no common boundary, and is owned by Punch Taverns, the Grade is unknown and is used for occasional activities by the publican. On this basis, the importance of the land in agricultural terms is significantly diminished and of very limited weight in the planning balance.

### **Economic sustainability conclusion**

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

## **Representations**

Objections to the proposal have been received from neighbouring properties and the wider area to the proposed development on various grounds which have been considered and are addressed in the main body of the report.

## **Levy (CIL) Regulations**

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

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

The Applicant has already submitted a draft Unilateral Undertaking which is being considered by the Head of Legal Services.

The education contribution is necessary having regard to the oversubscription of secondary schools and SEN places and the demand that this proposal would add to the local provision. This is considered to be necessary, fair and reasonable in relation to the development.

The highways contribution is necessary to fund the necessary works and consultation under the Highways Act to mitigate for the impact of the development on the local highway network and in that regard is fair and reasonable.

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

## **PLANNING BALANCE**

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

The National Planning Policy Framework includes a presumption in favour of sustainable development. Paragraph 12 of the Framework states that *'the National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place'*

The site is within the Open Countryside, where new development for housing is restricted to agricultural, forestry, limited infilling and affordable housing through Rural Exception Sites. The proposed development although affordable has not been put forward as a Rural Exception Site therefore would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside.

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

The benefits in this case are:

- The development would provide significant social benefits in terms of much needed affordable housing provision to meet a significant shortfall proven to exist in this area which is deliverable within the SHLAA period
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses.
- The design of the proposed development has been improved to adopt some key urban design principles and complies with the recently adopted Design Guide.
- The proposal will not have an adverse landscape impact.

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

- The impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation.
- There is not considered to be any significant drainage implications raised by this development.
- The impact upon the residential amenity/noise/air quality/landscape and contaminated land could be mitigated through the imposition of planning conditions.
- Highway impact would be mitigated by the TRO required as a Grampian condition. The widening of Main Road pavement would provide a safety benefit.

The adverse impacts of the development would be:

- A limited loss of open countryside (given the location of the site between existing and housing development with planning permission yet to be implemented). The impact is therefore to open countryside policy rather than the character of the area.
- The full impact upon education infrastructure as this cannot be fully mitigated through the provision of an education contribution of £80000 as demonstrated by the viability assessment. Circa 50% of the requested education mitigation has to be foregone in this case to deliver this scheme
- There is some limited adverse impact upon social rented affordable housing accommodation itself by virtue of the non compliance with the 65% social rented : 35% shared ownership tenure

as usually required by the IPS. This schemes split is 49%:51%. This is however outweighed by the fact that the scheme is 100% affordable.

Although it is regrettable that the scheme cannot contribute the full education contribution, it is considered that the benefits of the scheme in the form of 100% affordable housing outweigh the disadvantages of the scheme in terms of the reduced education contribution

The Strategic Highways Manager is satisfied that subject to the provision of pavement widening on Main Road and the creation of a One Way System will mitigate for the highways impact of the proposal

## **RECOMMENDATION**

**Approve subject to a S106 / Unilateral Undertaking to deliver the following Heads of terms**

**£80,000 to secondary school education**

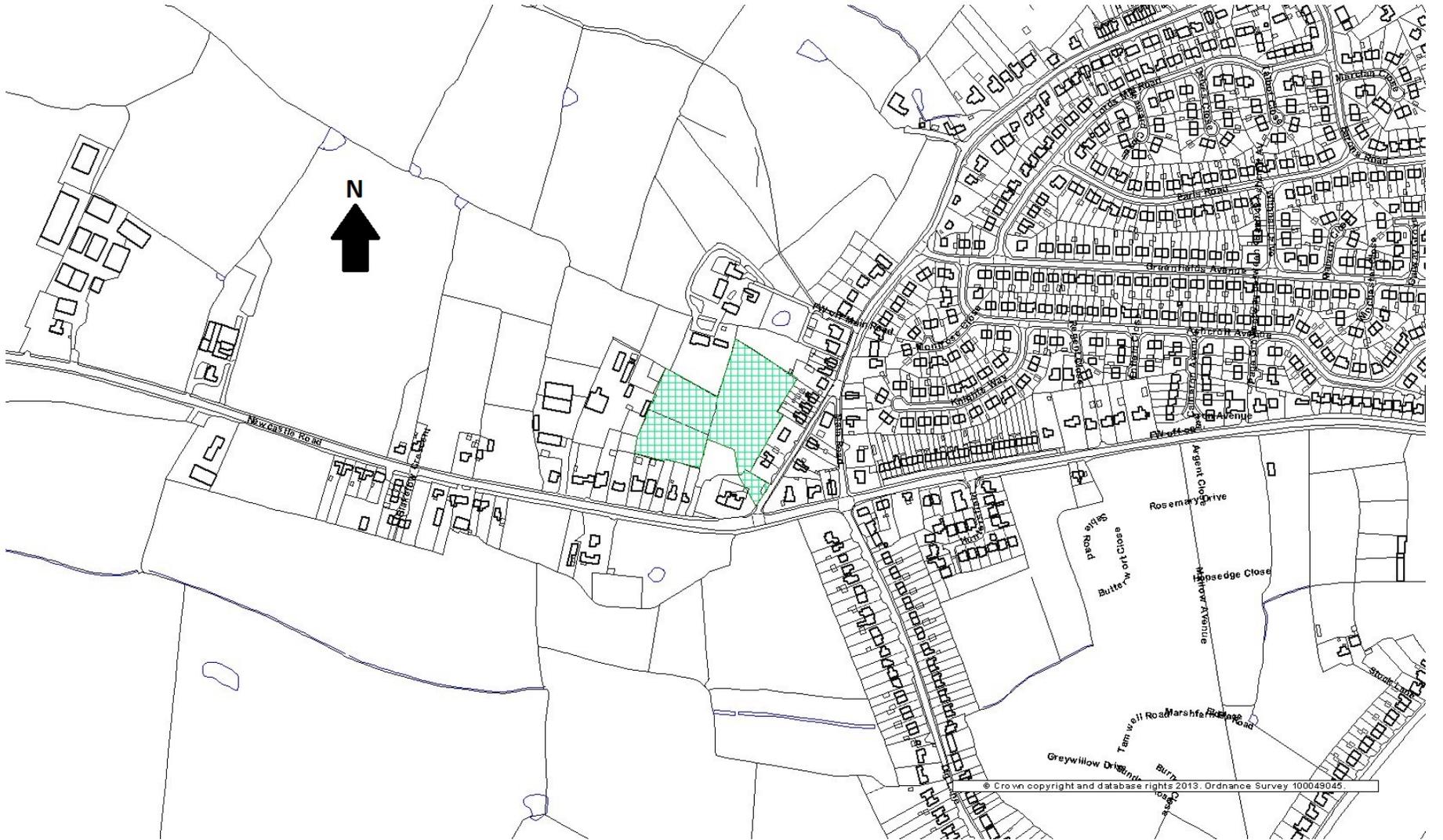
**£12,000 to fund S278 for work to Main Road**

**and the following conditions:**

- 1. Commencement of development (3 years)**
- 2. Development in accordance with approved plans,**
- 3. Materials as application**
- 4. Surfacing materials**
- 5. 100% affordable housing**
- 6. Removal of permitted development rights for extensions classes A- E and means of enclosure/ boundary treatments forward of building line**
- 7. Nesting bird survey to be submitted**
- 8. Provision of features for breeding birds**
- 9. Compliance with Flood Risk Assessment (FRA) (ref: ES/16365/FRA Prepared by SCP) dated August 2016**
- 10. Submission of landscape scheme, including hard landscaping /surfacing materials**
- 11. Implementation of landscaping**
- 12. LEAP (min 5 pieces of equipment) children's play area /pos in accordance with details to be submitted /approved**
- 13. Contamination - Phase II investigation to be submitted**
- 14. Contamination - Importation of soil**
- 15. Remediation of unexpected contamination**
- 16. All Arboriculture works in accordance with Tree Care Consultancy Arboricultural Implication Assessment (Ref AIA1-CSE-SW) dated 11<sup>th</sup> May 2016**
- 17. Boundary treatments (inc 1.8m high close boarded to rear gardens adj in accordance with Noise Report recommendations)**
- 18. Levels, existing and proposed**
- 19. Noise mitigation scheme compliance with recommendations of report**
- 20. Details of construction and highways management plan, inc on site parking for contractors/storage during development**
- 21. Electric vehicle charging points to be provided for dwellings**

- 22. Residents Travel Information Pack**
- 23. Cycle storage details**
- 24. Bin Storage details**
- 25. Grampian condition for provision of one way system/pavement widening to Main road (TRO)**
- 26. Drainage strategy detailing on and off site drainage work**
- 27 detailed calculations to support the chosen method of surface water drainage to be submitted**
- 28. Grampian condition for the one-way system to Main Road be fully implemented/ construction of the footways to Main Road and build-outs on Newcastle Rd should be complete prior to any occupation of the site**
- 28. Compliance with bat report**
- 29. Updated badger survey**
- 30. Submission and implementation of a scheme for the future management and maintenance of all communal open space**
- 31. Bungalow/single storey accommodation - priority of occupation for over 55's/ persons reliant upon wheelchair**
- 32. Details of garden sheds to be submitted prior to development**

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



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