



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 31 March 2014

Committee:
North Planning Committee

Date: Tuesday, 8 April 2014

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
Martin Bennett
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
John Cadwallader
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 252719

Email: shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 12)

To confirm the Minutes of the meeting of the North Planning Committee held on 11th March 2014, attached, marked 2.

Contact Shelley Davies on 01743 252719.

3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Refuse Tip, Maesbury Road Industrial Estate., Maesbury Road, Oswestry, Shropshire (14/00369/COU) (Pages 13 - 20)

Change of use from refuse tip to sale of static and touring caravans.

6 Field Farm Marchamley Wood, Shrewsbury, Shropshire, SY4 5LH (14/00852/FUL) (Pages 21 - 28)

Proposed two storey extension to dwelling; extension to existing garage/workshop to provide annex.

7 Land South Of Hill Valley Golf Club, Tarporley Road, Whitchurch, Shropshire (13/03413/OUT) (Pages 29 - 48)

Outline permission (access for approval) for residential development (up to 86 dwellings) to include vehicular access (off Tarporley Road).

8 Land north of Jubilee Cottage, Harmer Hill, Shrewsbury, SY4 3DZ (13/04682/OUT) (Pages 49 - 72)

Erection of 6no detached dwellings (including 1no affordable unit) with means of access and layout.

9 Land North Of Burntwood House, Babbinswood, Whittington, Oswestry Shropshire (13/01717/FUL) (Pages 73 - 88)

Development of 2 dwellings and relocation of existing store building.

10 Appeals and Appeal Decisions (Pages 89 - 108)

11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 6th May 2014 in the Shrewsbury Room, Shirehall.

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<u>Committee and Date</u>
North Planning Committee
8 th April 2014

<u>Item</u>
2
Public

Minutes of the North Planning Committee meeting held on Tuesday 11th March 2014

2.00 p.m. – 6.04 p.m. in the Shrewsbury Room, Shirehall, Shrewsbury.

Responsible Officer Shelley Davies

Email: Shelley.davies@shropshire.gov.uk

Telephone: 01743 252719

PRESENT

Councillors: A.E Walpole (Chairman)
P. A. D. Wynn (Vice-Chairman)

Mrs. J. Barrow, M. Bennett, G. L. Dakin, S. Davenport, Mrs P. A. Dee, V. J. Hunt, D. G. Lloyd MBE and Mrs M. R. Mullock.

128. APOLOGIES FOR ABSENCE

An apology for absence was received from Mr D. Minnery.

129. MINUTES

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 11th February 2014 be approved as a correct record and signed by the Chairman subject to the following amendment to Minute 114:

That the disclosable pecuniary interest stated by Councillor Dakin in relation to planning application 13/04268/OUT, Proposed Housing Site West of Chester Road, Whitchurch be amended to read due to perception of bias.

130. PUBLIC QUESTION TIME

None received.

131. DISCLOSABLE PECUNIARY INTERESTS

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

Councillor Lloyd stated that he had a disclosable pecuniary interest and he would leave the room prior to consideration of planning application 13/03184/FUL Plas Wilmot, Weston Lane, Oswestry due to perception of bias.

132. PROPOSED RESIDENTIAL DEVELOPMENT EAST OF GYRN ROAD, SELATTYN, SHROPSHIRE (13/01735/OUT)

The Principal Planning Officer introduced the application, drawing Members' attention to the schedule of additional letters. It was noted that the application had been deferred at the meeting held on 11th February to allow Members to undertake a site visit to assess the impact of the proposal on the surrounding area. It was confirmed that the site visit had taken place that morning.

Councillor S. West-Wynn on behalf of Selattyn and Gobowen Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The results of a housing needs survey the Parish Council undertook in March 2012 indicated that any further development in Selattyn should be limited to infill development and none of the four proposed sites were supported;
- ii. The proposed development did not comply with the SAMDev proposals;
- iii. The application site was outside the development boundary for Selattyn; and
- iv. The proposal exceeded the Parish Council's housing target of 5 dwellings.

Mr T. Betts, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The objections raised by local residents included concerns in relation to highway safety, risk of flooding and denigration of the natural environment;
- ii. Reference was made to the statement from Nick Boles MP that planning was not the preserve of lawyers and councils;
- iii. There was no infrastructure in Selattyn to support any new development;
- iv. The recommendation for approval was based solely on the lack of a 5 year housing land supply; and
- v. The Committee had reasonable grounds to refuse the application.

Ms P. Stephan, the agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The application site was closest site to the village;

- ii. An exhibition showing details of the proposed development held in Selattyn was well attended by local residents and received positive feedback;
- iii. The proposal included an area of open space and access to the school car park area;
- iv. The application was supported by the trust that owned the land and the governors of the school;
- v. The applicant had undertaken remedial works to resolve the surface water flooding issues;
- vi. The application was a logical extension to the village; and
- vii. There was no opportunity for infill development in the village.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor D. Lloyd MBE, as the local Ward Councillor, made a statement against the proposal but took no part in the debate and did not vote.

In response to comments made in relation to the concerns of the Tree Officer regarding the loss of trees, the Principal Planning Officer explained that these concerns had been overcome by a revised indicative layout which showed how the site could be laid out without impacting on the trees.

Having considered the submitted plans for the proposal the majority of Members expressed concern in relation to the elevated nature of the site and that the proposed development would have an adverse impact on the quality of the landscape. Additionally Members questioned whether the proposed access to the school car parking area was possible due to the steep gully.

RESOLVED:

That planning permission be refused contrary to the Officer's recommendation for the following reason:

1. The site is located in an area characterised by the prominent, sloping topography on the edge of the settlement and elevated above the existing properties with established hedge and tree boundaries. It is considered that in principle the development of this elevated site and the associated removal of the boundaries to create the access to the site and to the school car park would have an adverse impact on the character and appearance of the village, would dominate the immediate area, would result in the loss of existing landscaping and not contribute towards conserving and enhancing the natural environment contrary to policy CS6 of the Shropshire Core Strategy. It is considered that the adverse impact of developing the site and the harm to the intrinsic character and beauty of the countryside would significantly outweigh the benefits and that the proposed development would therefore fail the environmental role of sustainable development contrary to the National Planning Policy Framework.

133. LAND EAST OF THE OLD RECTORY, SELATTYN, SHROPSHIRE (13/03821/OUT)

The Principal Planning Officer introduced the application, drawing Members' attention to the schedule of additional letters. It was noted that the application had been deferred at the meeting held on 11th February to allow Members to undertake a site visit to assess the impact of the proposal on the surrounding area. It was confirmed that the site visit had taken place that morning.

Mr B. Barnes, local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. Selattyn lacked basic services and would not support any new development;
- ii. Selattyn had a well-established development boundary;
- iii. The proposals would harm the intrinsic character of the village;
- iv. The site was in agricultural use for part of the year;
- v. The development would look out of place;
- vi. There would be no social benefits to the village and
- vii. The harm of the development would outweigh any benefits.

Councillor S. West-Wynn on behalf of Selattyn and Gobowen Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees and reiterated his comments made for the previous application (13/01735/OUT).

Mr D. Parker, the agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. There was local support for the application;
- ii. The development was well sited and would be beneficial to the future of the Primary school;
- iii. Limited weight should be given to the SAMDev proposals;
- iv. There was no possibility for infill development within the development boundary of Selattyn;
- v. There was safe highway access to the proposed development; and
- vi. The scheme would provide affordable housing.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor D Lloyd MBE, as the local Ward Councillor, made a statement against the proposal but took no part in the debate and did not vote.

Having considered the submitted plans for the proposal the majority of Members expressed their support for the Officer's recommendation, subject to an additional condition to ensure the dwellings would be no more than two storeys in height.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation and with an additional condition restricting the height of the properties to a maximum of two storeys.

Councillor D. Lloyd MBE left the meeting at this point

**134. PLAS WILMOT, WESTON LANE, OSWESTRY, SHROPSHIRE
(13/03184/FUL)**

The Principal Planning Officer introduced the application, drawing Members' attention to the schedule of additional letters. It was noted that the application had been deferred at the meeting held on 11th February to allow Members to undertake a site visit to assess the impact of the proposal on the surrounding area. It was confirmed that the site visit had taken place that morning.

Mrs H. Roberts, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The proposed access was a poor alternative to the approved access via Weston Lane;
- ii. The owner of the hedge was not willing to move the hedge to improve visibility;
- iii. Vehicle would not be able to pass safely and the lack of street lighting and footpaths would be extremely dangerous to pedestrians;
- iv. The refuse collection arrangement was unsatisfactory and would be hazardous to visually impaired pedestrians;
- v. It was questioned whether local access groups had been consulted; and
- vi. As the road would not be adopted it therefore would not be treated in bad weather.

Mr R. Hill the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. Today was the first time he had seen a car parked on the road;
- ii. Estate roads were increasingly becoming common practice in new developments; and
- iii. More residents would be affected if the access was via Weston Lane.

Mr P. Richards, on behalf of the owners of Plas Wilmot spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The proposed access was supported by the owners of Plas Wilmot and viewed as an improvement to the approved access;

- ii. The Proposed access would preserve the existing access/approach to Plas Wilmot; and
- iii. The Campaign for the Protection of Rural England (CPRE) was supportive of the proposed access.

In response to a query, Mr M. Wootton, Area Highways Development Control Manager outlined the current guidance in relation to visibility splays and confirmed that a 2 metre by 90 metre splay was adequate.

Having considered the submitted plans for the proposal Members unanimously expressed the view that the access was contrived and did not adequately address highway safety, increasing the risk of conflict with the adjacent access to the Cricket Club and traffic on Morda Road.

RESOLVED:

That planning permission be refused contrary to the Officer's recommendation for the following reason:

1. The proposed use of the existing un-adopted road off Morda Road to serve the 7 dwellings approved adjacent to Plas Wilmot was considered to result in an unsafe and contrived access, increasing the risk of conflict with the adjacent access to the Cricket Club and traffic on Morda Road and not providing satisfactory layout or width along the length of the road for the increase in dwellings.

Councillor D. Lloyd MBE rejoined the meeting at this point.

135. LAND ADJOINING 8A ST MARTINS MOOR, ST MARTINS, OSWESTRY (13/05016/OUT)

The Principal Planning Officer introduced the application and noted that the application had been deferred at the meeting held on 11th February to allow Members to undertake a site visit to assess the impact of the proposal on the surrounding area. It was confirmed that the site visit had taken place that morning.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor S. Davenport, as the local Ward Councillor, made a statement against the proposal but took no part in the debate and did not vote.

In response to a query in relation to sustainability, the Principal Planning Officer explained that the site was in an existing settlement, not isolated with key services available locally.

Having considered the submitted plans for the proposal the majority of Members expressed their support for the Officer's recommendation.

RESOLVED:

That Planning Permission be granted in accordance with the Officers recommendation.

136. LAND ADJACENT ORCHARD HOUSE, WEM ROAD, HARMER HILL, SHREWSBURY (13/04939/OUT)

The Principal Planning Officer introduced the application confirming that the Committee had undertaken a site visit that morning to view the site and assess the impact of the proposal on the surrounding area.

Mr R. Purslow, local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. A previous application on the site for 14 dwellings was rejected by Planning Officers in September 2013 as being unsustainable;
- ii. Why was the site now considered to be sustainable; and
- iii. The application should be deferred in light of the statement made by Nick Boles MP to allow local residents the opportunity to read the guidance.

Councillor R. Jeffrey, Myddle and Broughton Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The application site was outside the development boundary for Harmer Hill and in open countryside;
- ii. There were no services in Harmer Hill and therefore the location was unsustainable;
- iii. Access onto Wem Road would be a hazard;
- iv. The application changed the nature of the area; and
- v. The development was contrary to the views of the community and was in the view of the Parish Council too much, too soon and in the wrong place.

Mr D. Parker, the agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The application had been revised and was for less than half of the properties proposed in the previously refused scheme;
- ii. The separation distances between the properties exceed the required minimum;
- iii. Harmer Hill was included in the SAMDev proposals as a Community Cluster;
- iv. The proposed development would not be prominent in the street scene and would be screened by trees and hedges; and
- v. The site was included previously in the development boundary for Harmer Hill.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor B. Williams addressed the Committee as the Local Member, during which the following points were raised:

- i. The application was contrary to the Parish Plan and SAMDev proposals;
- ii. A previous application on this site was refused and deemed unsustainable;
- iii. The site was not in the Parish Plan as suggested by the agent;
- iv. The SAMDev document recently approved by Council praised the involvement of Parish Councils, approving this application would go against that statement; and
- v. The Committee should support local people and refuse the application.

Debate ensued with Members noting the difficult position they faced in relation to this application and the difficulties in balancing the views of the community against the National Planning Policy Framework and the question of the relative weight to be accorded to different policies.

In response to a query regarding the access, the Principal Planning Officer confirmed that the hedge was in the ownership of the applicant and therefore it would be possible to alter the hedge to improve the visibility.

In response to a query in relation to affordable housing, the Principal Planning Officer, explained that the applicant had indicated that one of the dwellings would be allocated as affordable and a Section 106 legal agreement would be required in relation to this matter.

Having considered the submitted plans for the proposal the majority of Members expressed their support for the Officer's recommendation.

RESOLVED:

That Planning Permission be granted in accordance with the Officers recommendation.

137. LAND NORTH OF JUBILEE COTTAGE, HARMER HILL, SHREWSBURY (1304682/OUT)

The Principal Planning Officer introduced the application drawing Members' attention to the schedule of additional letters and confirming that the Committee had undertaken a site visit that morning to view the site and assess the impact of the proposal on the surrounding area.

Mr R. Purslow, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees and reiterated his comments made for the previous application (13/04939/OUT).

Councillor R. Jeffery, Myddle and Broughton Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees and reiterated his comments made for the previous application (13/04939/OUT) adding the following points:

- i. Harmer Hill and Myddle, although being part of the same parish, were quite separate communities;
- ii. There was an application for a further 13 properties in the pipeline; and
- iii. The Parish Council wanted new development in Myddle not Harmer Hill.

Ms P. Stephan, the agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. There had been no objections received from consultees;
- ii. The concerns made by the Parish Council had been responded to and were contained in the report;
- iii. The Highways Officers had stated that the one access for the dwelling and for agricultural vehicles was satisfactory;
- iv. The land was grade 3 agricultural land and only represented 2% of the farming activities of the land owner;
- v. The comments in relation to Great Crested newts being present on the site were questioned; and
- vi. The proposed development was appropriate, in a sustainable location and would have no adverse impact.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor B. Williams addressed the Committee as the Local Member, during which the following points were raised:

- i. The information from the Parish Plan stated by the agent had been taken out of context;
- ii. The application was in open countryside and was ribbon development;
- iii. The older houses referred to in the report were built before development controls was introduced; and
- iv. The site was on a very busy road.

During debate concern was raised in relation to the shared access and the cumulative effect of development in this area stating that there needed to be a phased approach to development in the settlement.

Having considered the submitted plans for the proposal the majority of Members expressed the view that the application should be deferred to allow time for the the implications of the written ministerial statement issued by Nick Boles MP to be considered with regard to the concerns raised.

RESOLVED:

That this application be deferred in order that the implications of the written ministerial statement issued by Nick Boles MP and the Planning Practice Guidance with regard to issues concerning the phasing of development in the settlement and the shared residential and agricultural access could be assessed prior to any decision being made.

138. LAND SOUTH OF HILL VALLEY GOLF CLUB, TARPORLEY ROAD, WHITCHURCH (13/03413/OUT)

The Planning Officer introduced the application, drawing Members' attention to the schedule of additional letters.

Ms E. Jones, the agent for the application spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The site was in a sustainable location and the principle of development was acceptable in this location in accordance with the NPPF;
- ii. The majority of available views of the site were localised and limited to the northern edge of Whitchurch;
- iii. The proposals would bring about a change to the character of the landscape but this would not have an adverse impact that would outweigh the benefits of the scheme;
- iv. The European Protected Species 3 test matrix had been misapplied by Officers; and
- v. Officers had failed to take a proportionate approach in considering the feasibility of alternative solutions with regard to the presence of Great Crested Newts.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor P. Mullock, as the local Ward Councillor, made a statement against the proposal but took no part in the debate and did not vote.

Having considered the submitted plans for the proposal, the majority of Members expressed their support for a site visit.

RESOLVED:

That this item be deferred until a future meeting of this Committee, to allow the Committee to undertake a site visit to assess the impact of the proposal on the surround area.

139. MULLER DAIRY (UK) LTD, SHREWSBURY ROAD, MARKET DRAYTON (13/05043/FUL)

The Planning Officer introduced the application, drawing Members' attention to the schedule of additional letters.

Councillor V. Brown, Moreton Say Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The Parish Council fully support the employer and the benefits the business brings to the area;
- ii. The structure was not appropriate in scale and design and therefore was contrary to CS17; and
- iii. The proposal would have an adverse impact on the area and the scheme should go underground.

Mr R. Froud-Williams, the agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The bridge would link the existing building to the new building;
- ii. The area was designated as employment land;
- iii. To put the scheme underground was uneconomic;
- iv. The proposal offers the most efficient solution;
- v. The cladding would offer interest to the design;
- vi. The structure would not be seen in isolation; and
- vii. The development would not cause significant harm to the area.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor P. Wynn, as the local Ward Councillor, made a statement against the proposal but took no part in the debate and did not vote.

Responding to queries, the Principal Planning Officer confirmed that the bridge would be grey in colour with no advertisements displayed on it and any changes required to the street lighting would be at the expense of the applicant.

Having considered the submitted plans for the proposal Members were unanimously in support of the Officer's recommendation subject to the inclusion of an additional condition to ensure that the structure be removed when it was no longer required.

RESOLVED:

That Planning Permission be granted in accordance with the officer's recommendation with an additional condition requiring removal of the structure if it was no longer required.

140. APPEALS AND APPEAL DECISIONS

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area be noted.

141. DATE OF THE NEXT MEETING

RESOLVED:

That it be noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 8th April 2014, in the Shrewsbury Room, Shirehall, Shrewsbury.

CHAIRMAN:

DATE:



Committee and date
 North Planning Committee
 8 April 2014

Item
5
 Public

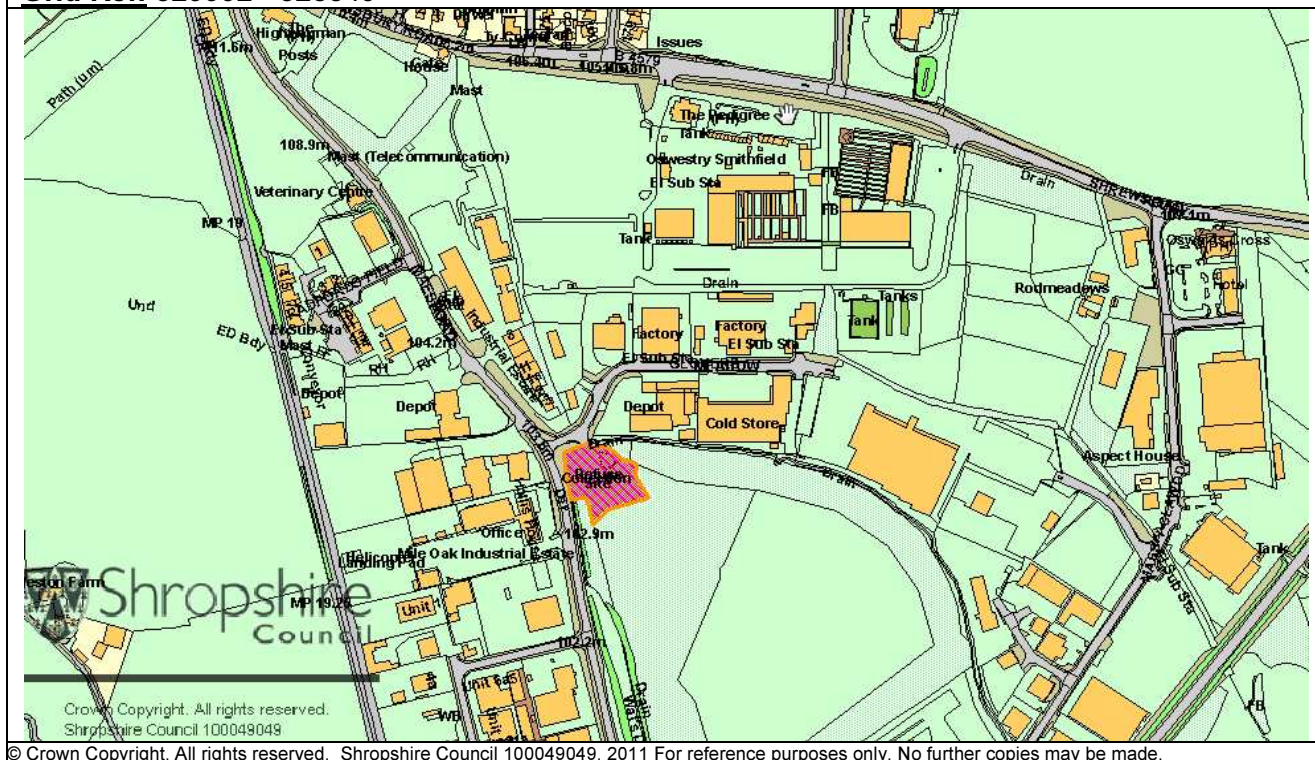
Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/00369/COU	Parish: Oswestry Town
Proposal: Change of use from refuse tip to sale of static and touring caravans	
Site Address: Refuse Tip Maesbury Road Ind. Est. Maesbury Road Oswestry Shropshire	
Applicant: Euro Source And Find Ltd	
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk

Grid Ref: 329992 - 328349



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The submitted application is for the change of use of the former Oswestry Household Recycling Centre for the display and sale of static and touring caravans.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the southern side of Oswestry in an area that is dominated by industrial units. The site consists of a large hard surfaced area which has remained vacant since a new recycling centre was built on the Mile Oak Industrial Estate. The application site lies at the northern most part of a triangular section of land along the western side of which runs the Schedule Ancient Monument of Wat's Dyke. The existing access to the site is just off the junction with Maesbury Road and Glovers Meadow.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application site is owned by the Council and the proposal is for a use that is not in-line with its statutory functions.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 - Consultee Comments

- 4.1.1 **Town Council-** No planning observations are expressed but the Council seek assurance that no contamination of land is evident.

- 4.1.2 **Public Protection- no objection.** The applicant is aware that regular access is required through gates on the eastern and south east boundary and to a number of boreholes located around the site perimeter and access to these must remain unrestricted.

- 4.1.3 **English Heritage-** The application site is situated adjacent to Wat's Dyke. The linear earthwork boundary marker and defensive rampart runs for about 60km and consists of a large ditch, 5m wide and 2m deep, with a bank, on average 10m wide at the base and with an original height about 2.5m, on the eastern side. The date of construction has not been accurately determined, but it is considered that it was built at an earlier date than the parallel late 8th century Offa's Dyke, although it fulfilled the same purpose. Although the Dyke does not run through the application site the levelled remains of the earthwork bank or the infilled ditch may still exist below the current ground level, along with associated archaeological remains. The advice of the Local Planning Authority's archaeological adviser should be sought and adhered to regarding non-designated archaeological remains.

- 4.1.4 **Archaeology- No objection** as the application is for change of use to enable the site to be used for the sale of touring and static caravans and that the existing portacabin building and hard standings will be retained and that no ground or buildings works are proposed.

4.1.5 Conservation- no comments to make

4.1.6 Highways- No objection in principle. Having regard to the former use of the site and the associated traffic in connection with the waste/recycling centre the Highway Authority is of the view that the site access and adjoining junction is of a satisfactory layout to accommodate the type of vehicles likely to be generated by the proposed use.

4.2 - Public Comments

4.2.1 No representations received

5.0 THE MAIN ISSUES

Principle of development
Visual impact and landscaping
Highway Safety

6.0 OFFICER APPRAISAL**6.1 Principle of development**

6.1.1 The site has remained an unused parcel of land for a number of years since the household recycling centre moved to an alternative site. The site is in part of the town which is dominated by industrial sheds and units of varying sizes some of which also include ancillary retail uses or trade counters. The site would be considered to be a brown field site given its previous use. The NPPF encourages the reuse of such sites as long as they are not of high environmental value.

6.1.2 The proposed display and retail of static and touring caravans from the site is considered to be an appropriate use for the site as it can be carried out without involving any ground works which may affect the scheduled ancient monument of Wat's Dyke. The proposal involves no new development as office accommodation for workers etc would be provided by the existing portacabin on the site. The proposed use would require a large open area which is hard surfaced as such this site provides an ideal opportunity for a new business to move into Oswestry bringing with it potential employment opportunities. Policy CS13 of the Core Strategy aims to support enterprise and seeks to deliver economic growth. The site is within close proximity of the town centre is considered to be a sustainable location where customers and employees could potentially avoid any reliance on the car and use alternative means of transport though it is accepted that the final purchase of a touring caravan is likely to require a car.

6.2 Siting, scale and design of structure

6.2.1 The site benefits from hedge planting along the side of Maesbury Road and there is a more substantial group of tree planting around the southern side of the site providing screening. Views are possible into the site from the site Glovers Meadow but this is through the existing access. The bulk and massing of static and touring caravans are substantially less than all of the surrounding commercial units and the site is well screened by existing landscaping. As such it is considered that the proposed use of the site is acceptable and would not have any detrimental impact upon the character of the area.

6.3 **Highway Safety**

6.3.1 The site will use the existing access which formally served the household recycling centre. It is likely that the former use would have created a much greater frequency of vehicle movements to and from the site than the proposed use will generate. The site has good levels of visibility at the access and an appropriate width of access to accommodate the movements of employees, staff and stock to and from the site. The applicant has provided a plan to identify an area of land that will be designated for customer parking and an area kept clear to allow the turning and manoeuvring of vehicles and stock with the site, the details have been accepted by the Council's Highways Officer.

7.0 **CONCLUSION**

7.1 It is considered that the proposal is for an appropriate use which would not have any impact on the Scheduled Ancient Monument or the on the character and appearance of the locality and also provides the opportunity for additional employment within a sustainable market town location. Accordingly the scheme is considered to comply with policies CS6, CS13 and CS17 of the adopted Core Strategy.

8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

8.1 **Risk Management**

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 **Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. BACKGROUND

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS6 Sustainable Design and Development Principles
CS13 Economic Development
CS17 Environmental Networks

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Martin Bennett

Cllr Peter Cherrington

Appendices
APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The sales, servicing and parking areas shall be laid out in accordance with revised drawing number P-01 Rev A (received 26th March 2014). The areas shall remain available for the designated uses for the duration of the use.

Reason: To ensure a satisfactory layout of the site in the interests of highway safety.

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Committee and date
 North Planning Committee
 8 April 2014

Item
6
 Public

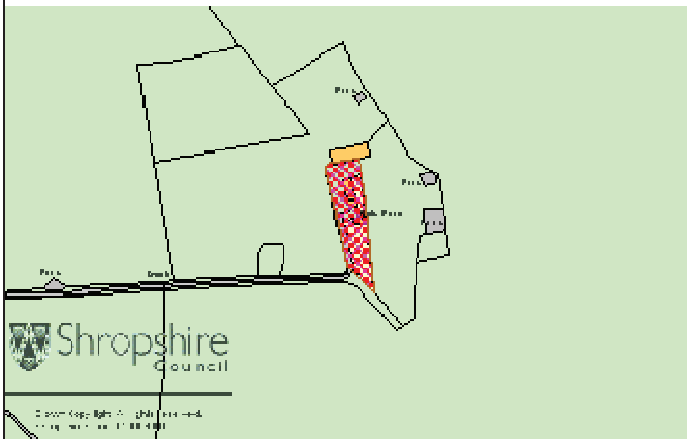
Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/00852/FUL	Parish:	Hodnet
Proposal: Proposed two storey extension to dwelling; extension to existing garage/workshop to provide annex		
Site Address: Field Farm Marchamley Wood Shrewsbury Shropshire SY4 5LH		
Applicant: Mr And Mrs J And M Benbow		
Case Officer: Joe Crook	email: planningdmc@shropshire.gov.uk	

Grid Ref: 360520 - 331065



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT**

1.0 THE PROPOSAL

- 1.1 The application is for a two storey extension to the existing dwelling and an extension to the existing garage/workshop to provide an annex.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Field Farm is within Marchamley Wood and in a rural position at the end of an access track. It is made up of a farmhouse and associated buildings including a partly traditional building which has been utilised for garaging, domestic storage and a workshop associated with the main dwelling house.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications made, by or on behalf of, or relating to the property of Members or officers of the Council who hold politically restricted posts or who either directly or indirectly report to the Group Manager Environment should be determined by the Planning Committee. In this instance Jane Preece, who works as a Senior Planner in Development Management for Shropshire Council, is intending to move into the property following the proposed works and the application is made by her Mother and Father.

4.0 Community Representations

Consultee Comments

Hodnet Parish Council – Supports the application.

Public Comments - None received.

5.0 THE MAIN ISSUES

Principle of development

Design, scale and character

Impact on residential amenities

Use

6.0 OFFICER APPRAISAL

- 6.1 Principle of development

6.1.1 The provision of extensions and conversions to provide additional residential accommodation for the existing dwelling is acceptable in principle.

6.2 Design, scale and character

6.2.1 The proposed two storey extension to the side of the main dwelling will match the height, design and materials of the property and will have a depth of 8 metres with a width of 4.5 metres. Whilst the proposal will match the height of the building, its overall proportion will be in keeping with the character of the dwelling, and with the existing gable end and lean-to projecting forward to the other side of the dwelling it is not considered that the addition will be visually intrusive or prominent in comparison. Furthermore there will be a slight set back from the property frontage and its matching design, materials and fenestration will ensure visual continuity and no adverse impact in this regard. There will also be the addition of a storm porch to the frontage, and whilst this is considered to be acceptable in its design, it is permitted development in any case and is not required to make up part of the planning permission. On balance the extension is considered to be acceptable in its design and scale, and will be in keeping with the character of the existing building, in accordance with policy CS6 of the Shropshire Core Strategy and D6 of the North Shropshire Local Plan.

6.2.2 The proposed extension to the existing domestic garage/workshop building to the rear/side of the property will see the removal of the existing unsympathetic garage structure, with a replacement extension much more sensitive to the design of the existing building and visually considered to be an enhancement. The proposed extension will be subservient to the main structure with a lower height and shallower depth. It will have a length of 7.5 metres and will utilise matching materials and sympathetic fenestration. On balance it is considered that the extension to the building will be appropriate in its design and scale and in keeping with the character of the existing structure. The proposal therefore accords with policies CS6 and D6 in this regard.

6.3 Impact on residential amenities

6.3.1 There will be no adverse impact on residential amenities in the surrounding area given the substantial distance from the nearest neighbouring property. The proposed development at the site therefore accords with policies CS6 and D6.

6.4 Use

6.4.1 The use of the existing domestic outbuilding is subject to a Certificate of Lawfulness (CPL) in respect of regularising its continued use as a domestic building. However, the use of this building as an annex is considered to be acceptable under this application given its close association with the main dwelling and can be restricted in its use by a condition ensuring it is not sold, let or occupied as an independent unit.

7.0 CONCLUSION

The proposed extensions are considered to be appropriate in their design, scale and materials and in keeping with the character of the existing buildings. The use of

the outbuilding for ancillary domestic purposes as an annex is considered to be acceptable. The development creates no adverse impact on the amenities of neighbouring properties. As such it is considered that the scheme accords with policy CS6 of the Shropshire Core Strategy as well as D6 of the North Shropshire Local Plan. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

NPPF

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

D6 - Control and Design of Extensions

RELEVANT PLANNING HISTORY:

14/00851/CPL Certificate of Lawful Development for proposed use of existing domestic outbuilding as annex accommodation PCO

NS/93/00326/PN PRIOR NOTIFICATION FOR THE ERECTION OF AN AGRICULTURAL LIVESTOCK BUILDING PDDEV 28th September 1993

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Karen Calder

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The external materials shall match those of the existing buildings.

Reason: To ensure that the works harmonise with the existing development.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

4. The annex hereby permitted shall only be used as an integral part and incidental to the enjoyment of the existing dwelling and shall not at any time be sold, let or occupied as a separate unit of residential accommodation.

Reason: To ensure proper control of the development and to avoid any future undesirable fragmentation of the curtilage.

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Agenda Item 7



Committee and date

North Planning Committee

8 April 2014

Item

7

Public

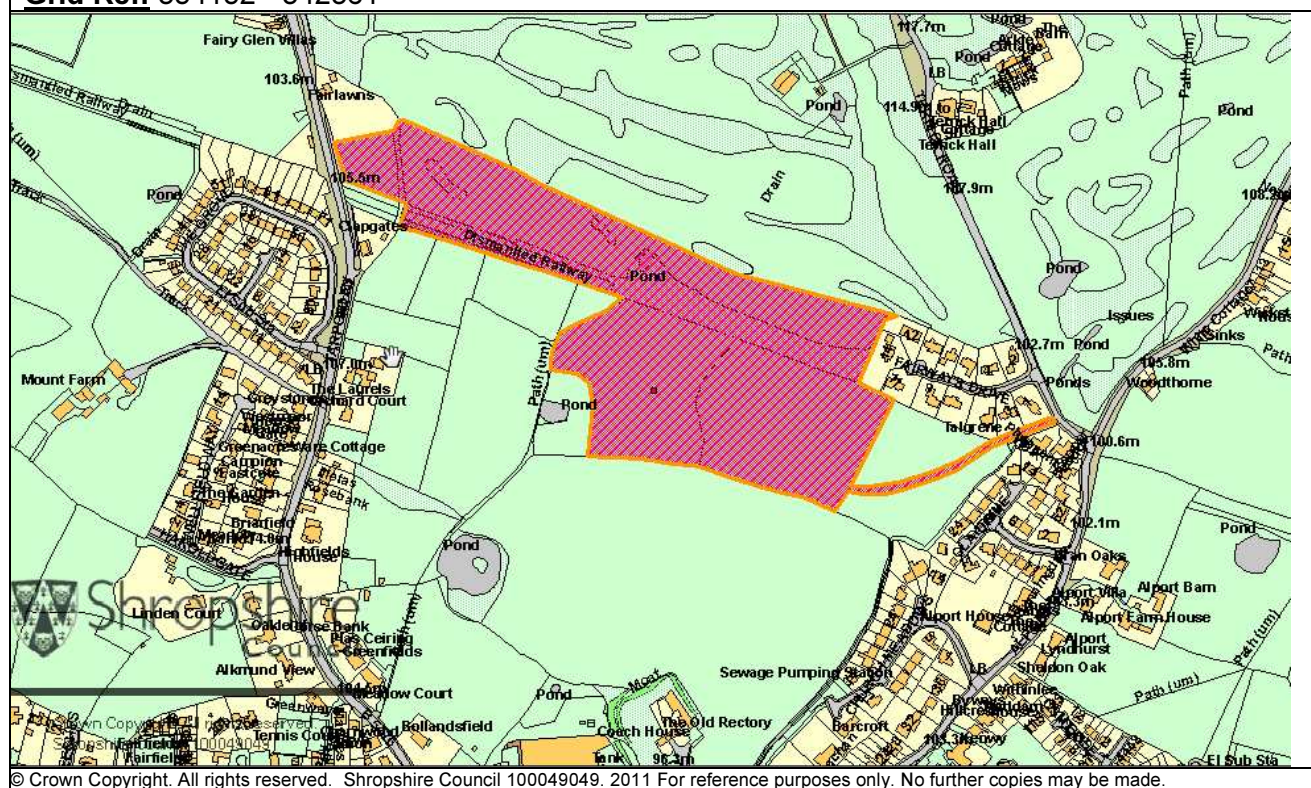
Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 13/03413/OUT	Parish: Whitchurch Urban
Proposal: Outline permission (access for approval) for residential development (up to 86 dwellings) to include vehicular access (off Tarporley Road)	
Site Address: Land South Of Hill Valley Golf Club Tarporley Road Whitchurch Shropshire	
Applicant: Macdonald Hotel Hill Valley Spa Hotel And Golf	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk
Grid Ref: 354152 - 342361	



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Recommendation:- Refuse**REPORT****1.0 THE PROPOSAL**

1.1 The application is for outline planning permission with only the access submitted for approval at this stage. The matters of layout, scale, appearance and landscaping are all reserved for later approval. The application form describes the proposal as residential development and suggests 86 dwellings but does not detail the sizes or tenures. An indicative layout plan has been submitted which shows a development of 86 houses made up of 76 large 5 bed detached houses in varying sized gardens and a group of 10 identical, small 2 bed semi detached houses in one small area of the site.

1.2 To support the proposal the application has been submitted with the following documents: planning statement, design and access statement, sustainability checklist, transport assessment, tree report, landscape and visual impact assessment and flood risk assessment.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site lies on the southern edge of Hill Valley Golf Course which is associated with the Macdonald Hill Valley Hotel. It lies between Fairways Drive, which is off the Terrick Road, and Tarporley Road. The indicative layout shows the vehicular access off Tarporley Road with a footpath link to the existing footpath connecting to Terrick Road. It is currently in use as part of the adjacent golf course and is also partly agricultural field.

2.2 The site is within countryside for planning purposes as it lies outside the development boundary for Whitchurch. It is detached from Whitchurch with agricultural land between the site and the market town.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The comments from Whitchurch Town Council, although in objection, are not for the same reasons the application is recommended for refusal by officers. As such, following discussion with the Chair the comments of the Town Council are considered to be material planning reasons to warrant the application being considered by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

4.1.1 **Whitchurch Town Council: Cllrs voted against this application as it not on the SamDev and is on a green field site and has a problem with flooding.**

Following submission of additional information advised that: Despite the amendments, Whitchurch Town Council's original position remains the same with this application. The Council objects on the grounds that this application is not within the SAMDev boundaries for development.

4.1.2 Policy:

National Planning Policy Framework (NPPF)

The NPPF was published by the government in 2012 and brought together all the

various planning policy statements into a single document. Whilst not part of the development plan, the NPPF is a significant material consideration and appropriate 'weight' needs to be given to it in decision making. A central objective of the NPPF is to boost significantly the supply of housing, and as such it states housing applications should be considered in the context of the presumption in favour of sustainable development.

Adopted Core Strategy 2011

The Core Strategy was adopted in February 2011 and provides the strategic policy context for planning decisions in Shropshire. The following policies are considered of particular relevance to the assessment of this outline proposal: CS3 The Market Towns and Other Key Centres; CS4 Community Hubs and Community Clusters; CS5 Countryside and Greenbelt; CS6 Sustainable Design and Development Principles; CS7 Communications and Transport; CS9 Infrastructure Contributions; and CS10 Managed Release of Housing Land.

Emerging Site Allocations and Management of Development Plan (SAMDev)

The site has been assessed as a potential housing site as part of the emerging SAMDev Plan (reference WHIT028) and is included in the Council's Strategic Housing Land Availability Assessment (SHLAA) 2009. The site has not been selected as a preferred allocation in the emerging SAMDev principally on the grounds that it is not well related to Whitchurch, and it was considered other more sustainable sites adjacent to the existing development boundary could meet the town's housing needs up to 2026. The SAMDev Plan for Whitchurch has now been through three periods of public consultation in 2010 (Issues and Options), 2012 (Preferred Options) and 2013 (Revised Preferred Options). The 'Final Plan' version of the SAMDev will be published in March 2014 and subject to a further 6 week consultation, after which the Plan will be subject to independent examination.

Housing supply and presumption in favour of sustainable development

The NPPF paragraph 49 states that where a LPA cannot demonstrate a five year supply of deliverable housing sites relevant Local Plan policies for the supply of housing should not be considered up-to-date. The position regarding housing supply is clearly fluid with the latest information published in September 2013. This latest assessment includes those emerging 'preferred' SAMDev sites assessed by the Council as meeting the criteria set out in paragraph 47 of the NPPF for being deliverable within the next five years. On the basis of this latest assessment, it is considered Shropshire has a supply of 4.95 years which includes the 20% buffer. It is therefore appropriate to consider that relevant local plan policies regarding the supply of housing land are not up-to-date and should be given limited weight in decision making and less weight than the NPPF's 'presumption in favour of sustainable development'.

Principle of Residential Development

It is considered appropriate to have regard to the following Local Plan policies in assessing this application, but in light of the Council's five year supply position that limited 'weight' given to those parts of the policy which relate to the supply of housing:

- *Policy CS3: The Market Towns and Other Key Centres* states that balanced

housing and employment development, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure, will take place within the town's development boundaries and on sites allocated for development. Specifically for Whitchurch the policy states the town will have substantial development, recognising its accessible location the highway a rail network, maintaining and enhancing its vibrant town centre and balancing business and housing development.

- *Policy CS5: Countryside and Greenbelt* provides a positive approach to maintaining the vitality and character of the countryside by supporting the principle of various kinds of development including small scale employment, dwellings for agricultural workers and affordable dwellings. However, the policy resists the principle of additional open market residential development in the countryside.
- *Core Strategy Policy CS6: Sustainable Design and Development Principles* states that all development should protect, restore, conserve and enhance natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.
- *Policy CS10: Managed Release of Housing Land* confirms the need to maintain a five year supply of housing land, and that priority will be given for the re-use and development of brownfield sites on suitable sites in sustainable locations.
- *Core Strategy Policy CS17: Environmental Networks* states that all development should contribute to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage asset.

It is considered that this policy framework, added to the fact this site is not being considered as a 'preferred housing option in the emerging SAMDev Plan, does not establish the principle of open market residential development in this location. However, given it has been established that limited 'weight' should be given to the parts of this policy framework that relate to housing supply, it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'. As such it is necessary to assess the site's performance against Local Plan policies (other than those for housing supply) and against the NPPF as a whole in providing a view on the site's contribution to sustainable development.

Presumption in Favour of Sustainable Development

The site's SAMDev technical assessment in 2012 considered the site to have poor sustainability principally due to its lack of access to services and impact on landscape sensitivity. Since this assessment, the development of the Sainsbury's store on London Road has provided an additional facility within walking distance. It is also acknowledged the scheme has also reduced in scale which was recommended in the technical assessment.

Given the context of the site it is considered the following policies have particular relevance:

- *Core Strategy Policy CS6: Sustainable Design and Development Principles*
- *Core Strategy Policy CS17: Environmental Networks*

It is considered the following are key material issues for the assessment of sustainable development for this proposal:

- The site's relationship with the main urban area of Whitchurch, and surrounding residential development;
- The impact of the development on visual amenity and landscape sensitivity

The majority of the proposed site was previously classified as an 'open area' in the North Shropshire Local Plan. This designation has been superseded by the adoption of the Core Strategy and in particular policy CS17. This policy removes the specificity of the 'open area' designation however the characteristics of the site which contributed to this site's openness continue to apply and are covered by policy CS17. In addition CS6 requires proposals to reflect the local pattern of development taking into account local character and context.

The site is located to the extreme northern edge of the recognised built area of Whitchurch. Housing on Tarporley Road to the west and Alport Road to the east are characterised by cul-de-sac style developments (Clayton Drive, Church Meadows, The Grove). The proposed site would form a linear development across these two roads and would sit between the golf course to the north and a large area of agricultural land to the south. Therefore there is concern that the proposal neither reflects the pattern of local development, nor protects or enhances the openness of the immediate surrounding area. The development would not be contiguous with the surrounding built form and, whilst mitigation measures have been proposed, is likely to adversely impact on landscape sensitivity.

Paragraph 14 of the NPPF states that within the context of the 'presumption in favour', development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. Given the proposal is an outline application a more detailed assessment on the sustainability of the site's layout and design is difficult. However, using the indicative layout it is possible to identify some clear and quantifiable concerns. The site's pattern and narrow width are considered contrary to local character and design, whilst the proposal is considered likely to result in a loss of openness and result in visual harm. As such, it is considered there are relevant concerns which place into question the sustainability of the site and which would merit refusal under the NPPF's 'presumption in favour of sustainable development'.

- 4.1.3 **Affordable Housing:** If the site is deemed suitable for development then affordable housing provision is required.
- 4.1.4 **Public Protection: No objection** subject to the inclusion of the recommended conditions on any planning permission that may be granted.
- 4.1.5 **Highways:** From a technical standpoint, the highway authority have **no objection** in principle to the development of the site and are satisfied that a suitable junction onto Tarporley Road can be provided that meets the appropriate highway layout standards and criteria. The Transport Assessment (TA) submitted as part of the application acknowledges that the proposed point of access is located within the 60 mph speed limit area and therefore there would be a need to extend the 30 mph speed limit north of the development junction. The highway authority have no objection to the principle of such changes but there is likely to be a need to incorporate additional traffic calming features and/or the introduction of a 40 mph

speed limit buffer. This requirement would normally sit within a Section 106 Obligation with a sum contained in the agreement.

An assessment of the traffic impact of the development has been carried out which demonstrates that the development will not have an adverse impact upon the local highway network. However this application proposal has come forward in advance of the SamDev being adopted and is not one of the preferred sites currently identified in Whitchurch. As in other towns within Shropshire the highway authority are assessing the cumulative traffic/transportation impact and infrastructure needs in Whitchurch as a result of the housing sites coming forward in the plan period. This proposal and scale of development would meet such a requirement and therefore the highway authority would wish to engage in discussions and Section 106 negotiation if this site were to be considered to be otherwise acceptable to the planning authority.

The development seeks to promote accessibility with the provision of a footway along the eastern side of Tarporley Road extending within the highway limits to tie into the existing footway to the south of the site. In addition, a footpath is proposed from the eastern end of the site linking to Terrick Road. This however would need to be provided as a combined pedestrian/cycling facility which could be considered as part of a full or reserved matters application. These are welcome features of the scheme proposals.

In terms of public transport provision the site is poorly served with a limited 2 hourly service. The TA suggests that given the sites location in relation to the town centre the reliance on public transport is likely to be for longer journeys rather than accessing the local retail centre. This is a somewhat surprising statement and the highway authority would take a very much different view in terms of seeking to promote and encourage public transport linkage between the site and town centre. The highway authority however accept that there are logistical difficulties in routing the town centre service to the site. This in itself would not warrant a highway/transport reason for refusal but it does nevertheless question the sustainable credentials of this site compared to other sites being brought forward within the SamDev process.

The highway authority therefore have no fundamental objection to housing development of the site subject to the imposition of standard access conditions and to further discussions with the applicant regarding Section 106 financial contributions as set out above.

- 4.1.6 **Rights of Way:** From the responses in part 6 of the application form and the lack of any reference in the design and access statement, site plans or other submitted documents it appears that the applicants have failed to identify, and take into account, public footpath 52 which crosses the middle of the proposed development site, passing through some of the proposed properties and gardens. Would strongly advise them to contact the Outdoor Recreation Team to discuss the options at their earliest opportunity.
- 4.1.7 **Ramblers: Object** as the right of way no. 52 has not been taken into consideration.

4.1.8 **Ecology:** On receipt of additional information advised that, subject to completion of a European Protected Species 3 test matrix, the development could be achieved with mitigation measures, a European Protected Species (EPS) Mitigation Licence and subject to conditions and informatives.

4.1.9 **Shropshire Wildlife Trust:** The site includes part of the line of the old Whitchurch-Chester railway line. This is an essential part of the green ecological network around Whitchurch. The proposal would weaken and in parts sever this.

Further comments received indicate that they consider the development will have a negative ecological impact with little being done to mitigate or compensate for this. It would appear that further survey information is required in order to ensure that planning guidance is met. The site falls within the Meres and Mosses Nature Improvement Area and therefore requires “opportunities to enhance and reconnect nature” and not to fragment ecological networks.

4.1.10 **Tree and Woodland Amenity Protection:** **No objection** to the proposal subject to further more detailed information being provided for the approval of reserved matters.

4.1.11 **Drainage:** **No objection** is raised to the development. However the recommended conditions and informatives should be included on any planning permission granted to ensure that the development is appropriately drained.

Drainage Engineer made further comments: Local evidence of the site has highlighted that the surrounding ground is at a high risk of surface water flooding. The applicant should review paragraph 4.4.2 of the FRA detailing how the surface water will be managed and to ensure that the finished floor level is set above any known flood level. Reason to minimise the risk of surface water flooding.

4.2 **Public Comments**

- 4.2.1 18 letters of objection have been received. The areas of concern relate to:
- Inadequate public notifications have been carried out for this application
 - The public presentation by the applicants has been arranged for 21 November 2013 which is after the date that the application was submitted
 - Whitchurch Housing Sites Assessment by Shropshire Council should be taken into consideration
 - Although the density has been lowered the houses are larger apart from a few token affordable dwellings
 - There is no justification for the increase in dwellings from 75 to 86 to meet the affordable housing target of 13%. Therefore it is motivated by financial reward
 - The size of the dwellings is aimed at people from outside of Whitchurch who will commute to work. No 3 or 4 bedroom houses and no bungalows have been included in the proposal
 - Site is not allocated in adopted policy for housing development. Nor is it being promoted within SAMDev. Currently the site is identified as Open Area in the North Shropshire Local Plan
 - The proposal would constitute unacceptable urban sprawl
 - The land is in the ownership of more than one person
 - Loss of Grade 3 agricultural land and green fields

- The site is for leisure use and not the site for housing development
- By removing land from the Golf Club it detracts from a leisure activity
- A golf course is another way of obtaining further planning consents for development which may not otherwise be obtainable
- The photographs in the Landscape and Visual Impact Part Two are misleading
- Assessments of the site are incomplete as no assessment or photographs have been taken from the public right of way or from properties in Clayton Drive of Tarporley Road. As such this does not give a balanced evaluation of the area
- The proposed site is on higher ground than surrounding areas. As such the impact will be significant on nearby properties with uninterrupted views of the new dwellings
- By building on the higher ground, the overall appearance with existing buildings will be an “amphitheatre” around the lower ground
- Proposed screening will not obscure the development for a considerable number of years
- The proposed access with the highway is a safety issue particularly with the 60 mph speed limit
- Why has the proposed access been excluded from the outline application
- A Public Right of Way crosses the site and will be blocked by the development
- The creation of a footpath link to Terrick Road would increase the potential for crime in the area
- Impact on wildlife in the area
- An objection was lodged by Shropshire Wildlife Trust to Shropshire Council outlining the importance of the site in regard to Policy CS17
- Existing hedgerows on and around the site are in excess of 60 years old and provide habitats for wildlife
- Great Crested Newts have been photographed on the northern edge of the site
- Existing watercourses carry substantial amounts of water and as such the fields end up being under water for many months
- A Drainage Engineer has detailed that the meadow has less than 12 inches fall and therefore flood water could not be piped into Stags Brook as this was constantly full of water
- Part of the site is in Flood Zone 2. Run off from the development would add to the wet area to the north eastern area and make the footpath and open space unusable
- Who will be responsible for the future maintenance of the open space?
- Schools and areas of employment are not within walking distance

4.2.2 3 letters of support have been received.

- The access off a quiet Tarporley Road is perfect
- Easy footpath access to Sainsbury's
- Provision of a cycleway
- The provision of planting, ponds and the provision for wildlife have been well considered. However the footpath should be reinstated
- The site will be unobtrusive and mostly not seen from the surrounding area
- It will be a positive impact on Whitchurch
- Increased housing in Whitchurch will demonstrate more support for facilities required for the town (ie hospital)

- Whitchurch cannot resist the pressure for new homes

5.0 THE MAIN ISSUES

- Policy & principle of development
- Affordable housing
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage
- Other local infrastructure matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that 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. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply. It is only if the Council cannot demonstrate a 5 year housing land supply that the housing supply policies (but not the others) should be considered not to be up-to-date, with consequently greater weight to the NPPF presumption in favour of sustainable development.
- 6.1.3 In September the calculation was a supply of 4.95 years, however this included counting some of the emerging SAMDev sites and questions have been raised as to whether this is appropriate and also the likely number of houses to be delivered in the five years. Given this position officers advise that it would be difficult to defend a refusal for a site which is sustainable and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The principle issue with the application site is whether it is a sustainable location or not. The site is on the outside edge of the existing built up parts of Whitchurch with agricultural land lying between the site and the properties to the south.

- 6.1.4 Furthermore the site is outside the development boundary previously set within the North Shropshire Local Plan and also has not been carried forward as a preferred option site within the emerging Site Allocations and Management of Development (SAMDev) document as it was considered to be not well related to Whitchurch and that there were other sites which adjacent to the town which could meet the housing need for the area. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, given it has been established that limited weight should be given to this policy framework in light of the current housing supply position, it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.5 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.6 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. The NPPF also clearly place a focus on prioritising suitable brownfield sites at paragraph 111 which states that decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield). Although it is acknowledged that part of the site is currently used as part of the golf course this is not considered to be an overriding reason to approve the development. This use is on-going and does not currently detract from the visual amenities of the area. In the case of this application the redevelopment of land currently in use is not given weight in the decision.
- 6.1.7 It is also accepted by the Council that the site is close to the facilities and services within Whitchurch, which, as one of the five market towns within the north of Shropshire, should provide a focus for housing and commercial developments. In principle a site on the edge of Whitchurch, or well related to the existing built form could be supported as a departure from the adopted policies in line with the presumption in favour of sustainable development in the NPPF. However concerns are raised regarding the proposed application site and its relationship with the existing settlement. The Council Policy Officer has advised that the SAMDev technical assessment for the site considered that it had poor sustainability due to its lack of access to services and impact on landscape sensitivity. Although the site has reduced in scale and the new supermarket on London Road has increased accessibility concerns remain about the landscape impact.

6.2 **Affordable Housing**

- 6.2.1 If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application. The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme. If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before a reserved matters application is submitted.
- 6.3 **Layout, scale and design**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 seeks to identify, protect, enhance and expand Shropshire's environmental assets, aiming to prevent development which adversely affects visual values or which does not contribute to local distinctiveness. Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character. The planning balance which needs to be considered is balancing the benefit of the provision of new housing in close proximity to the sustainable market town against any harm. Paragraph 14 of the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.3.2 The applicant's planning statement comments that, in their opinion, the site is influenced by the urban edge of Whitchurch with the presence of a number of highway corridors and ribbon development to the east and west and the well managed golf course to the north. It is the applicant's opinion that the site is urban fringe rather than rural and they have placed greater weight on the provision of new housing than the change to the character of the area.
- 6.3.3 Local concerns have been raised regarding the Landscape and Visual Impact Assessment being misleading; that there is no assessment from the right of way or properties in Clayton Drive; that by building on the higher ground, the overall appearance with existing buildings will be an "amphitheatre" around the lower ground and that the proposed screening will not obscure the development for a considerable number of years.
- 6.3.4 Both views are noted, the application site is attached to existing residential development on the edge of Whitchurch, however, it seeks to join a small cul-de-sac of large detached houses with the main road on the opposite side of what is currently a large open area in use for recreation and agricultural uses. The majority of the application site will be bounded on two sides by the remaining agricultural and recreation uses. The proposed development would form a linear

development across the site which is not considered to reflect the pattern of local development and does not protect or enhance the openness of the area. It is not neatly an extension of the urban area of Whitchurch and would leave a large area of agricultural land between the site and the edge of the built development of Whitchurch. It is acknowledged that the recently development of Sainsbury's off London Road has extended the built edge northwards towards the site, however there would remain a large area of agricultural land which the local residents have noted is at a lower level.

6.3.5 Officers have also noted the views of the Planning Inspector in considering the site for allocation within the North Shropshire Local Plan 2000-2011 in which the inspector commented that the site would be linear in character and set on rising ground, prominent in views out of the town from existing properties and from public vantage points, including the footpath which crosses the site. It was noted at that time that the golf course was of a rural rather than urban character and that the development would result in a prominent and intrusive form of development in what currently forms an attractive open swathe of land.

6.3.6 The current application site may be only part of that which was put forward for allocation in the NSLP, however the current proposal would result in a similar end result to the views expressed by the inspector above and it is considered that the prominent and intrusive impact of the development of the application site would result in a significant and demonstrable harm which would outweigh the benefit of new housing. Furthermore it is considered that this harm would make the development environmentally unsustainable in that it does not protect or enhance the built environment and therefore fails to meet the three dimensions of sustainable development.

6.4 **Impact on residential amenity**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. At this outline planning stage the final layout of the site has not been submitted for approval, however the indicative layout plan shows that there would not be any overlooking or loss of light to existing residential properties due to the distance between existing properties and the proposed new properties and the proposed new landscaping.

6.4.2 Concerns have been raised locally regarding the impact on existing properties due to the levels of the site which would result in uninterrupted views of the new the dwellings. However the impact on a private view is not a planning matter. Wider landscape impacts have been considered above, whether existing residents will be able to see the new properties, or not, is not a reason to refuse the application. Concern has also been raised about the proposed footpath link increasing the potential for crime in the area. This is a risk, however providing the adjacent properties are secure the new footpath should not increase crime, the existing properties which will back onto the footpath currently back onto on agricultural access and open field and it is therefore considered that the risk will not increase.

6.5 **Highways, access, parking and rights of way**

6.5.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes

sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel be reduced.

- 6.5.2 A new T junction vehicular access is proposed off Tarporley Road with the new estate road having a carriageway width of 5.5m and 2m wide footways on either side. In addition a new footway is proposed on the Tarporley Road frontage of the site and the applicant also suggests extending the 30mph to include the access to the site as it currently 160m south of the access point. A transport assessment has been undertaken in order to demonstrate the impact of the access and the vehicle movements associated with the scale of the development proposed.
- 6.5.3 The Council Highway Officer has been consulted on the application and provided the detailed response at 4.1.5 of this report. It is noted that the Town Council have not objected on the grounds of highway safety, some local concerns have been raised about the safety of the access yet letters of support have noted that Tarporley Road is quiet with low levels of traffic. In accordance with the Highway Officer's comments it is considered likely that an appropriate access could be achieved, the speed limit could be moved to reduce vehicle speeds, and the visibility from the site frontage is good. However, this is not considered to be of any wider benefit than providing an access to serve the proposed development and as such does not tip the planning balance or set aside the other concerns raised within the report.
- 6.5.4 The proposed footway along Tarporley Road will not connect to any existing footway as the existing footway stops short of the edge of the site and the property to the south of the site on Tarporley Road. Furthermore, from this adjacent property for some distance, beyond the current 30mph restriction, the footway is restricted in width and interrupted by existing lighting columns. Although the provision of a section of footway is promoted the proposal does not provide a substantial benefit to either the development or the wider community.
- 6.6 **Ecology and trees**
- 6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Therefore the application has been considered by the Council's Ecologist and Tree Officer.
- 6.6.2 The application was submitted with an ecology survey which the Council Ecologist initially advised was insufficient with regard to great crested newt mitigation and the impact on badgers, water voles and bats.
- 6.6.3 The Ecological Assessment reports that great crested newts are present in ponds to both the north and south of the site and juvenile newts found on the site itself, close to the southern boundary. No core terrestrial habitat will be lost to the development, but approximately 0.2ha will be temporarily disturbed during landscape planting around the site boundary. Approximately 5.3ha of intermediate habitat and 0.5ha of distant terrestrial habitat will be permanently lost

to the development. This loss of intermediate and distant terrestrial habitat is classified as a low impact according to the Great Crested Newt Mitigation Guidelines (2001). There will also be some loss of potential hibernation and sheltering habitat as a result of the proposed development through the loss of the internal hedgerow that runs through the centre of the site.

- 6.6.4 In terms of impact, this will be through site clearance and construction works and loss of foraging opportunities and hibernation areas. There is also a danger of fragmenting meta-populations. The great crested newts will need to be cleared from the work areas, under licence, and the protection and creation of new suitable newt habitat to compensate for the loss of existing habitat due to the development. These works would have to be done under a European Protected Species Licence as GCN are European Protected Species and the evidence submitted shows that this species will be affected. As such the development needs to meet the three tests of the matrix. The first test is that the development needs to be 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. The second test is whether there is a satisfactory alternative. The third test is that the development needs to be not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status.
- 6.6.5 In principle, if there were reasons of overriding public interest and no satisfactory alternative the Council Ecologist has confirmed that mitigation would be possible and would meet the third test. The amphibian mitigation strategy confirms the details of the mitigation proposals which ensures no net loss of habitat in terms of quantity and quality, maintains habitat links and secures long term management of the site for GCN's. The advice provided with the matrix is that test one can be passed where there is clear and imminent danger to members of the public which is not the case with the application site. The Council have also previously accepted that the need for new housing is of social importance and an overriding public interest and in this case the application proposes new housing and therefore could be considered to meet this test. However, the Council do not consider that the site is appropriate for development for other reasons than the ecological impact and as such do not consider that significant weight should be given to the need for housing on this site when considered against the harm to the European Protected Species. The site therefore fails test two of the matrix as there are alternatives to the development of housing on this site. The land could remain as it is, ie do nothing, which is a reasonable alternative in the consideration of the tests, or it could be used in association with the adjacent golf club but this would need to also be tested against the legislation for protected species.
- 6.6.6 With regard to other protected species a badger sett is present on the site (the location is confidential). The report recommends a 30 metre buffer to the sett to ensure no disturbance. If this is not possible, then a licence from Natural England will be required. It appears from the Masterplan 02.01 RevD that built development may be within this limit but that a minor re-plan could avoid the 30m buffer to the badger sett.
- 6.6.7 No buildings are present on the site which could offer bat roost potential. Bat activity surveys found that soprano pipistrelle was the most frequent visitor to the

site, with activity focused along the internal hedge line that contains trees with bat roosting potential and the hedge line around the southwest edge of the site adjacent to Pond 1. The other hedgerows, ditches and strips of plantation also provide good foraging and commuting habitat for bats.

- 6.6.8 A number of trees are identified as having potential as bat roosts. On Masterplan 02.01 Rev D all these trees are shown for retention. If any of these trees require removal or pruning for the proposed development, an aerial inspection of the tree or bat emergence surveys will be required to confirm presence/absence of a roost. If bat roosts are found to be present, consideration must be given to providing alternative bat roost habitat within the new development and a licence will be required for any works to these trees. It is recommended that the length of hedgerow to be removed for access roads should be minimised and limited to approximately 10m. Lighting should be controlled to avoid impacts on bats and a suitable condition will be suggested once further mitigation details are received.
- 6.6.9 Although no evidence of water vole was found within the site, the habitats may periodically be used by the species and have potential to be colonised prior to development. Water voles are protected under the Wildlife and Countryside Act 1981 (as amended). It is recommended that the site design retains a 10m buffer from all of the ditches and watercourses. If this is not possible, and development proposals encroach within 10m of any of these features, it will be necessary to carry out a pre-construction survey to confirm the status of water voles within the site at that time.
- 6.6.10 With regard to trees the applicant's design and access statement comments that the hawthorn hedge on the boundary of the site is degraded and gappy in places and that tree cover is limited to field boundary trees and the formal mown grounds and planting of the golf course. The Council Tree Officer has advised that they have no significant objection on arboricultural grounds to this proposal. A reserved matters application must have an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) included to safeguarding the retained trees. A scheme should also be submitted which includes the planting of trees and shrubs and hedges as part of a comprehensive landscape scheme to mitigate those removed, and to integrate the development into the wider landscape using a mixture of native and ornamental species.
- 6.7 **Drainage**
- 6.7.1 Due to the size of the application site a flood risk assessment has been undertaken and submitted with the application. This report concludes that the majority of the site is within flood zone 1, at lowest risk of flooding and appropriate for housing development. However, the proposed pedestrian access from site to the Terrick Road crosses flood zone 2 for Stags Brook tributary. The applicants flood risk assessment has acknowledged that there has been historic records of nearby properties being affected the land owner advises that the application site is not affected.
- 6.7.2 The Council Drainage Engineer has advised that the use of soakaways should be investigated in the first instance for surface water disposal. If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval, however the Drainage

Engineer has confirmed that these details could be submitted for approval as part of a discharge of conditions application and the details do not need to be submitted prior to an outline consent being granted.

- 6.7.3 Concerns have been raised by the Town Council and by local residents, including photographic evidence of flooding of surrounding land. However, the above requirement for restricting the rate of run off of surface water would require the development to not increase the water running off the site post development above that which currently leaves the site. Any development of the site would have to deal with the surface water which falls on the site and therefore would not be permitted to increase flood risk elsewhere. The Council Drainage Engineer has reviewed the local evidence and advises that, at the time of submission of reserved matters, the applicant should review paragraph 4.4.2 of the FRA detailing how the surface water will be managed and to ensure that the finished floor level is set above any known flood level.
- 6.7.4 As such it is acknowledged that there is local concern about flood risk from developing the site, however it is considered that the site could be developed with an appropriate drainage scheme to ensure that there is no greater risk of flooding either within the site or in the wider area and as such would comply with policy CS18 and the NPPF with regard to this matter.
- 6.8 **Other local infrastructure matters**
- 6.8.1 In considering a sites sustainability the Council can take into account local infrastructure as part of the planning balance. Whether a site has good local infrastructure is not the only reason why it can be considered to be sustainable but it does form part of the reason. The NPPF advises that international and national bodies have set out broad principles of sustainable development. Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly. Two of the three dimensions of sustainable development within the NPPF comment on the need to include provision of and access to infrastructure.
- 6.8.2 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing and in the case of the application site would be £40 per square metre of new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL by the applicant ensures that this matter will be dealt with after the consent.
- 6.8.3 With regard to this specific application site, it is acknowledged that it is attached to existing housing and it is accessed off one of the main roads into the town. As such it is considered likely to utilise the services and facilities within the town. The

proposed 86 dwellings on this site have not been taken into account in the consideration of the housing growth proposed for the town in the SAMDev. Whitchurch is proposed to have approximately 1,200 new homes but as the site has not been promoted through the SAMDev the proposed 86 dwellings on this site would be in addition to this allocation.

- 6.8.4 It is also acknowledged that there are issues within Whitchurch regarding electricity capacity and school places. The issue of electricity would be a matter for the developer to resolve with the supplier and is also a matter which is high on the priority list for CIL monies. The issue of school places is planned to be resolved through the allocation of the land off Tilstock Road to the south of the town. Overall it is considered that the proposed addition of 86 dwellings on the application site, taking into account the significance of Whitchurch as a market town and as a priority for new development, would not result in a level of pressure on local infrastructure which would justify refusing the application.
- 6.8.5 Having considered the location of the development it has been noted that the development is close to a landfill site and follows the line of a dismantled railway line. It is therefore recommended that a contaminated land condition should be placed upon this development should this application be granted to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.
- 6.8.6 The Council Public Protection Officer has also requested that a proportion of dwellings are provided with electric vehicle charging facility at the time of construction. This encourages sustainable transport uptake by future occupants which will help to reduce air pollution wherever those vehicles may travel. Electric vehicle charging points typically require a 16 amp power supply and are relatively inexpensive to put into a garage or onto a driveway when a dwelling is built however can be a considerable cost if trying to retro fit a building in future.

7.0 CONCLUSION

- 7.1 It is considered that the development of the application site for housing would result in harm to the character of the area due to the narrow width of the site and the detachment from the existing built up edge of the town. The development will not protect, restore, conserve or enhance the natural and built environment; it is not considered to be appropriate in that it does not reflect the pattern of development in the area and does not form a contiguous development or contribute to local distinctiveness and landscape. As such it is considered to be contrary to policies CS6 and CS17 of the Shropshire Core Strategy and it is considered by the Council that the harm significantly and demonstrably outweighs the benefits of developing the site contrary to the requirements of the NPPF.
- 7.2 Furthermore the development has the potential to impact on Great Crested Newts and, although mitigation measures are achievable, the development is not in the interests of public health and public safety and there are no other imperative reasons of overriding public interest, including the social and economic benefits of house building. As such the Council consider that there is a satisfactory alternative and that the development fails the three tests of the European

Protected Species 3 test matrix.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for

the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 - The Market Towns and Other Key Centres
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS7 - Communications and Transport
CS8 - Facilities, Services and Infrastructure Provision
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

10.2 Relevant planning history

No history related to the specific application site

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Thomas Biggins Cllr Peggy Mullock
Appendices None

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Committee and date

North Planning Committee

8 April 2014

Item

8

Public

Development Management Report

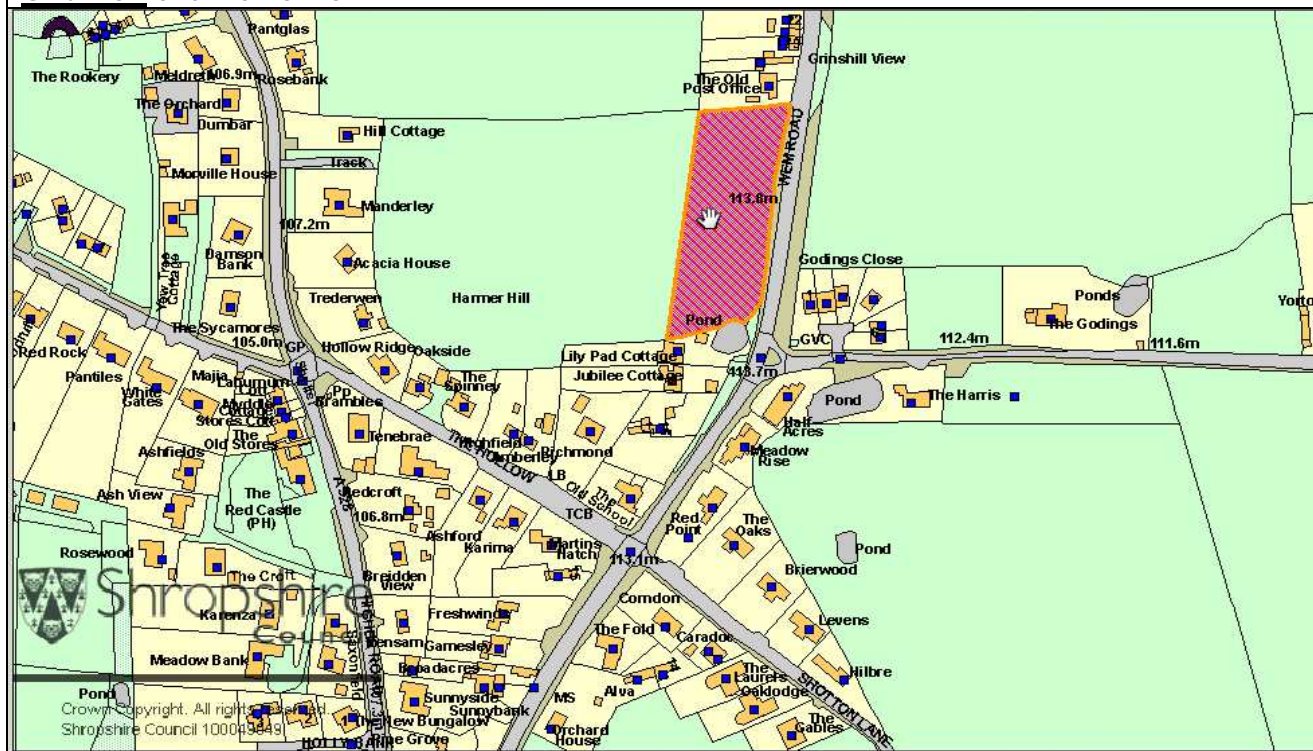
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 13/04682/OUT	Parish: Myddle And Broughton
Proposal: Erection of 6no detached dwellings (including 1no affordable unit) with means of access and layout	
Site Address: Land north of Jubilee Cottage Harmer Hill Shrewsbury SY4 3DZ	
Applicant: C/o Agent	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 349170 - 322317



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Recommendation:- That Subject to the applicants entering into a S106 legal agreement to secure affordable housing Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This report is an addendum to the report presented to members in March 2014 which detailed the proposal for outline planning permission for residential development on land north of Jubilee Cottage in Harmer Hill. Layout and access are submitted for approval at this outline stage with scale, appearance and landscaping reserved for later approval. As such the application seeks consent for the principle of developing the site for housing and for the access and layout of the proposed 6 dwellings.
- 1.2 The following report seeks to advise members on the reason for deferral from the March meeting. The minutes of the meeting record that members sought further advice on the impact of the recently published Planning Practice Guidance and the implications of the shared agricultural and residential access. These issues will be considered within this report, however it is not intended to re-visit the issues dealt with in the previous report and the March report is appended for information and reference as appendix 2.

2.0 MATTERS FOR CONSIDERATION

- Planning Practice Guidance
- Agricultural access
- Other matters

2.1 Planning Practice Guidance

- 2.1.1 Members deferred determining the application at the March committee meeting to take further advice on the implications of the statement by the Planning Minister, Nick Boles, and to take advice on the Planning Practice Guidance.
- 2.1.2 Nick Boles' written statement commented on making the planning system easier and allowing local communities to shape where development should and should not go. This is already reflected in the NPPF at paragraph 16 which promotes community engagement in the development of plans which support the strategic development needs set out in local plans and community engagement in positively supporting local development. Shropshire Council SAMDev has primarily been formed on the basis of the aspirations of local communities and parish councils. It has been a bottom up, locally led, approach. However, the SAMDev is not yet adopted and has not yet been sent to the planning inspectorate for examination. As such, the SEMDev, although expressing the opinions of the community, is not yet a formally adopted policy.
- 2.1.3 The written statement also notes the publication of the final version of the Planning Practice Guidance and that this will, amongst other things, clarify when councils can consider refusing permission on the grounds of prematurity in relation to draft plans. The written statement does not provide the detail or alter either the legislation in the Town and Country Planning Act or the primary guidance in the NPPF, which itself is a material consideration as detailed at paragraph 13.

2.1.4 The Planning Practice Guidance advises that “arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.”

2.1.5 The proposed development of 6 houses is not considered to be so substantial, either on its own or cumulatively with other developments in Harmer Hill, or to be so significant as to undermine the plan making process. The development of 6 dwellings would not significantly alter where sites are proposed to be allocated, ie the scale, location and phasing of new housing. For a development to meet part a) of this advice it would need to be of such a scale as to provide a significant number of houses which would then call into doubt the need for all of the proposed allocated sites.

2.1.6 As advised at 2.1.2 the SAMDev, which is the emerging plan, is not considered to be at an advanced stage as it has not been submitted for examination. At this time the SAMDev is still under consultation and objections may still be submitted to the published final version. Officers would caution against refusing the proposed development on the grounds of non-compliance with the SAMDev.

2.1.7 The Planning Practice Guidance also provides more advice on considering rural housing proposals advising that housing supports the broader sustainability of villages and smaller settlements; that rural housing is essential to ensure viable use of local facilities and that all settlements can play a role in delivering sustainable development in rural areas.

2.1.8 The practice guidance provides a streamlined version of other government guidance which has now been cancelled: it hasn't changed the NPPF, the interpretation of which remains a matter of law. It has not changed the position of Shropshire Council's SAMDev or the 5 year land supply and as such, although its advice can be considered, it does not alter the recommendation of officers given at the March committee meeting.

2.2 **Agricultural access**

- 2.2.1 Members at the March meeting raised concerns about the proposed access serving both the dwellings and to serve the remaining field and the potential impact on amenity and conflict of traffic movements.
- 2.2.2 The agent has provided the following information in response to these concerns: “The land in question has been in the ownership of the same family since the 1800s. This is not simply a developer looking to make a “quick buck” but a local family looking to invest in the future of the village and promote, what they feel to be, an appropriately sized development for this village to boost and support local services. You may also be aware that the landowners have made land available (adjacent to the Village Hall) to Saxonby and Wrekin Housing Trust to provide 10no affordable dwellings and this application is also currently being considered.
- 2.2.3 Prior to the 1940’s, access to the field was via an agricultural access in the position of the property known as ‘Trederwen’ (marked on the attached location plan). This was at a time when the field was previously used for the grazing of the yearlings and the cattle were walked all the way down Lower Road from Hill Farm to the north of the village!
- 2.2.5 The family purchased the entire strip of land along Lower Road (hatched blue) over 65 years ago and engulfed this into the overall family estate. When permission was applied to build ‘Trederwen’ for the applicants grandmother, the landowners applied for and were granted a new formal agricultural access off Wem Road (the one that currently exists). This has now been in existence for over 50 years and is used as the primary access to this land. The applicants Grandmother lived in ‘Trederwen’ and his Auntie in the newly created ‘Acacia House’ (formerly known as ‘The Bend’). Subsequently in later years, the properties of ‘Manderley’ and ‘Hill Cottage’ were also built and formerly housed family members. These have since been sold (when older relatives moved to more age-appropriate housing) and are no longer in the ownership of the Williams family.
- 2.2.6 At the time that ‘Hill Cottage’ and ‘Manderley’ were built, the landowners agent at Halls advised them that it would be beneficial to provide access from this end of the village and to retain ownership of such a track. The track was never intended to be used as the primary access point to the field, as one had already been approved and created off Wem Road. It was simply a secondary track created at the suggestion of the applicants former agents and to provide domestic access to ‘Manderley’.
- 2.2.7 At present, the field is used for arable purposes and is hungry, easy draining ground. It is therefore only visited sporadically to sow, tend to and harvest any crops. The landowner advises us that the plough would take place in September and would usually consist of 3hours over a single day. This would be followed by fertiliser/spraying during the dry spring period and appropriate muck spreading as and when required. The combine usually requires two trailers loads of grain to be taken from the site at the time of harvest. This process results in a maximum of 12 vehicular movements to/from the site throughout the year. In terms of the combine itself utilising this access, it would be very limited.

- 2.2.8 Access from Lower Road, for the use of a combine harvester (or even large tractor) is not possible. Access is difficult due to its steep-sloping and restrictive nature and also by the fact that a right of way exists over the land as the only form of access to 'Manderley' and its private parking area to the rear.
- 2.2.9 The applicants do not own the land to the north of this field and therefore, access from the northern field cannot legally be achieved without third-party involvement. The agricultural access proposed with this development can only be seen as betterment to the existing situation whereby the site is accessed from a field gate immediately adjoining the highway. At present agricultural vehicles must park along the highway to open the field gate and manoeuvre into the site at the risk of passing traffic. The track off Lower Road can still be used for general maintenance however, the existing formal agricultural access from Wem Road must be retained (as has been the case for the past 50-60 years) to ensure the continued and viable use of the land for agricultural purposes.
- 2.2.10 In terms of the proposed layout, the agricultural traffic will enter the site direct without obstruction or having to manoeuvre into either of the two residential zones served by private drive access arrangements. The holding bay will ensure that no-one is obstructed whilst the field gates are opened/closed – attached site layout demonstrates. In any event, the mix between residential and agricultural traffic movements is an everyday occurrence in rural communities and not something that should be an issue for development. The landowner advises that the land will continue to be used for arable purposes in the future and the limited level of activity described will therefore remain."
- 2.2.11 The above information has been provided in order to assist members in considering whether the proposed shared agricultural and residential access is appropriate. It should also be noted that the Council Highway Officer had advised previously that there is no reason to refuse the scheme on highway safety grounds and promoted a single point of access advising that this was welcomed and necessary in order to try and achieve an acceptable measure of visibility in both directions along the Class II road. The provision of two separate accesses would increase the number of accesses provided along the Class II road and also still result in an agricultural access between houses. If the agricultural access were to be provided along the northern or southern edge of the application site the access would be provided between new housing and existing housing, the proposed scheme provides the agricultural access between new housing only and therefore has less of an impact on existing properties. As advised at the March meeting the buyers of the new properties will be aware of the agricultural access and will need to consider this in their purchase.
- 2.2.12 Officers are of the opinion that, given the detailed information provided by the agent, the use of the agricultural access would be limited given the size of the field it serves. As such officers consider that the use of the access for agricultural vehicles as well as to serve the dwellings would not result in significant harm to the amenities of the residents of the proposed properties as to warrant a refusal of the application.

2.3 Other matters

- 2.3.1 The agent has also commented that the housing supply figures that Shropshire Council has put forward in the SAMDev Plan fall short of the housing figures that Core Strategy Policy CS1 seeks to achieve and has raised concerns that the Plan will not provide sufficient housing land. The matter has been put to the Planning Policy Team who have commented that the agent has failed to appreciate the full housing supply picture and has not included all of the development which will contribute to achieving the Core Strategy targets. Even if the agent was correct, this would not be a matter which is material to the determination of the current application. Although the Pre-Submission Draft SAMDev Plan has been published for final representations, the weight that can be attached to its proposals remains limited, and the absence of a five years supply means that the provisions of the NPPF with regard to policies for the supply of housing and the presumption in favour of sustainable development remain as significant considerations.

3.0 CONCLUSION

- 3.1 The development on this site is considered to constitute sustainable development in accordance with the NPPF and the presumption in favour of sustainable development where a Council are unable to show a five year supply of housing land. The site is adjoining the existing development boundary and can be provided with a safe means of access serving both the proposed dwellings and the remaining agricultural field without harming the amenities of the proposed properties. Furthermore the site can be developed without harm to the amenities of existing residents, or impact on any protected species or trees.

- 3.3 It is therefore considered that this application will assist in contributing to the five year land supply and that having regard that the development site is adjoining a key sustainable settlement where future residents could access a number of services resulting in a sustainable form of development this application should be considered acceptable in principle against the NPPF.

4.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

4.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to

determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

4.2 **Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

4.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

5.0 **FINANCIAL IMPLICATIONS**

5.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The means of enclosure of the site and properties
 - The drainage of the site
 - The finished floor levels
 - Details of the tree, root protection area and measures to protect the tree

Reason: To ensure the development is of an appropriate standard.

5. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Assessment submitted 17th September 2013 by Star Ecology

Reason: To ensure the protection of great crested newts, a European Protected Species

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

6. The visibility splays, access, internal private drive, parking and turning area shall be satisfactorily laid out and completed in accordance with the approved plan 03 Rev A prior to any dwelling being occupied. The new access with the adjoining highway shall be constructed in accordance with Shropshire Councils specification for the time being in force for the formation and construction of a vehicular access.

Reason: In the interests of highway safety.

7. Prior to the first occupation of the dwellings details of 5 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species

8. Prior to the first occupation of the dwellings details of 8 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of nesting opportunities for wild birds

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

Reason: To minimise disturbance to bats, a European Protected Species.

10. The access and layout of the development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

APPENDIX 2

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on land north of Jubilee Cottage in Harmer Hill. Layout and access are submitted for approval at this outline stage with scale, appearance and landscaping reserved for later approval. As such the application seeks consent for the principle of developing the site for housing and for the access and layout of the proposed 6 dwellings.
- 1.2 In support of the proposal the application has been submitted with a design and access statement, separate highways access report, drainage assessment and ecological report. The submitted layout plan, which is for consideration at this outline stage shows a single point of access off the B5476, Shrewsbury to Wem road, just off the centre of the site which is proposed to serve a single width estate road within the site. The layout shows 6 detached houses, each with a garage, driveway, private garden to the rear and an agricultural access between the third and fourth dwelling.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposal relates to a arable field, 0.48 hectares in area, located on the western side of the B5476 Shrewsbury to Wem road between a small group of dwellings and the main part of Harmer Hill but within both the 40mph speed limit and within the village signs on the B5476. The roadside boundary is made up of post and wire fencing, a field gate and poor hedging. Along the northern boundary with The Old Post Office is a red sandstone wall. The properties on the Ellesmere Road, on the western edge of the field, are visible from the application site.
- 2.2 In terms of current development plan policies the site sits within an area defined as open countryside. In terms of the emerging Site Allocations and Management of Development (SAMDev) Plan Harmer Hill has been put forward as a cluster. However, as the site remains outside the established development boundary for the settlement the site will remain designated as open countryside.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have submitted a view contrary to officers based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions. The Principal Planning Officer in consultation with the committee chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Myddle and Broughton Parish Council – Objects.

The Parish Council is opposed to the proposed development for the following reasons:

1. It is outside the current development boundary as identified in the Community

Led Plan, which was adopted by both the Parish Council and Shropshire Council earlier this year.

The CLP states that the largest number of respondents 151 out of 286 wanted any new building to be within the current development boundary and 90 specified in-fill between existing properties. The boundary is identified as the line drawn up in North Shropshire District Council's Local Plan 2000-2011.

2. Access on to the Wem Road is unsafe.

Wem Road is busy with fast moving traffic and access from an additional six properties will add to the potential hazard. A further important issues is that the site is designed with a shared access for agricultural machinery, which adds to the complexity and consequent risk inherent in this design

3. Not a sustainable development.

This is not a sustainable development within the terms and conditions specified for 'sustainability', when building outside the current development boundary. The village has no shop, post office, doctor's surgery or school.

The Council does not wish to leave Shropshire Council with the impression that it is opposed to development but are anxious to have development that closely accords to the wishes expressed in the CLP.

This concluded that the parish would plan for 53 properties over the planning period to 2026. Of this number, planning permission has already been granted to 33 and the Parish Council has supported an application for a further five houses, together with the refurbishment of the public house in Myddle. This matches the wishes expressed in the CLP for more development to take place in Myddle, rather than Harmer Hill and supports a development which will add substantially to the social fabric and foster greater community spirit.

Furthermore the Council has published a desire to evaluate accurately the need for affordable housing. Articles have been published in the local parish magazine and the Shropshire Star and the Council has held public meetings in both villages. Whilst there have been few respondents, it is intended to repeat this process in the coming months.

In summary the Council will support further development in the parish where it reflects the wishes expressed in the CLP and where such developments, not only accord with the wishes of the public, but also enables us as a parish to further its well being.

The proposed development achieves none of the Council's aims and in conclusion it is opposed to this development.

- 4.1.2 **Affordable Housing Officer** – If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full application or a Reserved Matters application.

The current prevailing target rate for affordable housing came into force on the 1st September 2013 and in this area is 15%. Therefore the provision of one on-site affordable house would currently satisfy this requirement. We would expect the tenure of the proposed dwelling to be either social/affordable rented. The property would need to be offered through the Council's Choice Based Letting Scheme in accordance with the adopted Allocation Policy. Therefore the allocation would be taken from the wider Housing Register.

- 4.1.3 **Highway Officer** – Following submission of amended plans relocating the access further north along the B5476 to increase the measure of visibility on the traffic side for emerging vehicles. On further consideration the Highway Authority is of the view that the amended proposal is satisfactory for the prevailing highway conditions and **raises no objection to the development as submitted.**

The site is located on the western side of the B5476, Wem Road, towards the northern outskirts of the village. It is considered that the likely number of traffic movements generated by the proposed development can be satisfactorily accommodated on the adjoining Class II road; the proposed access arrangement/layout for the development is not however considered to be acceptable.

Whilst the site is located within the local 40 mph speed limit, this does not appear to be particularly well observed by passing motorists especially those entering the village and travelling towards Shrewsbury. The proposed visibility splays have been based on the absolute minimum distances, not accounted for the bonnet length of a vehicle and for passing traffic that is not observing the speed limit.

The principle of a single point of access is welcomed and necessary in order to try and achieve an acceptable measure of visibility in both directions along the Class II road. The proposed access layout, parking provision and turning areas are satisfactory.

- 4.1.4 **Ecologist** – Raised **no objection** and recommended conditions and informatives.

- 4.1.5 **Tree Officer** – **No objection** in principal - would need further details of the large tree on site including species and root protection area shown on a plan with a full application

- 4.1.6 **Drainage Engineer** – The following drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is granted:

The Drainage Assessment Report is acceptable in principal. Rainwater harvesting, permeable paving, water butts and soakaways will be used on the new development.

SuDS Applicability for the site is Attenuation. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be

provided on the upstream side of the proposed soakaways.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity. To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

If the driveways slope toward the highway, the applicant should submit for approval a drainage system. To ensure that no surface water runoff from the new driveways run onto the highway.

Consent is required from the service provider to connect into the foul main sewer.

4.2 **Public Comments**

4.2.1 37 letters of representation have been received. The areas of concern relate to:

- The site is outside the development boundary
- Outside the building area for the village
- Harmer Hill does not need anymore dwellings
- Information submitted assumes local support for development outside the boundary is greater than it is
- No shops or school, housing should be built closer to services
- Access to local services and facilities would have to be by car
- Unsustainable location
- No economic, social or environmental gains
- Does not enhance the community
- Future pressure for more development in this area of the village
- The adjacent dwellings are surrounded by a sandstone wall and detached from the village
- Loss of historic feature of views of adjacent enclosed properties
- Linear nature of proposal would be out of keeping
- Dangerous access
- Traffic does not adhere to speed limit
- Access not appropriate for agricultural vehicles
- May result in loss of privacy
- Impact on wildlife and newts in pond of adjacent property
- Potential loss of trees and hedges
- Soakaways will not work on this site due to the ground conditions
- Potential for water to run-off onto the road and increase flood risk to neighbouring properties
- Increase burden on the foul pumping station
- water pressure is low and will be affected

4.2.2 Brian Williams, Shropshire councillor for Harmer Hill wrote early in December providing the following comment:

I am opposed to the application for housing on Wem Road since the site is outside the development boundary included in the filed Local Plan for Myddle & Broughton Parish. Also the number of houses proposed will take up some of the headroom

needed to be left for the development of housing in the parish in the later years of the plan to 2026. At this present time there are already permissions for 60% of the plan's required housing in the first 15% of the time span of the plan. In addition this is not a site proposed for inclusion in the SAMDev submissions.

Mal Price, the Cabinet member for planning has just written to advise councillors on the land supply position and has advised that "local policy is still a material consideration". This will mean that, should you be inclined to recommend approval of this application, there is material consideration for a decision which will need to be made by the North Planning Committee rather than by delegation to yourself as the relevant officer. And this I request.

- 4.2.3 Following the submission of the amended access one further objection has been received commenting that the amendment fails to address the principle objections to developing housing in this location.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Affordable housing
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that 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. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply. It is only if the Council cannot demonstrate a 5 year housing land supply that the housing supply policies (but not the others) should be considered not to be up-to-date, with consequently greater weight to the NPPF presumption in

favour of sustainable development.

- 6.1.3 In September the calculation was a supply of 4.95 years, however this included counting some of the emerging SAMDev sites and questions have been raised as to whether this is appropriate and also the likely number of houses to be delivered in the five years. Given this position, and that the figure is most likely to have reduced rather than increased, therefore taking the Council further from the 5 year supply required officers advise that it would be difficult to defend a refusal for a site which is sustainable. Significant weight must now be given to the NPPF which is for the presumption in favour of sustainable development, with less weight to housing allocation policies. This means looking at the sustainability of the proposed development and the balance of the impacts/benefits, within the context of seeking to boost housing supply. Sites on the edge of towns and villages which might previously have been unsuitable for development due to being located outside of any development boundary and therefore contrary to policy will be considered acceptable in principle.
- 6.1.4 The application has been advertised as a departure as it lies outside the development boundary previously set within the North Shropshire Local Plan and would also be outside the proposed development boundary for Harmer Hill within the emerging Site Allocations and Management of Development (SAMDev) document in which Harmer Hill forms part of a Community Cluster with Myddle. However, given it has been established that limited weight should be given to this policy framework in light of the current housing supply position, it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'. The site lies between houses on the Wem Road in Harmer Hill, it is outside the main built up part of the village and would extend the main part to the small group of houses on the outside edge which are currently separated by the agricultural field which makes up the application site. It is acknowledged that this would have an impact, as would building on any agricultural field around any village, however officer do not consider that the development of this site would be significantly or demonstrably harmful to the character of the village. The proposed site would result in development being located between existing properties within Harmer Hill, has pedestrian access to the village facilities including the leisure activities and public transport. Harmer Hill is also closely associated with Myddle where other services and facilities are available.
- 6.1.5 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. For the application site, as noted above it is within walking distance of Harmer Hill and is also considered to be within cycling distance of Myddle. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location. For the application site this would be through a Community Infrastructure Levy payment at £80 per square metre of open market dwellings created.
- 6.1.6 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the

context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits.

- 6.1.7 The principle concern raised by objectors to the development is that it is not sustainable. The objectors note that the houses on the site would be reliant on cars to access shops, schools, employment and services such as doctors. The objectors have also noted that there is environmental harm in developing this greenfield site which will have some ecological habitats; that they consider the only economic benefit is to the developer and land owner's profits and that there is no social benefit in developing the site.
- 6.1.8 These points are noted, however there is a social benefit in developing new housing which is in high demand across the country and in Shropshire where the house building has not been meeting targets. It is accepted that there has been house building recently in the village and that there may be properties for sale, however this does not outweigh the general pressure for more housing. There is also the benefit of providing affordable housing, which the site would need to contribute to under the adopted policies. There are economic benefits of house building in employment opportunities and material construction as well as the longer term benefit in providing more households using the local services and facilities. However, it is also accepted that these benefits would come from any housing development.
- 6.1.9 As noted Harmer Hill has been put forward as a part of a community cluster where it is acknowledged that settlements work together to provide the services and facilities required for residents. Harmer Hill provides two public houses and a village hall, Myddle has a primary school and a shop and a public house which at present is closed but may re-open subject to a current application for house building. The provision of new housing in Harmer Hill is supported in principle to support the community cluster. Whether this site is of an appropriate scale or is appropriate in terms of its siting, layout and density will be considered below.

6.2 **Affordable Housing**

- 6.2.1 If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application. The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme. If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before a reserved matters application is submitted.

6.3 **Layout, scale and design**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the

local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. "Saved" policy D6 of the North Shropshire Local Plan also requires that the proposed extension should reflect the character and appearance of the existing dwelling as well as being subordinate in scale to the original.

- 6.3.2 As detailed in the description of development this outline application seeks consent for the access to the site and the layout of the 6 dwellings proposed. As such a layout plan has been submitted. The plan shows 6 large detached family dwellings, each with a garage, private garden to the rear and new hedge boundaries between the properties. The scale and appearance of the properties is not detailed at this time and is reserved for later approval. However, the current submission does allow for consideration as to whether the layout and density is appropriate or not in relation to the context in which it is proposed.
- 6.3.3 Concern has been raised by local objectors that the linear development of this site is out of keeping with the area and that the existing dwellings to the north are separated from the rest of the village and enclosed by a sandstone wall. It is acknowledged that the development of the application site would join these properties to the rest of the village, however they would still be read as the historic group enclosed by the wall. A gap of approximately 5 metres is retained between the sandstone wall to the north and the new dwelling, there is a garage proposed in front of this plot and it may be that moving this garage would help to open up the view of the sandstone wall and thereby retain a significant part of the view from the village of the existing properties.
- 6.3.4 It should also be noted that the layout proposes the dwellings set further back from the B5476 than the properties to the north to enable a driveway within the site providing a single point of access to all 6 properties and parking within the curtilage of each property. This is considered in greater detail below but does also allow for the views of the existing properties to be prominent in the landscape when approaching from the village and would also not detract from the views of the existing properties as approached from Wem. To the south of the application site a new property has been erected, Lily Pad Cottage, which is a large detached, cream rendered, dwelling with a detached garage to the front and a pond between the garage and the road. This property will be set further back than the proposed dwellings. The impact on amenities is considered below. However officers consider that the proposed layout, in its linear form, is appropriate and although the properties to the south do turn onto The Hollow which leads onto the Ellesmere Road the properties to the north are a small linear group and the properties along Ellesmere Road are also linear in layout. Officers therefore consider that the site lends itself to a linear development.
- 6.3.5 The application form submitted notes that materials for the dwellings is to be approved and this can be dealt with through an appropriately worded condition to ensure that the dwellings relate to the character and materials in the local area. The recent developments in Harmer Hill have been a mix of brick and render and as such officers would be seeking a mix to enhance the mix of house sizes and

shapes shown on the layout plan. The existing boundary treatments are noted as a mix of post and wire fencing and the existing sandstone wall. The proposal would be to retain the wall and replace the fencing with post and rail fencing and hedging. New hedges are shown around the boundaries of the dwellings and also along the northern boundary, however this could be controlled by condition to ensure that the existing sandstone wall is retained and remains visible from the road.

6.3.6 The potential for other sites to come forward is not a material consideration, each application would need to be considered on its merits. Officers consider that the site is appropriate as it is located between existing properties and proposes a road frontage development in line with the context of the existing built form at this end of the village.

6.4 **Impact on residential amenity**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. At this outline planning stage the layout of the site has been submitted for approval and as such it is possible, in part, to consider the potential impact on the existing residents either side of the site. However, the elevations and appearance of the dwellings has not been submitted and as such it is not possible to fully establish the impact.

6.4.2 The layout plan does show that the proposed dwellings would be off-set from the existing properties with the nearest property to the north being The Old Post Office being set further forward than the proposed development and the new property Lily Pad Cottage to the south further back from Wem Road than the proposed development. The layout plan also shows an area of landscaped buffer between the southern most proposed dwelling and Lily Pad Cottage to increase the distance between these properties as the new dwelling has been built quite close to the edge of its plot. Overall, subject to appropriate elevations, officers consider that the site can be developed for 6 houses and not result in unacceptable impact on privacy or loss of light. It is acknowledged that the views from the existing properties will alter, however this is a private view and the development would not significantly alter any wider publicly acknowledged important view. It is therefore considered that the development meets the requirements of policy CS6 with regard to protecting amenity.

6.5 **Highways, access, parking and rights of way**

6.5.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. The development proposed at this site is for 6 dwellings and is therefore not considered to be a development which would generate significant levels of traffic in relation to the requirements to provide a transport assessment. The access is submitted at this outline stage and has been considered by the Council Highway Officer. The proposal is to provide an access to the site which will serve the new housing and also provide continued

agricultural access to the field beyond the development.

- 6.5.2 The Parish Council and local representations have raised concerns about the proposed access on to the Wem Road being unsafe. The Parish Council comment that Wem Road is busy with fast moving traffic and access from an additional six properties will add to the potential hazard and local representation has noted that traffic does not adhere to the speed limit. A further important issue for the Parish Council is that the site is designed with a shared access for agricultural machinery, which adds to the complexity and consequent risk inherent in this design.
- 6.5.3 The Council Highway Officer has assessed the submitted details and considered the proposal taking into account the existing highway and its location. As noted above the Highway Officer has advised that the likely number of traffic movements generated by the proposed development can be satisfactorily accommodated on the adjoining Class II road. However, the access details as submitted are not acceptable.
- 6.5.3 The Council Highway Officer has acknowledged that the 40mph speed limit in which the site lies does not appear to be particularly well observed by passing motorists especially those entering the village and travelling towards Shrewsbury and this accords with the concerns raised locally. However, the Highway Officer has not raised an objection and the comments detailed at 4.1.4 advise that that the point of access should be moved further to the north of the site and the visibility splays should be increased.
- 6.5.3 The suggested changes could be worked into the scheme and the Council Highway Officer has been favourable of the principle of a single point of access rather than multiple accesses along this stretch of the road. Furthermore the internal layout, parking provision and turning areas are considered to be satisfactory. It is therefore considered that the site could be developed in terms of having a safe means of access and would not result in a significant amount of additional traffic on the local highway network to result in any highway safety concerns.
- 6.6 **Ecology and trees**
- 6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Therefore the application has been considered by the Council's Ecologist and Tree Officer.
- 6.6.2 Concerns have been raised locally about the potential impact on wildlife and the loss of trees and hedges. This second concern is not wholly clear as the site is currently an open agricultural field with no trees or hedge within the site. A new access is proposed to be created through the existing roadside hedge, however at present this hedge is not constant along the roadside and the proposal is to provide a new roadside hedge and also new hedges around the curtilages of the new dwellings.
- 6.6.3 Star Ecology (2013) carried out an assessment of ponds with 250m of the site for

great crested newts and concluded that none of the ponds within 250m of the site provide suitable breeding habitat for GCN and also consider that the site is poor terrestrial GCN habitat, no further survey is deemed necessary. No survey access was granted for pond 2 (50m from the site) and pond 3 (120m away) was dry. Pond 1 (immediately adjacent to the site) was surveyed for GCN eggs and efts but none were found. Star Ecology do however recommend risk avoidance measures for GCN because they are generally present in north Shropshire. A 10 metre undeveloped buffer to Pond 1 is shown on the Proposed Site Layout and these matters can all be dealt with by condition.

- 6.6.4 The new property neighbouring the site has submitted a further representation noting that they have seen newts near the pond in the front of their property. This pond was assessed by Star Ecology and the agent has also noted that there was no evidence of any Great Crested Newts at the time of the consent for the new dwelling was granted in 2012 or at the time of the recently constructed garage. Reasonable avoidance measures were suggested at the time of the construction of Lily Pad Cottage and are also proposed as part of this application.
- 6.6.5 A mature oak tree is situated within the south boundary of the site. Trees on site and immediately adjacent to it were surveyed but judged to have no bat roosting opportunities. However the trees and boundary hedgerows may be used by foraging bats and therefore lighting should be controlled. The erection of bat boxes is recommended by Star Ecology (2013) and the provision of bat boxes and appropriate lighting can also be controlled by condition. With regard to other trees and hedges these are not protected and providing any work is done outside bird nesting seasons the removal of the section of roadside boundary to provide the access would not harm wildlife.
- 6.6.6 The Council Tree Officer has advised that there is no objection in principal but has requested further details of the large tree on site including species and root protection area shown on a plan to be submitted with the reserved matters application. The provision of new landscaping is considered to be a benefit to the amenity of the area and the local wildlife. Furthermore the submitted layout, which is for consideration at this time, shows a wildlife buffer. It is therefore considered by officers that the development will not adversely affect statutorily protected species and in that regard meets the requirements of policy CS17.
- 6.7 **Drainage**
- 6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The application form advises that the foul drainage from the development is proposed to be connected to the existing mains sewerage system and the surface water discharged via a sustainable drainage system.
- 6.7.2 Concerns have been raised about the potential for soakaways not to work on this site due to the ground conditions, for ground water to run-off onto the road and increase flood risk to neighbouring properties and over the increase burden on the foul pumping station and water pressure. The issues of water pressure and the foul pumping station have not been supported by any evidence and no objections have been raised by the water and sewerage provider. Any development will

need to obtain the consent of the water and sewerage provider to gain a connection to the existing systems. Any capacity problems are a matter for the statutory provider of these services and without an objection from the provider it would be unreasonable to seek to refuse consent on these matters.

- 6.7.3 The Council Drainage Engineer has assessed the proposal in terms of surface water and flood risk and has not raised any objection to the proposal recommending conditions are imposed to require the submission of a detailed drainage scheme. The application was submitted with a Drainage Assessment Report which the Council Officer has considered acceptable and which also advises that rainwater harvesting, permeable paving, water butts and soakaways will be used on the new development. As such the development will provide means to reduce the surface water run-off. As a greenfield site the Council would expect the development to not increase run-off above the existing greenfield rate and these benefits would help to limit the water.
- 6.7.4 The Council Drainage Engineer has advised on surface water systems and noted that the site would have to provide attenuation in addition to soakaways but also advised that this could be dealt with through a condition and the submission of percolation tests. Although the concerns of the local residents are noted Officers consider that a scheme could be designed to provide a surface water drainage system that does not result in additional run-off and therefore would not increase the risk of flooding either within the site or the wider area and would comply with policy CS18.

7.0 CONCLUSION

- 7.1 The development on this site will constitute the provision of a residential development in open countryside and would be contrary to the principles for residential development as indicated in the North Shropshire Local Plan. However, Harmer Hill is being promoted to fall within the Community Cluster of Myddle and Harmer Hill where new residential development would be acceptable under the SAMDev plan. The latest proposed figures for infill residential development requested by Myddle and Broughton Parish Council indicate the provision of 50 dwellings during the plan period. Although this application has indicated the provision of 6 dwellings and would fall within this figure the Parish Council has requested that any additional dwellings are provided as individual or small groups of housing as infill development.
- 7.2 However, Shropshire Council currently has a housing land supply shortage and the National Planning Policy Framework does give a presumption in favour of sustainable development with less weight to housing allocation policies. This means looking at the sustainability of the proposed development and the balance of the impacts/benefits, within the context of seeking to boost housing supply, whilst remembering the status of the development plan and all other material considerations.
- 7.3 The proposed development is adjoining the existing development boundary for Harmer Hill and provides a number of local services including two public houses; a bus service to Wem, Ellesmere and Shrewsbury; a village hall; church; and employment opportunities in a hotel, together with Lea Hall business park (0.9km away). The development site can be developed to provide a safe means of

access, suitable drainage and a layout which could be designed to prevent any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife, whilst no important trees will be lost. The development would be positioned between existing residential properties and would be considered as infill development within Harmer Hill.

- 7.4 It is therefore considered that this application will assist in contributing to the five year land supply and that having regard that the development site is adjoining a key sustainable settlement where future residents could access a number of services resulting in a sustainable form of development this application should be considered acceptable in principle against the NPPF.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a

number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

10.2 Relevant planning history

No relevant history

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Brian Williams

Appendices APPENDIX 1 - Conditions

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Committee and date
North Planning Committee
8 April 2014

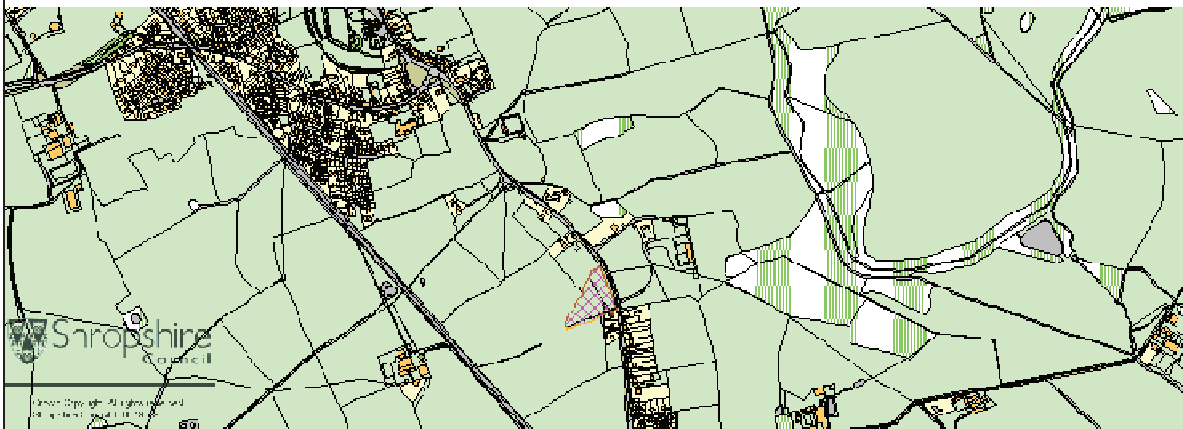
Item
9
Public

Development Management Report

Responsible Officer: Tim Rogers
email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 13/01717/FUL	<u>Parish:</u>	Whittington
<u>Proposal:</u> Development of 2 dwellings and relocation of existing store building		
<u>Site Address:</u> Land North Of Burntwood House Babbinswood Whittington Oswestry Shropshire		
<u>Applicant:</u> R Bladen And Sons		
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk	
<u>Grid Ref:</u> 333253 - 330359		



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Recommendation:- Subject to the applicants entering into a S106 legal agreement to secure a financial contribution to affordable housing Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is for full planning permission. It was initially submitted for 6 dwellings however the proposal was reduced to two dwellings during the consideration of the application. The application fully details the proposed layout, scale and design of the dwellings and has been submitted with a design and access statement, extended phase 1 habitat survey and drainage assessments.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is currently a paddock and the application form notes that there is a storage building on the land however this is on the larger site initially proposed for 6 dwellings. The reduced site for two dwellings is a smaller parcel of land adjacent to the main road through Babbinswood.
- 2.2 Babbinswood is a predominately linear settlement with dwellings built along the road side. Some of the dwellings are set back but the prevailing character is linear. The only part of the settlement which does not follow this form is the Fitzalan estate at the opposite end of Babbinswood from the application site. The existing houses are a mix of size, style and age.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have expressed a view which is contrary to officers recommendation and the local member and chair of the planning committee have confirmed that this raises material planning reasons for the committee to consider the application.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Parish Council** – As part of Whittington Parish Council's Planning Policy Statement the Parish Council recognises its obligations to identify sites for up to a maximum of 100 residential properties within the village for the period to 2026.

The Council has already approved schemes within the existing development boundary of Whittington, and the community clusters of Park Hall and Hindford and are well on way to the 100 residential properties now. They are completely opposed to any boundary changes at Babbinswood and this development would be outside the boundary. This would link Babbinswood to Whittington and if approved would set a precedent for other land owners to start applying to develop their land. This Council is totally against this development.

Following the amendment to reduce the number of dwellings commented: The planning application with the amendment showing a reduction of houses from 6 to 2 was considered by the Parish Council at the meeting on Tuesday, 3rd August 2013. There is no change to the Council's comments as shown as submitted on 5th June 2013, members are unanimous in their objections to this planning application (albeit now a reduced number of houses) for the reasons outlined in our submitted comments on 5/06/13.

- 4.1.2 **Council Affordable Housing Officer** – As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually. The current affordable housing contribution rate is 10% and as such a proposal for 2 new open market dwellings would be liable to make a contribution equivalent to two times 0.10 of a whole affordable unit (2 x 10%). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing provision elsewhere in the area to be secured through a legal agreement.

- 4.1.3 **Council Highway Officer** – The site has access onto a Class II road within a 40 mph speed limit and located towards the outskirts of the existing residential ribbon development. Vehicles passing the site at this point do not appear to be particularly observing the speed limit. The existing access is located on the inside of a bend at a point where the measure of visibility from the access is restricted in both directions by the adjoining highway boundaries and horizontal alignment of the carriageway.

Notes that the number of houses and extent of the development has been reduced and continues to be served by the existing access. Improvements to the access are proposed in connection with the proposal in terms of amending its layout and providing visibility splays of 2.4 metres by 90.0 metres in both directions. Whilst these amendments are welcomed is of the view that measure of visibility provided should be further increased given the prevailing highway conditions with splays of 120 metres being provided in both directions. From the submitted information the adjoining land in the applicants ownership/control has not been identified, but given that the site forms part of the field and the former application site together with the setting back of Burntwood House frontage boundary, is lead to conclude that further improvements to the line of sight could be sought within the land in the applicants control.

The relocation of the access further to the north together with the visibility splay in a northerly direction being drawn to the centre of the carriageway, which is marked by solid double white lines at this point, may enable a more satisfactory splay to be provided in both directions, especially the southerly direction, which is the traffic side for emerging vehicles.

Would also comment that the development of the site also provides an opportunity to seek the continuation of the footway provision between the existing facility to the south of the application site and the access.

- 4.1.4 **Council Waste Management Officer** – The residents will need to be aware that Shropshire Council operates a kerbside collection policy

- 4.1.5 **Council Ecologist** – Following receipt of additional information recommended conditions and informatives. The email from Susan Worfield dated 29/10/13 has confirmed that there is no evidence on the site of badgers or dormice. Except for the mature oak tree in the southern hedgerow which has some potential for bat roosts, the trees have little bat potential. Notes that this oak tree is shown for retention but if it were to be proposed for removal a bat inspection would be required. Lighting control is recommended on the site boundaries to prevent impacts on foraging bats.

The hedgerow sections shown for removal will have potential for nesting birds and recommends an informative should be attached. A new native species hedgerow is proposed which will offset the hedgerow length to be lost.

- 4.1.6 **Council Drainage Engineer** – This is an amendment to the original application from 6 dwellings to 2 dwellings.

The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details of the proposed soakaways have been supplied. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

If the tarmac access road slopes towards the highway, the applicant should submit for approval a drainage system to prevent the surface water runoff onto the highway.

On the Pluvial Flood Map, part of the site the site is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and how the flow of the flood water could be routed away from any property either within the proposed development or any other in the vicinity and to ensure that the finished floor level is set above any known flood.

Also recommended informatives detailing measures to reduce surface water and that consent is required from the service provider for connection to the mains.

4.2 **Public Comments**

- 4.2.1 9 letters of representation have been received raising the following concerns:

- land is greenbelt outside development boundaries
- will not retain the break between Babbinswood and Whittington
- Babbinswood is a hamlet not a village
- lack of need
- will be backland development
- loss of agricultural land
- poor access
- impact on wildlife
- land at risk of flooding

- 4.2.2 CPRE Oswestry have also written objecting to the proposal on the grounds that the proposal does not meet the conclusions of the SAMDev, for Babbinswood only

limited infill and conversions will be permitted and there is not a shortfall of housing land. The development is out of context with the existing linear development. Furthermore the development of the site would impact on flora and fauna.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Impact on trees
- Ecology
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that 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. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Policy H7 of the Oswestry Borough Local Plan (OBLP) previously sought to limit new dwellings in Babbinswood to infill developments of one or two dwellings and, exceptionally, small groups of dwellings on suitable sites within the development boundary. The application site lies outside the development boundary for Babbinswood shown on the OBLP.

6.1.3 The emerging 'Site Allocations and Management of Development' DPD (SAMDev) is at the stage of consultation on soundness and the Community Cluster of Park Hall, Babbinswood, Hindford and Lower Frankton does not have any revisions since the first 'preferred options' stage. The policy for development of Community Clusters is set out in policy CS4 of the Core Strategy. The Parish Council have indicated a proposed housing allocation in Park Hall, no sites are proposed in Babbinswood, or the other settlements, and the SAMDev suggests only limited infill and conversions will be permitted in these areas. The development boundary shown in the OBLP for Babbinswood is to be retained and the application site is outside this development boundary.

6.1.4 Within the design and access statement the agent seeks to put forward the argument that Shropshire Council does not have a five year housing land supply and as such the saved policy is out of date and the presumption in favour of

sustainable development within the NPPF should be given greatest weight. The agent also seeks to put forward the argument that there is only one parcel of land left within the development boundary for Babbinswood for infill development and this is being pursued for 2 affordable dwellings.

- 6.1.5 In September 2013 the Council published an updated Five Year Housing Land Supply Statement which indicates that the Council does not have sufficient housing land to show a 5 year land supply and as such paragraph 47 of the NPPF advises that the housing supply policies are out of date. As such policy H7 of the OBLP is out of date and the SAMDev is not yet at a stage where significant weight can be attributed to it. Accordingly the presumption in favour of sustainable development applies.
- 6.1.6 The agents argument that the site is sustainable is noted, it is acknowledged that there is a kerbed footpath along the opposite side of the road from the site to Whittington and that there are services and facilities in Whittington and public transport facilities to Oswestry and Ellesmere. However, accessibility is not the only test of sustainability.
- 6.1.7 Significant weight must now be given to the NPPF which is for the presumption in favour of sustainable development, with less weight to housing allocation policies. This means looking at the environmental, economic and social sustainability of the proposed development and the balance of the impacts/benefits, within the context of seeking to boost housing supply. Sites on the edge of towns and villages which might previously have been unsuitable for development due to being located outside of any development boundary and therefore contrary to policy will be considered acceptable in principle.
- 6.2 **Layout, scale and design**
- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.2.3 Initially the proposal was for 6 dwellings with three along the roadside frontage with a shared drive at the rear of the dwellings. The other three dwellings proposed were to the rear of the front three accessed off the track and set within generous gardens projecting some way back from the existing building line of Babbinswood. The amendment to reduce the number of houses from 6 to 2 has reduced the site area to the land immediate adjacent to Burntwood House and the road. The two dwellings are set back behind a shared drive which is behind the roadside hedge. The principle elevations face towards the road and will ensure that the development does not turn its back on the road. The reduction in the number of dwellings has also removed the backland development of the three at the back of the site.
- 6.2.4 The application form suggests the dwellings will be finished in facing brick and render, with natural slate roofs and timber window frames and doors. The design

and access statement suggests timber framed construction techniques. Both dwellings proposed have dormer windows to the front and rear elevation to reduce the overall height of the dwellings. Both have roof finials, chimneys, arched window headers and casement windows. The two dwellings are similar in design and detailing to each other but plot 2 has a wider frontage to plot 1 and as such the two dwellings will appear as similar but not identical.

6.2.5 It is acknowledged that the Parish Council and local residents have concerns about the development of the site extending beyond the existing boundary of the village and closing the gap between Babbinswood and Whittington however officers do not consider that the development of two dwellings on this site would be significantly or demonstrably harmful as to warrant refusal of the scheme. It is accepted that the site lies outside the development boundary, however with a lack of a five year land supply the development boundary is no longer up to date and can be given little weight. The site is adjacent to the existing village and houses and will not protrude an unacceptable amount into the open countryside between the two settlements as to either appear as detached or as to appear as connecting the two settlements.

6.2.6 Furthermore given the close relationship of Babbinswood to Whittington, the footpath link and good level of services in Whittington the development of the site is considered to be in an accessible location. The provision of new housing on this site would provide an economic benefit in supporting those local services and a benefit during the construction period, the development would provide social benefits through the provision of new housing and a contribution to affordable housing and infrastructure and would provide environmental benefits by an appropriate contribution to the built environment and ensuring biodiversity is enhanced.

6.2.7 Some weight can also be given to the fact that Babbinswood is being put forward as part of a community cluster in the forthcoming SAMDev. Although this document can not be given weight itself the Parish consider that a small level of new house building in Babbinswood would be sustainable and as such it would be difficult to seek to argue that this site, although on the outside edge of the proposed development boundary, is not sustainable when a site within the development boundary would be. As such, taking account of all three threads of sustainable development, the proposed development is considered to be sustainable and there are no issues of harm which would significantly and demonstrably outweigh the benefits.

6.3 **Impact on residential amenity**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy also indicates that development should safeguard the residential and local amenity. The proposed application site and two new dwellings lie on the outside edge of Babbinswood with agricultural fields to the north, east and west. Burntwood House, a detached two storey dwelling, is the only immediate neighbour and this dwelling lies approximately 13m from the nearest of the two proposed dwellings, on the opposite side of the lane.

6.3.2 Although the existing dwelling has a window at ground floor and a window at first

floor in the end elevation facing towards the site the proposed dwelling only has ground floor windows in the gable end which will be screened by the boundary treatment. Accordingly the distance and the lack of directly facing windows will ensure that the amenities of the existing property are protected and ensure the development meets the requirements of CS6.

6.4 **Highways, access, parking and rights of way**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.

6.4.2 The proposal is to use the existing access off the B5009 which currently serves the store building and surrounding agricultural/ paddock land. The proposals as initially submitted proposed improvements to the width of the access and to the visibility splays by setting back the roadside hedge, piers and railings either side of the access.

6.4.3 The Council Highway Officer requested additional improvements to the visibility splays whether the development is for 6 or 2 dwellings and also noted that given the land ownership the improvements should be possible and could be controlled through a condition or submission of an amended plan. The agent has since submitted an amended plan showing the required visibility splay.

6.4.4 The proposed layout shows sufficient space for parking and turning of two cars per dwelling and given that the development is now only for two dwellings it would not be unreasonable to suggest the occupants position their waste for collection on the edge of the existing highway therefore negating the need for the waste collection vehicle to enter the site. The site as proposed can be designed to be safe in highway terms and the visibility from the existing poor access improved to meet the requirements of adopted policy with regard to this matter.

6.5 **Impact on trees**

6.5.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. The proposed layout shows the re-positioning of the roadside hedge to the back of the visibility splay and new hedges planted along the northern and western boundaries of the site. New trees are also shown on the proposed layout plan. As such it is considered by officers that the proposed development will not have a detrimental impact on trees or hedges and the retention of the landscaping could be conditioned.

6.6 **Ecology**

6.6.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural

environmental and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.

- 6.6.2 An extended phase 1 habitat survey has been undertaken and submitted with the application. This report concludes that no rare plants were found and the re-positioning of the roadside hedge should be done outside of bird nesting periods. The phase 1 survey also recommended additional surveys for Great Crested Newts which the design and access statement submitted with the application suggests were being undertaken ready for submission. The Council Ecologist initially requested additional information.
- 6.6.3 The information has been submitted, and in addition to reducing the number of dwellings from 6 to 2 this enables the retention of more hedging. The Council Ecologist has confirmed that this information submitted is now acceptable and will ensure that the development does not adversely affect statutorily protected species.
- 6.7 **Drainage**
- 6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Foul drainage is proposed to be connected to the existing mains drainage system in the village and surface water is proposed to be dealt with by soakaways and reduction methods such as water butts and permeable surfaces.
- 6.7.2 Connection to the mains for foul drainage is the preferred option and should be considered before any other form of foul drainage. Whether there is capacity in any existing system is a matter for the sewerage provider and a formal application for connection will be required between the applicant and provider. However, this is not a material planning consideration.
- 6.7.3 The concerns of the local residents with regard to flooding of the site are noted. The Council Drainage Engineer has also noted that on the Pluvial Flood Map, part of the site the site is at risk of surface water flooding. However, this is not raised an objection and the Drainage Engineer has requested details to show how the surface water runoff will be managed and how the flow of the flood water could be routed away from any property either within the proposed development or any other in the vicinity and to ensure that the finished floor level is set above any known flood.
- 6.7.4 It is considered that, subject to the design of appropriate surface water management systems, which could be controlled by condition. That the proposed development will not increase flood risk and as such can meet the requirements of policy CS18.

6.8 **Affordable Housing**

6.8.1 If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution on this site would be 10% in line with the current requirements of the SPD Type and Affordability of Housing. As the development is for two dwellings this would equate to a financial contribution to be paid to the Council for the provision of affordable housing of site. This contribution would be secured through a S106 agreement.

7.0 **CONCLUSION**

7.1 The development on this site will constitute the provision of a residential development in open countryside and would be contrary to the principles for residential development as indicated in the Oswestry Borough Local Plan. However, Babbinswood is being promoted to fall within a Community Cluster where new residential development would be acceptable under the SAMDev plan and Shropshire Council currently has a housing land supply shortage. As such the National Planning Policy Framework and the presumption in favour of sustainable development is given greater weight with less weight to housing allocation policies. This means looking at the sustainability of the proposed development and the balance of the impacts/benefits, within the context of seeking to boost housing supply, whilst remembering the status of the development plan and all other material considerations.

7.2 The proposed development is adjoining the existing development boundary for Babbinswood which is well connected to the adjacent settlement of Whittington where a number of local services are available including a bus service to Oswestry and Shrewsbury. The development site can be developed to provide a safe means of access, suitable drainage and the layout, scale and appearance are considered to be appropriate and do not result in any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife, whilst no important trees will be lost.

7.3 It is therefore considered that this application will assist in contributing to the five year land supply and that having regard that the development site is adjoining a key sustainable settlement where future residents could access a number of services resulting in a sustainable form of development this application should be considered acceptable in principle against the NPPF.

8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

8.1 **Risk Management**

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of

policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 **Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 **FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. **BACKGROUND**

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
CS18 - Sustainable Water Management

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Steve Charmley

Appendices
APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Great Crested Newt Method Statement June 2013.

Reason: To ensure the protection of great crested newts, a European Protected Species.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

5. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

6. The visibility splays shown on the amended site plan rev E shall be provided in both directions from the access along the highway prior to the dwellings being occupied. All growths and structures in front of these lines shall be lowered to and thereafter maintained at carriageway level.

Reason: To provide a measure of visibility from the access in both directions along the highway in the interests of highway safety.

7. The new access, drive, parking and turning areas shall be satisfactorily laid out in accordance with the amended site plan rev E prior to the dwellings being occupied. The access apron shall be constructed in accordance with the Council's specification prior to the dwellings being occupied as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. Except where shown as being removed on the approved plans all existing trees, shrubs and hedgerows within and bordering the site shall be protected, retained and maintained to the satisfaction of the local planning authority for the duration of any development works and for 5 years thereafter.

Reason: To safeguard the visual amenities of the area.

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<u>Committee and date</u>
North Planning Committee
8 April 2014

<u>Item</u>
10
Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

SCHEDULE OF APPEALS AS AT COMMITTEE 8TH APRIL 2014

Appeals Lodged

LPA reference	13/03971/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Brammer & Price
Proposal	Outline application for the erection of 4No dwellings and 4No affordable houses (to include layout)
Location	West View, Knockin Heath, Oswestry SY10 8EA
Date of appeal	03.03.2014
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	13/02296/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A Jones
Proposal	Outline application for the residential development of 3 dwellings; formation of new vehicular access
Location	Development Adj Weir Cottages, Hengoed, Oswestry Shropshire
Date of appeal	04.03.2014
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	13/00923/FUL – appeal ref 13/02089/REF
Appeal against	Refusal of planning permission for
Committee or Del. Decision	Delegated
Appellant	Peter Pritchard
Proposal	Proposed vehicular access and dropped kerb
Location	5 Penybryn Crescent Whittington Oswestry
Date of appeal	24.12.13
Appeal method	Written
Date site visit	
Date of appeal decision	17.03.14
Costs awarded	
Appeal decision	Dismissed

LPA reference	12/04304/FUL – appeal ref 13/02052/REF
Appeal against	Refusal of Planning permission
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs J Berry
Proposal	Change of use of land to residential caravan site; siting of one chalet; one touring caravan; amenity building; alterations to existing vehicular access; formation of parking area; installation of package treatment drainage system; erection of 1.8m high boundary fencing
Location	The Caravan Site Henlle Gobowen Oswestry
Date of appeal	23.07.13
Appeal method	Hearing
Date site visit	
Date of appeal decision	19.03.14
Costs awarded	
Appeal decision	ALLOWED

LPA reference	12/03718/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	United Trust Bank
Proposal	Demolition of existing buildings and erection of five dwellings with associated landscaping works
Location	Former Oswalds Stores, Oswalds Well Lane, Oswestry, Shropshire
Date of appeal	4.11.2013
Appeal method	Written
Date site visit	04.03.2014
Date of appeal decision	26.03.2014
Costs awarded	
Appeal decision	Dismissed

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Appeal Decision

Site visit made on 25 February 2014

Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 March 2014

Appeal Ref: APP/L3245/A/13/2210760

5 Penybryn Crescent, Whittington, Oswestry, Shropshire, SY11 4DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Peter Pritchard against the decision of Shropshire Council.
 - The application Ref 13/00923/FUL, dated 3 January 2013, was refused by notice dated 4 July 2013.
 - The development proposed is "to create vehicular access for two vehicles at the front of the property. This would either be a sloped driveway or preferably cut the parking bays out of the bank. We would keep a right of access to other properties on the terrace. We would require a dropped kerb for the two vehicles".
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The plans show the proposed parking spaces to be cut into the grassed bank and surrounded by retaining walls and some steps. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal upon the character and appearance of the area in respect of visual impact.

Reasons

4. I acknowledge that the property is within the built up area of Whittington which contains a variety of building styles. However it is situated at the edge of the village very close to the open countryside which gives this part of the street a rural feel. The grass bank in front of the stretch of dwellings within which the appeal house is located provides an attractive length of greenery and open space along the side of the road. Therefore, the bank positively contributes to, and reinforces, the character and appearance of the area which is that of a village set within the countryside.
 5. The construction of the parking spaces would necessitate the cutting into the bank and the construction of retaining walls with a fence/railings on top in order to provide a safety barrier. Whilst the materials could be controlled by
-

the use of a planning condition, they would be hard and the development would have the appearance of a man-made construction which would erode the current appearance of soft and natural landscaping. The safety barriers would be particularly prominent in the street scene due to the rising height of the bank. I note the appellant's offer to plant hedges to screen the development but as I have do not have full details of where such planting would be I am unconvinced that this could be satisfactorily achieved.

6. Although there are other steps leading up the bank, the steps are of a much smaller scale and in less prominent positions than the proposed development. Whilst there are other drives and fences in the vicinity none are within this grass bank and therefore they are not directly comparable to the appeal proposal.
7. I therefore conclude that the proposed car parking spaces would harm the character and appearance of the area and would be contrary to CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, 2011 which both seek to ensure that development is of a high quality design which respects and enhances local distinctiveness and character.

Other Matters

8. The appellant has questioned the need for planning permission. Whether or not planning permission is required is not a matter for me to determine in the context of an appeal made under Section 78 of the above Act. It is open to the appellant to seek a determination under S192 of the Act in relation to this matter. My decision on this appeal under Section 78 of the Act does not affect the issuing of a determination under Section 192 of the same Act.
9. The application was amended to overcome the Council's concerns in respect of highway safety but this does not alter my findings in respect of the main issue.
10. I am conscious that the appellant has to park some distance from the house and that this is inconvenient and impacts on car insurance premiums. However, this matter does not outweigh the harm I have found especially as it is not unusual for dwellings to have no off-street car parking.

Conclusion

11. I have considered all other matters raised but none outweigh the conclusions I have reached and the appeal is dismissed.

Siobhan Watson

INSPECTOR



Appeal Decision

Hearing held on 30 October 2013

Site visit made on 30 October 2013

by Richard McCoy BSc MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 March 2014

Appeal Ref: APP/L3245/A/13/2196550

The Caravan Site, Preeshenlle, Henlle Lane, Gobowen, Oswestry, Shropshire SY10 7AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Michelle and Jerry Berry against the decision of Shropshire Council.
 - The application Ref 12/04304/FUL, dated 10 October 2012, was refused by notice dated 28 March 2013.
 - The development proposed is the change of use of land to a private gypsy and traveller caravan site consisting of a mobile home, a touring caravan, an amenity building, access arrangements, landscaping, car parking and drainage.
-

Procedural matters

1. It was agreed by the parties that the accurate description of the proposal is "the change of use of land to a gypsy and traveller caravan site, siting of a chalet, a touring caravan, a temporary amenity building, alterations to existing vehicular access, formation of parking area and the installation of a package treatment plant". I have dealt with the appeal on this basis.

Decision

2. The appeal is allowed and planning permission is granted for the change of use of land to a gypsy and traveller caravan site, siting of a chalet, a touring caravan, a temporary amenity building, alterations to existing vehicular access, formation of parking area and the installation of a package treatment plant at The Caravan Site, Preeshenlle, Henlle Lane, Gobowen, Oswestry, Shropshire SY10 7AX in accordance with the terms of the application Ref. 12/04304/FUL, dated 10 October 2012, subject to the conditions set out in the Annex to this decision.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area and whether any harm arising would be outweighed by the need for additional gypsy accommodation having regard to local and national policy, and personal needs and circumstances.

Reasons

Background

4. The appeal site is a former landfill site that has been capped. Roughly rectangular in shape, it is situated in a rural location, around 1km from the nearest services in the settlement of Gobowen. It stands on the western side of Henlle Lane, close to the A5 and B5009 roads. A public footpath (FP8Y) passes close by. This proposal seeks either planning permission for the permanent change of use of the site or a temporary planning permission for 5 years. The change of use has been partially completed and on site at the time of my visit, I observed a large chalet style building and a touring caravan.
5. In June 2012, planning permission at the appeal site for the change of use of land for the siting of 4 chalets and associated parking areas for 4 touring caravans and vehicle parking; erection of washroom/kitchen facilities and creation of new access together with landscaping, car parking and drainage was dismissed at appeal ref. APP/L3245/A/12/2168380. That Inspector found that the clear harm to the countryside, contrary to Policies CS5, CS6 and CS12 of the adopted Shropshire Local Development Framework Core Strategy (CS), would not be outweighed by the general and personal needs of the appellants, to an extent sufficient to justify a permanent permission. He went on to opine that no more than a temporary permission for a period of 3 years could be considered to allow time for the site supply situation to improve. However, he found that it would not be reasonable to require the demolition of the substantial, permanently constructed, washroom and kitchen building after only a temporary period.
6. He also concluded that it would not be appropriate to require the submission of an alternative design for the building, or revision to the layout with respect to the access arrangements. He decided that taken with the further requirement for details of the chalets themselves, the scale and extent of these modifications would be likely to make the development permitted substantially different from that in the application on which the Council undertook statutory public consultation. This, he found, would be clearly against the advice in paragraph 84 of Circular 11/95. For these reasons he concluded that a temporary permission would not be appropriate in that case.
7. In response, this proposal has reduced the number of families on the site from 4 to 1; the amenity building proposed under this scheme is of a temporary nature and further details have been submitted in respect of the access arrangements and a landscaping mitigation scheme. In addition, the proposed design and layout details do not require substantial modifications from those under which the Council undertook statutory public consultation. Against this background, I consider that in this instance there would be no procedural impediment to a temporary permission being considered.
8. Following the previous dismissal, an Interim Injunction was obtained from the High Court on 8 November 2012 prohibiting the appellants and others from carrying out any further operational development on the land pending determination of application Ref 12/04304/FUL (the subject of this appeal) and any subsequent appeal.

Policy considerations

9. The development plan provisions most relevant to this case are contained in the CS. CS Policy CS5 strictly controls development in the countryside while Policy CS6 further protects the natural environment from the effects of development. Policy CS12, as informed by the adopted Supplementary Planning Document; *Type and Affordability of Housing* (SPD) and the Gypsy and Traveller Accommodation Assessment 2008 (GTAA), provides for allocating sites to meet identified need for gypsy and traveller accommodation and ensuring that all such sites are reasonably accessible to services and facilities, suitably designed and screened and have suitable access and parking arrangements. Policy CS12 also supports suitable development proposals for small exception sites (under 5 pitches) in accordance with Policies CS5 and CS11 where a strong local connection is demonstrated.
10. These policies are broadly consistent with those of the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) with the exception of the need for a strong local connection in CS12. With respect to the supply of gypsy and traveller sites, the PPTS at paragraphs 4 and 9 sets out the national requirement for local planning authorities to plan over a reasonable timescale for an appropriate supply of suitable traveller sites, including private sites. The supply should comprise specific, deliverable sites for the first 5 years and developable sites or broad locations for later years.
11. With respect to deciding specific planning applications, PPTS paragraph 22 cites the existing level of provision among relevant matters for consideration and paragraph 24 reflects a core planning principle of the NPPF by encouraging the effective use of previously-developed land. Paragraph 23 of PPTS states that new traveller site development in the open countryside "*that is away from existing settlements or outside areas allocated in the development plan*" should be strictly limited but does not rule them out completely. PPTS Paragraphs 25 and 28 together provide that a lack of an up-to-date 5-year supply of deliverable traveller sites should be a significant consideration when deciding a proposal for a temporary permission.

Character and appearance of the rural location

12. The proposed siting of a chalet, touring caravan and a temporary amenity building, together with works to alter the existing access and provide a package treatment system would give the proposal the appearance of a permanent residential development. This would be all the more apparent from the likely associated domestic paraphernalia such as car parking, garden and clothes drying area. The proposal would be visible to substantial numbers of passing motorists on the nearby roads, as well as to walkers using public footpath (FP8Y) that passes close to the appeal site, from where it would appear as an alien feature, out of keeping with its rural location.
13. The effect would be ameliorated to some extent by the proposed landscaping scheme although this would take some time to become established. Nevertheless, I consider that the proposal would introduce an incongruous domestic development that would not assimilate well with this rural location, resulting in a harmful change to its character and appearance.
14. My attention was drawn to a nearby touring caravan site and a development of log cabins as well as a larger touring caravan park further to the north, all

within the countryside. I also observed the Henlle Park Golf Club buildings and car park opposite the appeal site. However, I agree with the previous Inspector that these developments are connected with leisure pursuits and tourism, properly related to the countryside, and are not comparable to the residential development proposed at the appeal site.

15. Furthermore, although the PPTS does not preclude rural gypsy sites, the appeal site is previously developed land in a reasonably sustainable position close to the community facilities and services of Gobowen, and fewer than 5 pitches are proposed, these factors are still subject to the overall requirements to maintain, enhance and protect the countryside. In my judgement, the proposal would fail to maintain and enhance countryside character, and would cause substantial harm to the character and appearance of area, contrary to CS Policies CS5, CS6 and the objectives of CS12.

Other considerations

Need for gypsy and traveller sites

16. The Council recognises that there is an unmet need for gypsy accommodation in the District which is yet to be addressed by local policy in line with the PPTS. The Council estimates the need across its area (as of 11 July 2013) based on the GTAA 2008 assessment, as 93 pitches to 2017. I heard that 40 pitches have been granted planning permission, including an additional 10 pitches at the Park Hall gypsy site near Oswestry, giving an outstanding need of 53 pitches.
17. The Council anticipates preparing a specific Gypsy and Traveller Development Plan Document (DPD). However, I was informed by the Council that due to work proceeding initially on a separate Site Allocation and Development Management Plan, the DPD would not be completed until late 2015. In the interim period, the Council would consider proposals for small exception sites (under 5 pitches) for gypsy and traveller provision in accordance with CS policies CS5 and CS12.

Personal needs

18. Details of the family members who would occupy the proposed pitch at the site were provided in the application and were updated at the Hearing. The Council accepts the gypsy status of the appellants and on the evidence before me, I am satisfied that they concur with the definition of gypsies and travellers set out in Annex 1 of PPTS. The appeal site would be occupied by Mr and Mrs Berry and their 5 children. The family has a long connection with the local area.
19. I note from the previous appeal ref. APP/L3245/A/12/2168380 that it was confirmed by the Council's Gypsy Liaison Officer that the appellants have problems of personal conflict that would preclude them from accepting any offer of accommodation at the Park Hall gypsy site and that they have no alternative accommodation. In addition, Craven Arms was suggested by the Council as an alternative site but the appellants' uncontested evidence states that this is more than 40 miles from the appeal site which would disrupt the children's schooling and the family's health care arrangements.
20. In my judgement, a refusal of planning permission would be likely to result in the appellants having to leave the site with no alternative accommodation

available to them. This may result in the appellants resorting to roadside camping and this could have a detrimental effect on the health and education of the appellants and their children. Accordingly, these personal needs are of significant weight in the consideration of this proposal.

Personal circumstances

21. I heard that both Mrs Berry and her daughter suffer from significant health problems and evidence was submitted to demonstrate that Mrs Berry has been registered with a local medical practice since birth. Furthermore, evidence was submitted to demonstrate that 3 of the children attend Holy Trinity Primary School in Oswestry and a letter from the Educational Psychology Service asserts that it is important for the appellants' daughter to be close to her school, to enable staff to work on the objectives of her Statement of Special Educational Needs.
22. In my judgement, a refusal of planning permission would be likely to have a detrimental effect on the continuity of health care provision for Mrs Berry and her daughter and the ongoing education of the appellants' children. These personal circumstances also carry significant weight in the consideration of this proposal.

Other matters

23. I note that the Council is satisfied that the site was previously used as an inert landfill and the principle of residential occupation is acceptable. I also note that the Council is satisfied that the required visibility splays can be provided in each direction within land under the appellants' control. This could be secured by a condition attached to any grant of temporary planning permission. Furthermore, the Council was satisfied that the proposal would not have an adverse effect on residential amenity given the separation distances to the nearest dwellings and would not adversely affect the operation of nearby businesses. From my assessment, I have no reason to disagree and consider that the proposal would not be harmful to highway safety, living conditions and nearby business operations.
24. As for the impact on the Right of Way and drainage, I note from the officer's report to Committee that the appellants will enable access to the footpath which cuts through the site and this is shown on the submitted drawing TDA.1940.02. Moreover, the proposed private treatment plant and the surface water drainage system, in place on site, are considered acceptable by the Council. From my assessment, I have no reason to disagree.

The balance of considerations

25. Notwithstanding the proposed landscaping scheme, I have found that the proposal would cause substantial harm to the character and appearance of the rural area which would not be outweighed by the general and personal needs and circumstances of the appellants, to an extent sufficient to justify the permanent permission sought.
26. However, there is a clear current need for additional pitches which is not likely to be met by approved planned, deliverable pitches in the near future. This general need for further sites lends significant weight in favour of this proposal as far as a temporary planning permission is concerned. Furthermore, planning conditions could be attached to any grant of temporary permission

requiring the restoration of the site so that any change brought about by the proposal would not endure. In addition, taking account of the duty to have regard to the best interests of the children as a primary consideration and noting the family's health requirements and lack of any alternative sites, there are personal needs and circumstances in respect of the appellants which suggest that they would benefit from living at the appeal site. All of these factors weigh in favour of the appeal scheme.

27. Taking all of these matters into account, I consider that a grant of temporary permission would strike the appropriate balance between the competing considerations in this appeal. However, I consider that a period of 3 years, rather than the 5 sought by the appellants, would be sufficient to enable the number of pitches required to be confirmed through the development plan process, give time for future supply to be addressed and give time for the sites identified to come forward. Accordingly, in respect of a temporary permission, I consider that the substantial harm to character and appearance would be clearly outweighed by the unmet need for gypsy pitches, and the personal needs and circumstances of the appellants.

Conditions

28. A list of conditions was prepared by the Council which together with the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*, formed the basis of a discussion at the Hearing. Condition 1 requires that the development shall be carried out in accordance with the approved plans for the avoidance of doubt. Given the development has been partially completed, in order to have a scheme which reflects the situation on site and in the interests of visual amenity, Condition 2 requires the submission, within 3 months of the date of this decision, of full details of the development (including the restoration of the land to its condition prior to occupation) for the written approval of the Council, or the approved use shall cease.
29. However, I shall not require details of the internal layout of the site and tree, hedge and shrub planting under Condition 2 as these matters are covered by Conditions 1 and 8. Furthermore, the parties agreed that as gypsy status and personal circumstances had been put forward and taken into account, the occupancy of the site should be limited to gypsies and travellers and to named occupiers. It was also agreed that as the appeal relates to a temporary planning permission the occupation of the site should be for a specified period of time (both matters covered by Conditions 3 and 4).
30. In view of the rural location, the temporary occupation of the site should be limited to 1 pitch with 2 caravans of which no more than 1 should be a static (Condition 5). It is not proposed that any large commercial vehicles would be parked on the site and in the interests of the visual amenity of the area this should be controlled by condition (Condition 6). In addition, a condition controlling commercial activity is required (Condition 7) in the interests of visual amenity. Finally, a landscaping scheme including provision for the replacement of any trees or plants which die within 3 years of completion of the scheme is required (Condition 8) in the interests of visual amenity.

Conclusion

31. In reaching this decision I have had regard to the Planning Practice Guidance (March 2014). The content of the Guidance has been considered but in light of the facts in this case it does not alter my conclusion which for the reasons given above is that the appeal should succeed and permission be granted for a limited period.

Richard McCoy

Inspector

ANNEX

Schedule of conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan 0950 and Detailed Landscape Proposals TDA 1940.02.
- 2) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use, shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) notwithstanding the details in the submitted plans within 3 months of the date of this decision a Site Development Scheme giving full details of: a) *the materials, finishes and external colour scheme for the amenity building*, b) *foul and surface water drainage of the site*, c) *proposed and existing external lighting on the boundary of and within the site*, d) *access and visibility splays including the location of gates*, e) *the restoration of the site to its condition before the development took place, at the end of the period for which planning permission is granted for the use, or the site is occupied by those permitted to do so*; shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation,
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State,
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State,

- iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 3) The residential use hereby permitted shall be carried out only by the following: Jerry Berry, Michelle Berry and their resident dependents and the permission shall be for a limited period being the period of 3 years from the date of this decision or the period during which the site is occupied by the above named, whichever is the shorter.
- 4) When the land ceases to be occupied by the persons named in condition 3 above or at the end of 3 years from the date of this decision, whichever shall first occur, the residential use hereby permitted shall cease. Within 2 months of the authorised use ceasing all caravans, buildings, structures, materials and equipment brought on to the land or works undertaken to it in connection with that use shall be removed and the land restored to its condition before the residential use took place in accordance with details approved under condition 2.
- 5) There shall be no more than 1 pitch on the site and no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), shall be stationed at any time. Notwithstanding the provisions of Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), only 1 caravan sited on a pitch shall be a residential (static/chalet) mobile home.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored at the site. No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted.
- 7) No commercial activities shall take place on the land including the outside storage of materials in connection with commercial activities.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details and the programme agreed with the local planning authority. Any trees or plants which within a period of 3 years from the completion of the landscape works die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with plants of a similar size or species.

APPEARANCES

FOR THE APPELLANT:

Dr A Murdoch BA(Hons), MSC, MPhil, PhD, MRTPI	Principal, Murdoch Planning Landscape Architect
Mr R Crandon	Landscape Architect

FOR THE LOCAL PLANNING AUTHORITY:

Mr I Kilby MRTPI, IHBC	Planning Services Manager, Shropshire Council
Miss S Bates	Council Solicitor
Mr M Farmer	Principal Planning and Enforcement Officer

INTERESTED PERSONS:

Mr C Roberts BSc, MRTPI	Agent for local residents
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DOCUMENTS

- 1 Council's letter of notification of the hearing
- 2 List of persons represented by Mr C Roberts
- 3 Appeal decision APP/L3245/A/12/2186880
- 4 Schedule of conditions

PLANS

- A Detailed landscape proposals TDA.1940.02
- B Land ownership plan

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Appeal Decision

Site visit made on 4 March 2014

by Susan Holland MA DipTP MRTPI DipPollCon

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 March 2014

Appeal Ref: APP/L3245/A/13/2209289

Former Oswalds Stores, Oswald Place, Oswestry SY11 2TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by United Trust Bank against the decision of Shropshire Council.
 - The application Ref 12/03718/FUL, dated 31 August 2012, was refused by notice dated 15 October 2013.
 - The development proposed is the demolition of existing buildings and erection of 5 dwellings with associated landscape works.
-

Procedural Matters

1. Planning Practice Guidance was issued by the Department for Communities and Local Government (DCLG) on 6 March 2014. However, the Planning Guidance has no bearing on this decision.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues are the effects of the proposal (a) upon highway safety and convenience; and (b) upon the living conditions of future residents with reference to the availability of amenity space.

Reasons

Issue (a): Highway Safety

4. From its junction with Upper Brook Street, Oswald Place executes a marked bend before straightening out into Oswald's Well Lane. The appeal site has an extended frontage to the south side of Oswald Place, including part of the straight stretch and the inner edge of the bend, close to the junction. The proposed dwellings would occupy a continuous terraced frontage, up to the back edge of the footway: Units 4 & 5 following the curve, and Units 1-3 the straight frontage.
5. The proposed integral garages to Units 1-3 would open directly onto the footway, starting with garage Unit 3 at a point immediately after the end of the curve. The garage doors would be set virtually flush with the front elevation of the terrace. Drivers emerging from the garage doors onto the Oswald Place footway would have very restricted sight of the footway and carriageway that they were about to enter, and would be unable to see pedestrians approaching

along the footway, or drivers approaching from the direction of Upper Brook Street, until the vehicle had already crossed the footway and intruded into the carriageway. Pedestrians would be forced to take sudden evasive action.

6. In the absence of an adequate radius curve, it is likely that movements in and out of the garages would entail some manoeuvring within the carriageway. Entry to the garages on a western approach from Upper Brook Street would necessitate a preliminary swing across into the opposite carriageway. These and other manoeuvres would be likely to impede or confuse following drivers entering Oswald Place round the bend from Upper Brook Street. In addition, there would be potential for conflict between vehicles moving in or out of the proposed garages, and vehicles entering or leaving the MOT garage on the opposite side of Oswald Place.
7. The potential for collision between emerging vehicles and pedestrians, or between emerging vehicles and other vehicles moving in either direction along Oswald Place, would be considerable, and unacceptable. In conclusion, the appeal proposal would be likely to result in material harm to highway safety and convenience, and would not be *safe or accessible to all* in the terms of statutory development plan Policy CS6 of the Shropshire Core Strategy.

Issue (b): Living Conditions of Future Occupiers – Amenity Space

8. The appeal site is shallow, its depth tightly constrained by high walls of stone and brick which bound rear gardens and yards to properties fronting Upper Brook Street. The submitted plans show Units 1 & 2, of 3-storey height, to have small courtyard areas at the rear: but these would be heavily overhung and shaded by the upper storeys, leaving only short residual areas which, though open, would represent narrow passageways barely wider than a doorway. The open passageway to the rear of Unit 3 would be longer, but no wider. All passageways would be heavily shaded by garden walls to adjoining properties to the south. Proposed Unit 4 is not shown as having any access to the rear, and appears to have no amenity space at all. Unit 5 would have the largest potential courtyard area, with double doors opening onto it from the living room, and a side access from the street. However, the courtyard to Unit 5 would be heavily shaded by the brick wall which surrounds the yard attached to No.13 Upper Brook Street. The access to bin storage would be awkward: separate from the 'amenity' passageways, tortuous and long.
9. Whilst public parkland, including a children's play area, is located within easy walking distance of the site, this would not meet the most immediate needs for domestic amenity space. The very limited space to be provided would incorporate no features – such as a potentially sunny outlook, or attractive views, or balcony space – which might compensate for restricted size. In conclusion, the appeal proposal would result in material harm to the living conditions of future residents with respect to lack of useable amenity space, and would not meet the requirements of adopted Shropshire Core Strategy Policy CS6 that the scheme should *contribute to the health and wellbeing of communities*.

Other Matters

Living Conditions of Existing Occupiers - Outlook

10. The proposal would replace buildings which previously occupied the appeal site. Though these have now been demolished, the submitted OS map extract at

1:1250 scale indicates that these buildings covered a similar area: though there is no indication of their height. The dwellings now proposed would vary in height between 3 storeys (Units 1 & 2) and 2 storeys, the roof height descending from west to east so that the tallest new building would stand immediately adjacent to existing 3-storey dwellings at Kingswell House on Oswald Place. The appeal site lies to the north and north-east of the dwellings which front Upper Brook Street. Development on Oswald Mews, to the west, is of only 2 storeys and is far enough away not to restrict the passage of sunlight. The garden depth of properties in Upper Brook Street increases westwards. In these circumstances, the proposal would not, on balance, materially or unreasonably restrict the outlook or availability of daylight and sunlight to the rear of neighbouring houses on Upper Brook Street.

The previous appeal

11. A previous appeal against the refusal of a planning application for the erection of six 3-storey dwellings was dismissed in January 2012 under ref. 2163733 for reasons which included the overbearing effect of the proposal upon the neighbouring properties in Upper Brook Street, and the possibility of overlooking. The current proposal would reduce the height of new development to 2 storeys in the area closest to the Upper Brook Street properties. In combination with the relative angle between the 2 rows of dwellings, this would be sufficient to avoid the issues of overlooking and loss of outlook raised by the previous scheme.

The Conservation Area

12. The proposed scheme is attractively designed, and would accord with the arrangement, variety and roofscape of the surrounding buildings. It would therefore meet the requirement that new development should preserve or enhance the character or appearance of the Conservation Area (in this case, the Oswestry Town Conservation Area).

Overall Conclusion

13. The overall conclusion, on the basis of the main issues and material considerations, is that the appeal should be dismissed.

S Holland

INSPECTOR

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