



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

Date: Monday, 23 June 2014

**Committee:
North Planning Committee**

Date: Tuesday, 1 July 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
Thomas Biggins
Roger Hughes

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 252726

Email: emily.marshall@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 Tuesday, 3rd June, 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 Land West Of Morda Bank, Morda, Shropshire (13/04845/FUL) (Pages 13 - 50)

Mixed residential development of 65 dwellings; formation of new vehicular access and estate roads; associated infrastructure; landscaping and formation of public open spaces.

6 Development Land East Of 163 Wrexham Road, Whitchurch, Shropshire (14/00459/OUT) (Pages 51 - 80)

Outline application (access, layout, scale, landscaping for approval) for mixed residential development; formation of vehicular access and estate roads; associated infrastructure works.

7 Development Land East Of Shrewsbury Road, Cockshutt, Shropshire (13/04868/OUT) (Pages 81 - 96)

Outline application for the erection of five dwellings and formation of vehicular access (all matters reserved).

8 Proposed Residential Development, Land West Of Stocks Lane, Welshampton, Shropshire (14/01723/OUT) (Pages 97 - 110)

Outline application for the erection of 2 No dwellings (to include access and layout).

9 Land Adjacent To Oakleigh Farm, Welshampton, Ellesmere, SY12 0PG (14/01721/OUT) (Pages 111 - 124)

Outline application for the erection of a single detached dwelling to include access, layout and scale.

10 Avalon, Hollinwood, Whixall, Whitchurch, Shropshire (14/00922/VAR) (Pages 125 - 132)

Variation of condition no.2 attached to 13/00778/VAR to allow for reduction in height of infill boarding to the first floor doors.

11 Appeals and Appeal Decisions (Pages 133 - 138)

12 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 29th July 2014, in the Shrewsbury Room, Shirehall.

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Committee and Date

North Planning Committee

1st July 2014

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 3 June 2014

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 5.36 pm

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 252719

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Gerald Dakin, Steve Davenport, Vince Hunt, David Lloyd, David Minnery, Peggy Mullock, Karen Calder (substitute for Martin Bennett) and Chris Mellings (substitute for Pauline Dee)

1 Election of Chairman

It was proposed, duly seconded and

RESOLVED:

That Councillor A. Walpole be elected Chairman for the ensuing year.

2 Apologies for Absence

Apologies for absence were received from Councillors M. Bennett (substitute: Mrs K. D. Calder) and Mrs. P. Dee (substitute: C. Mellings).

3 Appointment of Vice-Chairman

It was proposed, duly seconded and

RESOLVED:

That Councillor P. Wynn be appointed Vice-Chairman for the ensuing year.

4 Minutes

That the Minutes of the meeting of the North Planning Committee held on 6th May 2014 be approved as a correct record and signed by the Chairman.

5 Public Question Time

There were no public questions, statements or petitions received.

6 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 Gerald Dakin stated he knew the applicant of planning application 14/00344/COU but it was not a pecuniary interest.

Councillor Joyce Barrow declared that she would leave the room prior to consideration of planning application 13/01393/OUT due to a disclosable pecuniary interest. She added that she would also leave the room prior to consideration of planning applications 13/04845/FUL and 13/04226/OUT due to a perception of bias.

Councillor Paul Wynn stated that he was the applicant for planning application 14/00344/COU and would leave the room prior to consideration of the item.

Councillor Karen Calder declared that she would leave the room prior to consideration of planning application 14/00344/COU due to perceived bias.

(Councillor Joyce Barrow withdrew from the meeting whilst consideration of planning applications 13/04845/FUL, 13/01393/OUT and 13/04226/OUT took place).

7 Land West of Morda Bank, Morda, Shropshire (13/04845/FUL)

The Principal Planning Officer introduced the application. She drew Members' attention to the schedule of additional letters and confirmed that Members had attended a site visit on 2nd June 2014 and had assessed the impact of the proposed development on neighbouring properties and the surrounding area. She explained that due to new information regarding a small pond at the Cottams, a further ecology report was required and therefore it was recommended that the application be deferred for an ecological assessment of the pond.

Following advice from the Council's Solicitor, the Chairman explained that if the Committee considered the application to be acceptable in principle, they could grant the Area Planning and Building Control Manager delegated power to approve the application subject to the completion of an ecological assessment of the pond and the satisfactory resolution of any ecology issues.

Mr John Mellor, representing Morda Residents Group, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- The Residents Group were working alongside the Parish Council to maintain the identity of Morda rural village;
- The village was at risk of being subsumed into Oswestry Town, therefore resulting in a larger urban sprawl;

- The application fell short of meeting the National Planning Policy Framework requirements on all three counts of Economic, Social and Environmental criteria;
- A previous application for 64 houses was refused by Oswestry Borough Council;
- The density of the scheme was too high and the design was poor;
- The infrastructure was already congested, in particular, traffic, flooding and drainage;
- The important physical gap between Morda and Oswestry would be reduced to 30 Metres;
- There were no long term plans to improve the infrastructure or protect the rural nature of the village;
- The proposal was unnecessary, unwanted and unsustainable; and
- The development would remove the final tract of green land that separated the town of Oswestry from the village of Morda, and would impact on the tranquil surroundings of Love Lane.

Councillor Robert Milton, representing Oswestry Rural 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:

- The Parish Council were opposed to the application and consider that the site should be removed from SAMDev;
- The site was in the Oswestry Rural Parish Council boundary, not Oswestry Town Council;
- The proposal would result in a loss of identity for Morda;
- The increase in vehicles from the proposed development would add to an already congested road;
- Concerns were raised in relation to drainage and it was noted that excess drainage water would flow down into the Glentworth Estate and further exacerbate drainage problems in Weston;
- The development would harm aquatic macrophytes and invertebrates;
- There were other sites in Morda where development would be preferred; and
- The unique nature of the village would be lost if the development was approved.

Mr Jon Rowson, the applicant, spoke for the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- The site was in a sustainable location which had been identified by SAMDev as appropriate for new housing;
- David Wilson homes had carried out pre-application consultation with the local community about the preliminary plans;
- As a result of discussions with the community and officers, the preliminary plans were significantly revised and the number of homes reduced from 85 to 65; and

- The development would provide additional housing supply for Shropshire Council in line with the National Planning Policy Framework.

During the ensuing debate Members of the Committee acknowledged that the Council did not currently have a five year housing land supply and that the site had been allocated under SAMDev; however concern was expressed in relation to the loss of open green space that separated the town of Oswestry from the village of Morda. Additionally, Members considered the infrastructure in Morda to be inadequate and felt the proposals would adversely affect highway safety and drainage.

The Principal Planning Officer highlighted the fact that the Council Highway Officer considered the proposals to be satisfactory and had raised no objection to the development and added that the applicant had submitted a transport statement as detailed in the report. She outlined the services available in the village and stated that although the site was located in the village of Morda it was close to the town of Oswestry, the second largest market town in Shropshire.

Having considered the submitted plans for the proposal the majority of Members expressed their objection to the proposal.

RESOLVED:

That Members were minded to refuse planning permission against the Officer's recommendation in view of concerns in relation to traffic volume and highway safety, drainage, the loss of green open space and outstanding ecology issues.

A further report, on reasons for refusal and information in relation to the outstanding ecology assessment, would be considered at a future meeting of this Committee in accordance with Shropshire Council's Constitution.

8 Proposed Residential Development, Land East of Kingfisher Way, Morda, Shropshire (13/01393/OUT)

The Principal Planning Officer introduced the outline application, confirming that Members had attended a site visit on 2nd June 2014 and had assessed the impact of the proposed development on the surrounding area. With reference to the plan of Morda displayed, he drew Members' attention to the location of the site in relation to the other planning applications in Morda and a current scheme for Severnside Housing that was near completion. He explained that one of the accesses to the site was located in flood zone 3 and as such it would be expected that people and property would be located out of that area. He further explained that following an assessment it had been agreed by the applicant that the access road would be elevated to avoid any potential problems, but if flooding did occur residents would be able to use the alternative access via the Severnside development.

Principal Planning Officer read out a late representation in relation to ecology issues and suggested that if Members were minded to approve the application an additional condition would be required in relation to this issue.

Councillor Robert Milton, representing Oswestry Rural 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:

- The Parish Council strongly opposed the development and did not support any development in Morda until the community had been consulted;
- Morda had seen a number large scale development in recent years which had increased traffic in the village;
- Residents would be likely to use Weston Road, a narrow unclassified lane, to avoid town centre routes;
- The Village Hall would be adversely affected by the development;
- The school was already full to capacity; and
- There were other sites with planning permission or Brownfield sites available.

Mr Stuart Taylor, on behalf of 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:

- The proposal was a logical extension to the village and had limited visual impact;
- The development was an extension to the Severnside development;
- The one access would be via the Severnside development which was near completion;
- There would be a safe walking route into the village;
- The development would not adversely affect highway safety;
- A condition could be included to avoid the road through the site being used as a rat run; and
- The scheme would increase the housing supply in Shropshire.

In response to the Chairman's query in relation to the two accesses to the site, the agent confirmed that both accesses could be used by residents and noted that the Weston Road access was, on its own, acceptable to the developer if the Committee were opposed to two accesses.

Having considered the submitted plans for the proposal, the majority of Members expressed support for the Officer's recommendation but had concerns regarding issues relating to the layout, access and highway safety and requested that matters reserved for later approval be determined by this Committee

RESOLVED:

That subject to:

- The conditions set out in Appendix 1;
- The applicant entering into a S106 agreement to secure the provision of affordable housing;
- Additional conditions relating to ecology as per verbally updated by the Principal Planning Officer; and
- Matters in relation to access and layout reserved for later approval be determined by this Committee.

Outline Planning Permission be granted in accordance with the Officer's recommendation.

9 Proposed Residential Development to the South of Weston Road, Morda, Shropshire (13/04226/OUT)

The Principal Planning Officer introduced the outline application, confirming that Members had attended a site visit on 2nd June 2014 and had assessed the impact of the proposed development on neighbouring properties and the surrounding area. With reference to the plan of Morda displayed, he drew Members' attention to the location of the site and showed an indicative layout plan submitted by the applicant.

Councillor Robert Milton, representing Oswestry Rural 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:

- The Parish Council was in objecting to the application;
- A survey was required to establish the requirements of the village;
- The Parish Council had concerns in relation to the access;
- The school was oversubscribed;
- Development in Morda had been relentless in recent years; and
- Morda had no infrastructure in place to support these developments.

Mr Dave Parker, on behalf of 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:

- The proposal was different to the other applications on the agenda for Morda;
- It was a small scale development on a small site and was a logical addition to the village;
- The development would create a more attractive end to the village and remove the bad bend on the road which was of local concern;
- The development would include a good mix of house types;
- The infrastructure of the village would be improved through the payment of the Community Infrastructure Levy; and
- The site had good access to local services.

Having considered the submitted plans for the proposal, the majority of Members expressed their support for the Officer's recommendation but noted the difficult position they faced in relation to balancing the views of the community against the National Planning Policy Framework.

RESOLVED:

That subject to:

- The conditions as set out in Appendix 1 to the report; and

- The applicant entering into a Section 106 Legal Agreement to secure the provision of affordable housing.

Outline Planning Permission be granted in accordance with the Officer's recommendation.

(Councillor Joyce Barrow rejoined the meeting at this point.)

**10 Land Adj to The Larches, Shawbury Road, Wem, Shrewsbury, SY4 5PF
(14/00797/OUT)**

The Principal Planning Officer introduced the outline application. He drew Members' attention to the schedule of additional letters and confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on the surrounding area.

Mr Angus Gregory, on behalf of local residents, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The Planning Officers had carefully considered the development of this site and he supported their recommendation to refuse the application;
- Wem Town Council unanimously expressed objection to the proposal;
- The site was divorced from the town centre;
- There was a pinch point by the bridge which made pedestrian access difficult;
- The Shawbury Road footpath was inadequate and dangerous;
- There were drainage issues associated with the field and nearby properties;
- More information was required in relation to water tables to prevent flooding;
- The development was contrary to Policy CS5;
- The bus service was sporadic; and
- The National Planning Policy Framework was for guidance only and logic had been applied for this application.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor Chris Mellings, as the local Ward Councillor, made a statement, took no part in the debate and did not vote. During his statement the following points were raised:

- He fully supported the Officer's recommendation to refuse the application;
- He agreed with the comments made by Mr Gregory relating to drainage, pedestrian highway safety and that the site was divorced from the town;
- The site had been discounted at the first stage of the SAMDev process; and
- The benefits of the proposal would not outweigh the harm.

Having considered the submitted plans for the proposal, Members unanimously expressed their support for the officer's recommendation to refuse the application.

RESOLVED:

That Planning Permission be refused in accordance with the Officer's recommendation.

11 Development Land East Of 163 Wrexham Road, Whitchurch, Shropshire (14/00459/OUT)

The Principal Planning Officer introduced the outline application. She drew Members' attention to the schedule of additional letters and confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on the surrounding area.

Mr Ken Tidy, on behalf of local residents, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The site had previously been refused for planning permission by North Shropshire District Council;
- The traffic junction at Chemistry and Wrexham Road was dangerous;
- The highway issues had not been adequately taken into account; and
- The footbridge over the canal had resulted in a number of letters of support but this was no longer included in the project.

Mr Michael Birch, on behalf of local residents, 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:

- The development was small and well prepared;
- Local concerns had been taken into account by the developer;
- The concerns regarding the junction at Chemistry and Wrexham Road had been addressed;
- The development would allow access to the canal; and
- The footbridge had been removed due to the potential for it to become a focal point for Anti-Social Behaviour.

Ms Samantha Nicholls, on behalf of 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:

- The development was supported by officers and local residents;
- The Town Mayor had noted his support to the proposal in the local press;
- The concerns raised had been addressed by the developer;
- The development included improvements to the highway; and
- Further relief would be included for Wrexham Road in the form of off-road parking.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor Peggy Mullock, as the

local Ward Councillor, made a statement, took no part in the debate and did not vote. During her statement the following points were raised:

- There had been a petition including 500 signature against the development;
- The traffic issues were clearly visible on the site visit;
- Whitchurch Town Council were against the application;
- The landscape to the canal would be spoilt by the application; and
- The site was outside the development boundary for Whitchurch.

In response to concerns, the Principal Planning Officer clarified the situation in relation to SAMDev, explaining that it was not this site in Wrexham Road that was removed. It was further explained that the site in Wrexham Road that was removed was not due to highways issues alone but rather because other sites in Whitchurch were more achievable.

During the ensuing debate Members raised concern regarding highway safety issues, stating that the road would not satisfactorily serve the development and the junction at Chemistry and Wrexham Road was inadequate and dangerous. Members also referred to Policy CS6 of the Core Strategy in terms of the local context and character of the area, and concern was raised in relation to the access, density, scale and layout of the proposed development.

In response to concerns raised regarding highway safety, the Principal Planning Officer, stated that although the issues might be considered severe locally, the Highways Officer had advised that the issues did not result in severe cumulative impact to warrant refusal of the application.

Having considered the submitted plans for the proposal Members unanimously expressed their objection to the proposal.

RESOLVED:

That Members were minded to refuse Outline Planning Permission against the Officer's recommendation in view of concerns in relation to highway safety and the access, density, scale and layout of the scheme.

A further report, on reasons for refusal, would be considered at a future meeting of this Committee in accordance with Shropshire Council's Constitution.

12 Land Opposite Sunnyside, off Wrexham Road, Whitchurch, Shropshire (14/00462/FUL)

The Principal Planning Officer introduced the application. She drew Members' attention to the schedule of additional letters and confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on the surrounding area.

Mr Mike Nimmo, on behalf of local residents, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Local residents were strongly opposed to the application;
- The site had been removed from SAMDev due to significant objections;
- The development would increase surface water run-off;
- The road dimensions in the report were inaccurate;
- A traffic impact assessment was required;
- The proposal would restrict on street parking for local residents; and
- The layout was not appropriate and the development was the thin edge of the wedge.

Ms Cathy Elfe, on behalf of 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:

- There had been extensive consultation with officers and local residents;
- The number of units had been reduced in response to concerns raised;
- The development would include electric car charging points;
- The development would not adversely affect highway safety and drainage; and
- The proposal would meet the need for market and 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 Peggy Mullock, as the local Ward Councillor, made a statement, took no part in the debate and did not vote. During her statement the following points were raised:

- She agreed with the all the points made by Mr Nimmo;
- The public consultation carried out by the applicant was completed for the SAMDev and had not been done since; and
- The traffic issues were clear on the site visit and the development cannot be justified due to these issues.

The Principal Planning Officer clarified the reason why the site was not carried forward as a preferred option site and responded to concerns raised in relation to highway safety, confirming that the Council Highway Officer had advised that the potential impact of the development upon traffic/on-street parking issues would not be materially worsened.

The Principal Planning Officer, in response to a query regarding visibility advised that a condition could be included to ensure the roadside hedgerow was maintained as part of the management agreement. The majority of Members expressed the view that whilst they had sympathy with the views of the local community regarding highway safety, they considered that it would be difficult to find reasons to refuse the application that would be sustainable on appeal.

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

RESOLVED:

That subject to:

- The applicants entering into a S106 legal agreement to secure the on-site affordable housing; to provide the open space and financial contributions towards the provision of a bus shelter, a Traffic Regulation Order (TRO) on Wrexham Road (if required), maintenance of the open space and surface water drainage system;
- The conditions set out in appendix 1; and
- An additional condition to ensure that the roadside hedgerow was maintained to provide visibility.

Planning Permission be granted in accordance with the Officer's recommendation.

Councillor Gerald Dakin requested that it be recorded that he voted against the application.

(Councillors Paul Wynn and Karen Calder withdrew from the meeting whilst consideration of the next item took place.)

13 Hadley Farm, Wrexham Road, Whitchurch, Shropshire, SY13 3AB (14/00344/COU)

The Principal Planning Officer introduced the application. He drew Members' attention to the schedule of additional letters and confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on the surrounding area.

Having considered the submitted plans for the proposal, Members unanimously expressed their support for the officer's recommendation to approve the application.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation.

14 Appeals and Appeal Decisions

RESOLVED:

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

15 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 pm on Tuesday 1st July 2014, in the Shrewsbury Room, Shirehall.

Signed (Chairman)

Date:



Committee and Date
 North Planning Committee
 1 July 2014

Item
5
 Public

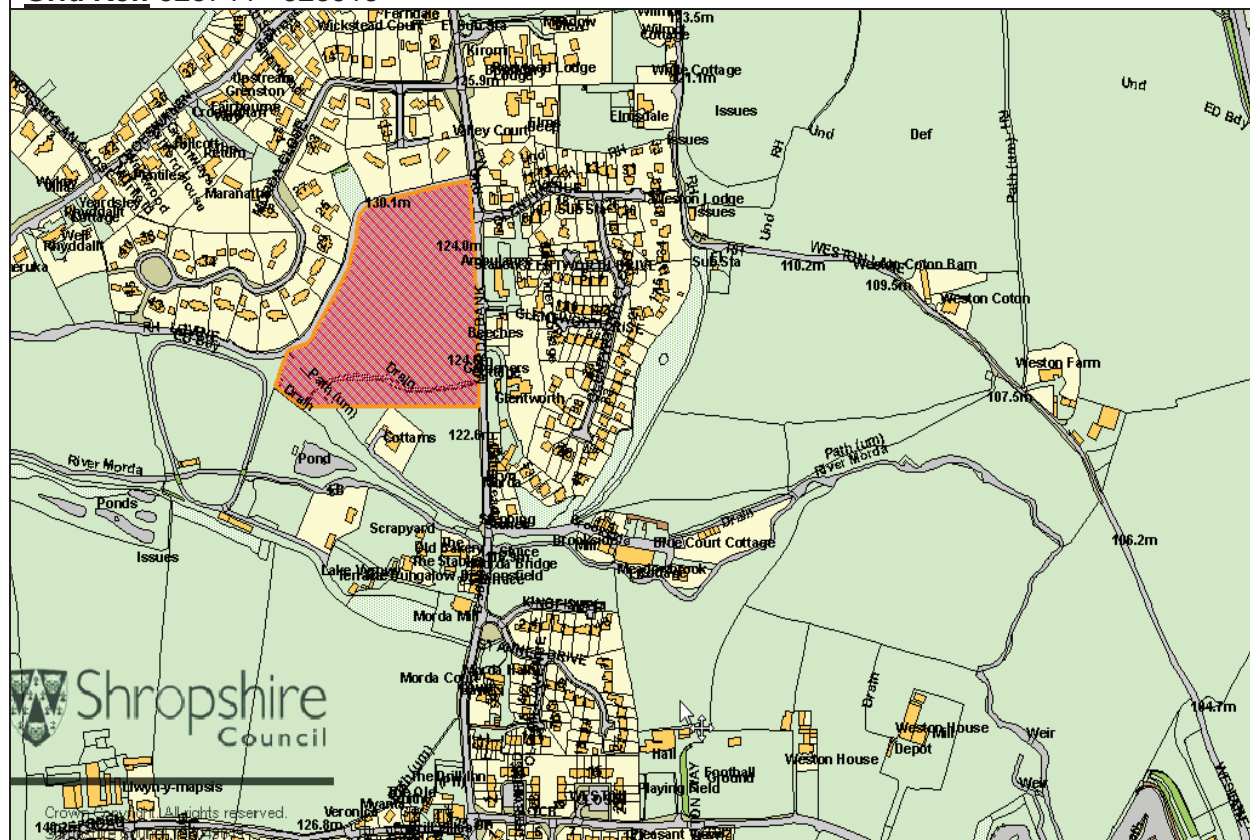
Development Management Report

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

Summary of Application

Application Number: 13/04845/FUL	Parish: Oswestry Rural
Proposal: Mixed residential development of 65 dwellings; formation of new vehicular access and estate roads; associated infrastructure; landscaping and formation of public open spaces	
Site Address: Land West Of Morda Bank Morda Shropshire	
Applicant: David Wilson Homes (Mercia) & Jennings Estates Ltd	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 328744 - 328318



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Recommendation:- That delegated powers be granted to the Planning Manager to grant planning permission subject to resolution of the ecology issue; subject to the conditions listed at appendix 1 and subject to the applicants entering into a S106 agreement to secure the provision of affordable housing; a financial contribution to provide speed visors on Morda Bank and a management plan for the future maintenance of the areas of public open space and the drainage swales.

REPORT

1.0 THE PROPOSAL

- 1.1 This report is an addendum to the report presented to members in June 2014 which detailed the proposal for full planning permission for residential development of 65 dwellings on land west of Morda Bank, Morda. All the details of the proposal are submitted as the application is for full planning permission. A new access is proposed off Morda Road and associated infrastructure, landscaping and public open space.
- 1.2 The following report seeks to advise members on their resolution that Committee were minded to refuse the application. The minutes of the meeting record that members raised the following concerns:
- Loss of the open green space that separates the town of Oswestry from the village of Morda
 - That the infrastructure in Morda is inadequate
 - That the proposals would adversely affect highway safety and drainage
 - That there were outstanding ecology issues

These issues will all be considered, however it is not intended to re-visit the issues dealt with in the previous report and the June report is appended for information and reference.

2.0 MATTERS FOR CONSIDERATION

- Loss of open green space
- Infrastructure capacity
- Highway safety and drainage
- Ecology matters

2.1 Loss of open green space

- 2.1.1 Whether the site is appropriate for development rests on whether it is considered to be sustainable development. Paragraph 14 of the NPPF advises that where policies are out of date permission should be granted for sustainable developments unless any adverse impacts would significantly and demonstrably outweigh the benefits. As noted within the previous report whether a development is sustainable is tested against the NPPF as a whole. However, there is also strong promotion within the NPPF for boosting the housing supply. The development of this site would contribute towards the overall housing supply, which is actively promoted within the NPPF and the Core Strategy and contribute towards affordable housing and this contribution should be given significant weight in the consideration of the application.
- 2.1.2 However, it is acknowledged that the development of this site will result in the loss of some of the green open space between the town of Oswestry and the rural

village of Morda which was the concern raised by members at the June meeting. The issue is whether the loss of this space is significantly and demonstrably harmful so as to warrant refusal of the application.

- 2.1.3 It is acknowledged by officers, as stated in the applicant's LVIA, and noted by the objectors, that *"This land, together with the field to the south, forms an important break between Morda and the town. It provides a sense of separation and contributes to the setting of each settlement. The field north of the river forms an intrinsic part of the valley that separates the two built up areas."* However, this does not automatically mean that the application should be refused. The harm to the character of the area was acknowledged in the June committee report and needs to be considered as part of the overall planning balance.
- 2.1.4 The harm was also acknowledged in the assessment of the site for the SAMDev which noted that the site has medium landscape sensitivity. The assessment notes that the application site is on the top of the valley side and is enclosed by hedges and a stone wall; that it forms part of the green valley gap between the settlements of Oswestry and Morda and as such has sensitive characteristics. However, it is noted in the assessment that the sensitivity of the site previously assessed in the Oswestry Landscape Sensitivity and Capacity Study was challenged during the Oswestry Borough Local Plan and the designation of the site as an area of Special Landscape Character was removed by the planning inspector. As such, although the concerns of members and the local community are noted, the sensitivity of the site for development is not as high as previously considered.
- 2.1.5 Officers also acknowledge that Oswestry Rural Parish Council and the local residents have been objecting to the inclusion of this site in the SAMDev from an early stage of SAMDev and intend to challenge the allocation of the site. The late representation from the Morda Residents Group provided on the update to the June meeting comments that there was no advertised local public consultation on the SAMDev, however this concern is not fully understood as the SAMDev has been through a number of public consultation rounds and the Parish and Town Councils have been used to publicise these consultations to the local community along with press releases and notifications/ alerts on the Council website.
- 2.1.6 Notwithstanding this the site remains one which is being put forward as part of the final SAMDev plan. The NPPF indicates that some weight should be given to that fact but the weight is reduced by the extent to which there are unresolved objections which will need resolving by the Inspector at examination. Nevertheless the detailed work which has been undertaken in reaching the point that the site is suitable and should be included in the Council's final SAMDev plan must be borne in mind. The site is being promoted to meet some of the need for Oswestry's growth. The Council Policy Officers have taken considerable time and effort in assessing the options for Oswestry and there are very few suitable and deliverable sites. The site at the Cottams has been part of this lengthy considered approach and is one of the few sites which is developable. It is not simply a case of sacrificing part of Morda and the existing gap without due care and attention.
- 2.1.7 The site was considered, along with all other sites put forward for consideration in the SAMDev. Oswestry has potential for growth but also constraints. The Morda

valley was noted as one of the constraints, as too is the Hill Fort and the bypass. The Town Council has proposed a housing growth of 2,600 houses in the plan period, with approximately 730 built there is an outstanding need for 1,870 new houses. The two greenfield sites on the east of the town will provide for around 1,160 dwellings and as such other sites are required. The site at the Cottams has, as previously noted, been put forward as an extension to Oswestry with a gap to be retained between this development and the main part of the village of Morda. The site is required within the SAMDev to meet the housing target in Oswestry and the development management process is not the place to challenge the SAMDev.

- 2.1.8 It should also be noted that neither of the two large greenfield sites to the east of the town have progressed beyond promotion in the SAMDev and as such weight should also be given to the deliverability of the current full planning application at the Cottams, with developer involvement, in that it will boost the housing supply within the next 5 years.
- 2.1.9 In considering the acceptability of the site for development the Policy Officers conclude that *“This site has existing housing development on three sides, can be accessed directly off the Morda Road, is relatively flat and well contained in landscape terms; is close to the town’s secondary school and relatively close to the town centre. The historic issue in relation to the site is the importance of maintaining a physical gap/green wedge between the town and Morda village. It is considered that development up to the planted hedge-line on the southern boundary of the site would still leave a significant and effective green gap, containing the Morda River, between the town and Morda village.”*
- 2.1.10 The built development proposed on the application site extends up to the hedge at the top of the valley bank and therefore would retain the valley and a gap as required by the proposed allocation and as such is considered by officers to be an acceptable form of development which will retain a gap, though reduced, between Oswestry and Morda.
- 2.1.11 In responding to the concerns of members it is also the duty of officers to advise on the risks of potential refusals. Whilst it is for the development management process and the Committee to look carefully at the suitability of specific development proposals submitted as planning applications, they should not seek to over-ride the plan-making process. The principle of the suitability of the site, including consideration of the issue of closing the gap between the town and the village, has been endorsed by the Council, with the allocation of the site considered by the Council to form an integral part of a ‘sound’ Plan to help to achieve the sustainable growth of the Oswestry. Any refusal on grounds of principle would be contrary to the Council’s own emerging Plan. Any appeal against refusal would be determined by an independent inspector in the context of the Development Plan and, following submission to the Secretary of State for examination at the end of July.
- 2.2 **Infrastructure capacity**
- 2.2.1 Although raised as a concern during the debate by members the minutes of the meeting do not record infrastructure capacity as part of the reason for refusal.

- 2.2.2 It is acknowledged by officers that Morda is a village and part of Oswestry Rural Parish. It is also accepted that local concerns have been raised about the distance to and availability of services and facilities, particularly public transport. However, as advised in the June report officers consider that the village of Morda is close to the market town of Oswestry and the site is between the village and the town. As such the residents of the proposed development could make use of the services, facilities and infrastructure within the town and not be wholly reliant on the village of Morda.
- 2.2.4 With regard to the concerns raised about the lack of bus service this matter was commented on in the original report. Although the local objectors do not consider the service is sufficient officers advise that there is more than one service running between the town and Morda Monday to Saturday. It has previously been acknowledged that the bus services do not run in the evenings and Sundays but this would not be rare for bus services in rural areas. Officers do not consider that the site is in an unsustainable location, as noted it is physically possible to walk or cycle to town or catch a bus during week days and Saturdays. The objectors have quoted paragraph 35 of the NPPF which advises that, where practical, development should be located to achieve a number of aims, including having access to high quality public transport facilities. The NPPF is a material consideration, however this paragraph is carefully worded in the use of “should” and “where practical”. It is not a requirement under the NPPF or any other Government advice for Councils to provide public transport accessible all day every day.
- 2.2.5 It is also accepted that new housing will add pressure onto existing facilities and services such as the schools, however as advised within the June report the provision of improvements to the school would need to be funded through identifying the need and through the CIL income. Pressure on other infrastructure can be considered as a detrimental impact. Though it is officers advice that in the case of the application site the pressure would not result in a substantial level of pressure that could be given significant weight in the determination of the application. It is advised that a refusal on the grounds of lack of infrastructure would be a weak one which would put the Council at risk at appeal.
- 2.3 **Highway safety and drainage**
- 2.3.1 It is not clear from the minutes, or officers recollection of the meeting, what members concerns were regarding traffic. It is acknowledged that there is local concern about the level of traffic that it is feared this development will result in coming out on to Morda Bank and that some of this traffic will add to the existing traffic on Weston Lane. However, the advice from the professional Highway Officer is that:
- a) the access junction proposed is appropriate and meets the national standards;
 - b) the increase in traffic will not result in severe cumulative traffic on the local highway network; and
 - c) that the provision of speed visors on Morda Bank will help to mitigate the existing problem of speeding traffic.
- This latter point is a benefit which can be achieved through the development which will also assist in alleviating an existing problem.
- 2.3.2 Paragraph 32 of the NPPF advises that to refuse applications on highway capacity

grounds the residual cumulative impacts of the development need to be severe. It is acknowledged that the traffic levels will increase and may seem locally to be a problem, but the levels of movements are not sufficient to warrant refusal and would not be defensible on appeal. As such, and as advised at the June meeting, officers consider that a refusal on the grounds of increasing traffic would not be defensible.

- 2.3.3 It is important that the Local Planning Authority is consistent in its decisions. The agent has already noted that at the June meeting a similar scale development in Morda village was approved with little concern raised about the increase in traffic onto the highway network. Without any evidence of a severe impact resulting from this development it is officers opinion that the Council would be placing itself at risk of an award of costs if a refusal on this issue was pursued.
- 2.3.4 Concern was also raised by members about the surface water drainage proposals and the potential impact on the surrounding area from flood risk. As with the highway issues this is a matter where technical expertise has been sought before reporting to members. The Council Drainage Engineer has assessed the submitted information and the proposed scheme for dealing with the surface water drainage. It is not for the developer of this site to solve existing problems elsewhere in the surrounding area, policy requires the developer to ensure that their development does not add to any existing problems or create any new problems. As such dealing with all existing surface water on site, or providing a method of holding surface water (attenuation) to ensure that the rate that the water leaves the site is no greater than before the development, would meet these requirements.
- 2.3.5 The Council Drainage Engineer has confirmed that the principles of what the application is proposing is acceptable and that further details can be provided at a later date as part of a discharge of condition. As such there is no evidence to show that the proposed drainage scheme can not be designed to satisfactorily meet the requirements of policy and ensure that there is no greater flood risk either on the site or in the surrounding area. The Council Drainage team is thorough in considering drainage schemes and a fully detailed scheme will be required to discharge the proposed condition.
- 2.3.6 Accordingly, as with the highway concerns, there is no evidence to support a defensible reason for refusal on drainage grounds.

2.4 **Ecology matters**

- 2.4.1 The outstanding ecology matters were raised by the officers at the June meeting. It was noted that the owner of the adjacent property, the Cottams, had within his objection noted that there were newts breeding in a pond within his garden and this pond was also noted during the members site visit. Neither the neighbour nor officers are able to confirm what species of newt. On reviewing the ecology information submitted with the application it was noted that this pond had not been surveyed by the applicant's ecologist.
- 2.4.2 Since the June meeting the applicant's ecologist has attempted to arrange a date for surveying the pond and, although the owner of the property is willing to enable the survey he has since been on holiday and as such the survey was not possible

within this years survey period. However, the applicant's ecologist has carried out a habitat suitability assessment of the pond from the adjacent agricultural land and submitted this to the council. The assessment from the applicant's ecologist has concluded that the pond is a small ornamental garden pond and considers that the habitat suitability of the pond for great crested newts is poor to average.

2.4.3 The Council Ecologist has considered this assessment but advised that as the owner of the property has given permission to access the pond that the assessment should be undertaken on site and more accurately. Based on the information provided to date the Council's Ecologist has also raised concerns about the scoring not being in line with the Habitat Suitability Index guidelines. As such the recommendation from the Council Ecologist is that further assessment of this pond is still required. Accordingly the officer recommendation remains as updated at the previous meeting, that delegated powers be given to the Planning Manager to approve the scheme subject to resolution of the ecology issue.

2.4.4 The presence, or lack of, great crested newts in a pond rarely prevents development from going ahead. However, it is essential to establish whether GCN are present or not to determine whether risk avoidance measures, or mitigation, is required.

2.5 **Other matters**

2.5.1 The late representations presented to members at the June meeting included a further objection from Morda Residents Group which commented on the June committee report. In addition to the information used already in the report this objection notes that there are large houses surrounding the site; that the proposed mix of housing is not appropriate and should be large executive housing of a lower density; that there is a burial pit on the site; that it is the access to and availability of services which are of concern to residents; that the local infrastructure for Morda and Oswestry needs to be improved; that labour and building materials from outside the area will not benefit the local economy; that the CIL contribution is insufficient and should be paid wholly to the Parish Council. In response the officers acknowledge that the surrounding development is a mix of house types and sizes and although the immediate surroundings may be predominately large houses this is not a reason to not allow a greater mix within the proposed development site. The issue of the burial pit was dealt with in the previous report, the confirmation that there is a pit on the site does not alter the recommendation from the public protection officer in relation to public health. The infrastructure improvements will depend on the place plan requirements and be funded by CIL. If the CIL monies went wholly to parish councils this would not enable the provision of infrastructure, highway improvements or provision of more school places.

2.5.2 In addition to the objections reported at the meeting a document was handed to members on the site visit which was provided by the residents group and seeks to provide their assessment of the scheme against the NPPF. The document comments that on all three dimensions of the NPPF; economic, social and environmental, this proposal fails completely. The document then provides short sentences questioning whether the development will build a strong, competitive economy; ensure the vitality of the town centre; or support a prosperous rural economy. The residents seek to argue that the development will not do any of

these things but will harm the town centre by increasing traffic and harm the rural economy by removing productive agricultural land. As noted within the original report it is officer's opinion that the residents of this site would have a range of options to access the town centre including walking, cycling or bus travel. Furthermore, if additional traffic in the town centre was considered to be a reason to refuse development on the edge of towns then this would prevent any development around any of the market towns. The loss of the agricultural land is noted as a resultant harm but the scale of the development is not one which would result in significant loss of best and most versatile agricultural land.

- 2.5.3 The objection also comments that, in the resident's opinion, the development will not promote sustainable transport and note that the information submitted by the applicant is out of date and for the wrong area; furthermore they consider that it will not support high quality communications infrastructure. The issue of wrong data was acknowledged by officers at the meeting in June; however for the scale of development proposed neither a transport assessment or a travel plan is required. The travel plan has been provided by the developer in order to show the information that they intend to provide to house buyers. The issue of infrastructure is considered above.
- 2.5.4 This objection also comments on the design; lack of renewable energy provision within the scheme; lack of communication with the community about the designs; and lack of promotion of healthy communities. It is acknowledged that design is a subjective matter and what one person considers is good design may not be considered as good by another. However, the NPPF also notes that Councils should not impose architectural styles or require developments to conform to certain development forms of styles (paragraph 60). It was acknowledged within the original report that the layout and density is greater than the adjacent development, however officers remain of the opinion that the scale of development is appropriate, as detailed within the report and within the proposed housing figures in the SAMDev.
- 2.5.5 It is also noted by the objectors that the development does not protect Green Belt; meet the challenge of climate change and flooding; conserve and enhance the natural or historic environment or facilitate the sustainable use of minerals. However, the site, although green field and currently open land is not designated Green Belt. The issues of impact on the natural and historic environment and on drainage and flooding are dealt with in greater detail earlier in this report. The final comment on the use of minerals is not wholly understood. Objectors note that the coalfield seams are no longer viable and if this is the case then the site would not have any potential for mineral extraction and as such would not affect the sustainable use of minerals.

3.0 CONCLUSION

- 3.1 Officers have sought to advise members within this report of the issues raised at the June meeting. Research has been undertaken to provide members with evidence on the issues raised however no evidence has been found which would substantiate a defensible reason for refusal of the application. As such, the officer's recommendation remains the same as that presented at the June meeting, which is that, subject to the applicants entering into a S106 legal agreement to secure affordable housing, and subject to conditions, delegated

authority should be given to the Planning Services Manager to grant planning permission so long as the outstanding issues regarding ecology have been satisfactorily resolved.

- 3.2 The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to CS5. However there are other material considerations that should be given weight in setting aside the adopted policy. The site is considered to be a sustainable location on the edge of the market town of Oswestry and policy 47 of the National Planning Policy Framework sets a presumption in favour of sustainable development. The indicative density of the development is considered to be an appropriate scale sympathetic to the locality and the proposal would have no highway safety or flood risk implications. As such the proposal therefore accords with policies CS6, CS17 and CS18 of the Shropshire Council Core Strategy and the National Planning Policy Framework.

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.

6.0 **BACKGROUND**

6.1 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
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

6.2 Relevant planning history

OS/00/11182/FUL Residential development and formation of a new access REFUSE
6th September 2000

OS/99/10590/FUL Residential development and formation of a new access REFUSE
1st September 1999

OS/89/6534/FUL Erection of detached dwelling houses and bungalows and associated external works and landscaping and formation of new access REFUSE 11th December 1989

OS/88/5910/FUL Residential development REFUSE 11th December 1989

7.0 **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 Joyce Barrow

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 – Report to members 3rd June 2014

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(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme for the 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. The drainage scheme shall include details of percolation test results, sizing of soakaways, details of the attenuation scheme proposed, a contoured plan of the finished road level and gulleys and details of the surfacing of driveways and means to prevent water flowing onto the roads.

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

4. No built development shall commence until samples 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 full engineering details of the design and construction of the new junction onto Morda Bank, internal access roads, footways, private accesses together with details of the disposal of surface water have been submitted to, and approved by the Local Planning Authority. Visibility Splays of a depth of 2.4 x 70 metres length in a northerly direction and 2.4 x 72 metres length in a southerly direction from the centre point of the junction of the access road with the public highway shall be provided before the first occupation of any of the dwellings hereby approved, and these splays shall thereafter be kept free of any obstacles or obstructions. The gradient of the access(s) from the highway carriageway shall not exceed 1 in 24 for a distance of 2.0 metres and thereafter the gradient of the drive shall not exceed 1 in 10. The agreed details shall be fully implemented before the dwellings(s) are first occupied.

Reason: To ensure a satisfactory access to the site.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- ' the parking of vehicles of site operatives and visitors
 - ' loading and unloading of plant and materials
 - ' storage of plant and materials used in constructing the development
 - ' the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - ' wheel washing facilities
 - ' measures to control the emission of dust and dirt during construction
 - ' a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

7. Prior to any work commencing on the open space a scheme of landscaping shall be submitted to and approved by the local planning authority and these works shall be carried out as approved. The submitted scheme shall include:
- Ground levels existing and proposed
 - Means of enclosure
 - Details of the construction of the swales
 - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
 - Planting plans
 - Written specifications (including cultivation and other operations associated with plant and grass establishment)
 - Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
 - Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

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.

9. Prior to the first occupation of the dwellings details of 10 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

10. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification), no pedestrian or vehicular egress or access to the dwellings within the development site other than that shown on the approved plans shall be formed between the site and Love Lane which extends along the northern and western boundary of the site.

Reason: In the interest of highway safety.

APPENDIX 2 REPORT TO COMMITTEE 3RD JUNE 2014

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for the erection of 65 dwellings (initially submitted as 64 but increased by 1 during the consideration of the application). All the details of the proposal are submitted as the application is for full planning permission. A new access is proposed off Morda Road and associated infrastructure, landscaping and public open space.
- 1.2 In support of the proposal the application has been submitted with a design and access statement, planning statement, statement of community involvement, visual impact assessment, transport assessment, ecological assessment, flood risk assessment, and full detailed plans.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is 3.25 hectares in area and is currently in agricultural use, it lies on the edge of Oswestry, but is within the parish of Morda. The houses in Oswestry, on the northern edge of the site are large detached modern houses, on the opposite side of Morda Road is a mix of smaller, detached and semi detached houses and the old ambulance station which also has consent for redevelopment to housing.
- 2.2 The application site is enclosed with a stone wall along Morda Road and the land gently slopes from west to east. There is an electricity line across the land and the footpath from Love Lane, cuts across the southwest corner of the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Committee Chair in consultation with the Principal Planning Officer agrees that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Oswestry Rural Parish Council** – This Council **strongly opposes** the planning application and propose that the Cottam's site be removed from the SAMDev Plan.

Oswestry Rural Parish Council is bitterly disappointed that the Oswestry Town Council (OTC) (equivalent to a Parish Council but in the Town) have now removed its original objection to this proposed development. The reasons for this about turn is that they oppose the Hill Fort development which will leave a shortfall of 50 houses and the Council at a stroke has ignored their electorate and offered the Cottam's site as a sacrificial lamb at the altar of the SamDev. This decision is irrational as the development site is NOT within the OTC boundary but in ORPC. In the "Revised Preferred Options" Adrian Cooper, a non-elected officer for Shropshire Council's Environment and Economic Policy department criticises the Rural Parish Council, which is an elected body, in that he states "A site promoter noted that Oswestry Rural Parish Council has not chosen to list Morda as a

Community Hub or Cluster and challenges the role of Parish Councils in helping to determine planning policy for their area. Instead, Hub or Cluster status should be based on planning criteria which would indicate the need for further development". This is an outrageous statement and it is unacceptable for an officer to speak on the behalf of a developer and to seek to smear the democratically elected council, seemingly because they do not like the Parish Council's stance.

Further confusion exists in many individual's minds with the inclusion of this site, part of the Rural Parish, within the CIL Charging Zone for Oswestry. Is it intended that any potential CIL monies will go to Oswestry Town Council? ORPC believe that as the site is in their rural area the rural rate should be applied and all the funds should be available to the people of Morda for projects in the village. They see no basis on which the urban rate should be applied or that the funds be available to Oswestry Town Council. We suspect that this is being suggested because of the mistaken belief that the site is part of the town of Oswestry. The officials have persistently and completely wrongly assumed this to be the case and we believe this is another example of their muddled thinking.

Oswestry Rural Parish Council makes the following observations to support its opposition to the scheme.

Increase in cars from proposed development will drastically add to an already congested road at the point of exit from the site. The road is too narrow and there are already problems when the Marches School starts and finishes. The sixth form college at the Marches will increase the number of children along the road. The ambulance Station site directly opposite is to be developed, again increasing traffic flow at this 'pinch point' The exit from Croeswylan Lane onto Morda Road already causes concern for residents. Narrow pavements along Morda Road create safety concerns for pupils and motorists find this area difficult to negotiate fully. It is clearly not possible to widen the Morda Road for improved safety. A roundabout should be provided by the developer at the proposed new entrance onto Morda road.

We have grave concerns regarding the management of and the issue of flooding which has not been adequately addressed. The drainage swales as outlined are acknowledging a potential flood hazard, where do they drain to? They will be dangerous for children, create obnoxious smells, muddy sludge, untidy rubbish and debris. There is a possibility that excess drainage water will flow down into the Glentworth Estate. Surface water will go down into the River Morda which is already struggling to cope at the present time.

These are proposed family houses. Morda School currently has 147 pupils on roll and there are no unfilled places, the school is full. There are no spaces at other local schools. Where will these children go? The developer has made no provision to help the school by providing additional class rooms.

There will be the loss of a boundary between Morda and Oswestry town. Love Lane is at risk if residents make an access from their property to ease their exit and access. There is only one way in and one way out on Morda Road this will lead to congestion within the proposed development. The loss of this green pasture field will be a disgrace to planners.

The new public open space the developer is suggesting has no provision for future maintenance. A Section 106 agreement must be arranged to provide for perpetual maintenance of any open space or it will fall to the hard pressed Parish Council to maintain.

The site was used to bury cattle from the 1967 outbreak of foot and mouth. Has a detailed environment study addressed this aspect of the development? The site is in a conservation area and the wildlife will seriously be affected.

There will be extra strain put on the services i.e. police, ambulance, GP surgeries and access to hospitals.

Density of housing is out of all proportion to the site area. The style of houses is not in keeping with the local area. The design is of poor quality and again will not blend with existing adjacent houses.

Oswestry does not provide much employment opportunities as it is a small market town. Where will new residents work? If they have to travel out of the area to work will they use the already congested Weston Road to access the by pass? A possibility of another 100 houses could be built coming onto Weston Road in the future. Will the country lane be able to cope with all this traffic?

Please think again about this development as the local residents opinions must be taken into consideration as over a 180 have voiced their objections at two public meetings held with the Oswestry Rural Parish Council and on the planning web site. Once this site is built on it will be destroyed, there will be no going back.

- 4.1.2 **Policy Officer – No objection.** Morda lies within ORPC which has opted to remain as 'countryside' for the purposes of SAMDev. The local community are particularly sensitive about the need to maintain a strategic gap between Morda and Oswestry. However, the site is not being allocated to meet development needs in Morda, but for the expansion of Oswestry and in making the allocation, we are content that a strategic gap between the two settlements will be maintained. This is not the only example of the future growth of a town expanding beyond its boundary against the wishes of an adjacent PC, but the application is consistent with the development strategy and allocations of the draft SAMDev Plan.
- 4.1.3 **Affordable Housing Officer – No objection.** The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. However confirmation is required on the size and type of the on site affordable houses. The application form refers to 4 x 2 bed and 3 x 3 bed rented houses and the plan and supporting documents refers to 2 x 3 bed shared ownership, 3 x 2 bed rented units and 2 x 3 rented units.
- 4.1.4 **Conservation Officer – No objections.** Conservation advice was given in relation to a pre application enquiry on the site raising no conservation objections to the principle of development of the site.

The proposal needs to be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

The application proposes the erection of 64 dwellings of varying sizes, styles and tenures. The site does not lie within a Conservation Area but is a prominent site on the edge of the town. The proposed site plan orientates the properties at the front of the site to face the road providing an active frontage along Morda Bank. However the building line is set back from the road to provide some continuity with the surrounding streetscape which is considered appropriate.

The proposed house designs are varied and there are varying heights and sizes of properties in the development. It is considered that this is appropriate in this area which is relatively mixed in character.

The stone boundary walling along the site's eastern boundary is to be retained as part of the proposals this is welcomed.

Overall it is considered that the proposed development raises no conservation issues.

- 4.1.5 **Public Protection Officer – No objection.** It has been brought to this services attention that there may have been a foot and mouth burial pit on the land proposed for development. As a result the potential for this to require further attention has been researched and addressed below.

A document on the Health Protection Agency webpages that states no human contraction and therefore no risk to human health from building above. Link to document is http://www.hpa.org.uk/webc/hpawebfile/hpaweb_c/1274089050185

A further document states the materials and recommended amounts of fuel for pyres. Link: http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/fmd/documents/environmental_report.pdf

The above documents state that air pollution is not considered to be a long term issue but short term increases in certain pollutants due to the burning of any carcasses as a method of disposal were likely at the time. It is stated that fall out from the pyres was not expected to cause any human health impact and therefore this element requires no further thought. Potential ground instability from decomposition resulting in voids where animals were buried may present concerns for the developer. Gassing was likely but from 1967 burial pits is not expected to be an issue any more. Leaching from a burial pit would have been likely for around 20years and therefore this will have also ceased to be a likely issue in the locality.

In conclusion we do not have any information to inform us that there was definitely a burial site on the land proposed for development to the north of Morda. It would

be unlikely that a soil sampling regime would be able to establish if there was any burial pit on site. Geophysical equipment may be able to show any burial pit however this service does not consider it necessary to go to the expense of carrying out such a survey as no documented evidence from the time of the burial is available to us to suggest that a burial site exists.

Having note of the documents and information above we are not of the opinion that a burial pit for livestock due to contracting foot and mouth or for welfare issues at the time of the outbreak in 1967 pose a threat of harm to human health through microbial activity, leachate to water supplies or from gassing of decomposing material. It has not been suggested that a pyre was located on site however chemical traces as a result of any pyre have been tested and documented in the above linked documents. These report that there is no major threat to health as a result of the ash material left behind after a pyre or from the fall out from a pyre. There may be traces of fuel still existing if a pyre was found on site but we have no knowledge of this taking place. Due to the fact that pyres were generally left to burn out it is unlikely that many fuel sources which could be considered as contaminants would be likely to have remained or still be present in sufficient quantities to find land to be considered likely to be contaminated. Adding to this the substantial amount of time that has passed only adds weight to this line of thought.

The Health Protection Agency website has been consulted in regard to any microbial health affects to humans from foot and mouth and it states that foot and mouth disease is not a public health threat.

Is therefore of the opinion that the land is not likely to be contaminated or require further assessment as such. A large burial site may however be a risk to the structural integrity of any development placed over the top of it. The applicant may wish to seek further information in order to establish if a burial pit is located on the proposed site and if so the position and extent.

With regard to the development as a whole would request a condition in order to make the properties ready for EV charging point installation through the installation of isolation switches to enable a vehicle to be charged in the garage or driveway.

- 4.1.6 **Highways Officer – No objection** to the granting of planning consent subject to conditions to require the engineering details to be submitted; a construction method statement; provision of visibility splays; details of gradients; use of the travel plan and the removal of permitted development rights to prevent accesses being formed from the site onto Love Lane.

Access

The development sites accesses onto the B5069 Morda Bank, which is lit and subject to a 30 mph speed limit. At the point of access, the carriageway width measures some 6.5 metres with a footway along the site road frontage between 1.5 and 2.0 metres. Access onto Morda Bank is shown as a priority junction with visibility splays of 2.4 x 68 metres in a northerly direction and 2.4 x 72 metres in a southerly direction, to the nearside edge of carriageway. The splays are in accordance with acknowledged guidance set out in Manual for Streets. The

highway authority consider that the proposed access to the site is appropriate in terms of layout and visibility standards.

There have been local representations seeking a mini-roundabout as a preferred junction option. Whilst the highway authority would agree that this would potentially act as a traffic calming scheme to slow down current traffic speeds in the immediate locality of the site, the highway authority would question such provision for an access option which serves 65 dwellings as an isolated scheme along Morda Bank. The highway authority however recognise that measured traffic speeds are higher than the current 30 mph speed limit in the vicinity of the site and therefore would recommend that Section 106 monies are sought to provide speed visors on both approaches to the site, which would offer benefits to other junctions and accesses onto Morda Bank.

In addition to the above, a check on the Personal Injury Accident (PIA) record has been undertaken, which indicates that there have been no recorded PIA's in the vicinity of the site and access. The highway authority concur with the findings of the Transport Assessment (TA) that there are no existing safety issues that would warrant significant mitigation measures as a result of the current proposed scheme, other than those set out above.

Site Layout

The layout of the site is not untypical of the housing sites coming forward in Shropshire. It provides a layout which seeks to control traffic speeds within the site, with the introduction of surfacing road treatments and junction speed tables. The highway authority is satisfied with the design layout with full engineering details to be determined as part of a Section 38 Agreement in respect of future adoption of the roads and footways within the site.

Traffic

As part of the application submission a Transport Assessment (TA) has been carried out in order to consider the current traffic conditions and impact of the development on the local highway network.

In terms of the current situation traffic counts were taken on Morda Bank in March 2013, which reveal a 5 day two way flow of 3,423 vehicles made up of 1,636 vehicles travelling northbound and 1,787 vehicles travelling southbound between 07.00 - 19.00 hours. In the 08.00 - 9.00 morning AM peak the 5 day average indicates a two way flow of 386 vehicles made up of 213 vehicles travelling northbound and 173 vehicles traveling southbound. In the 17.00 - 18.00 peak PM period the 5 day average indicates a two way flow of 416 vehicles made up of 180 vehicles travelling northbound and 236 vehicles traveling southbound. HGV movement traffic flows along Morda Bank were recorded at 1.6% of the total two way traffic flow. This is not unexpected given the nature of employment and industrial make up within Oswestry and the routing to those areas. It is likely that those HGV's routing along Morda Bank have a legitimate need to do so.

The TA then considers the impact of the traffic likely to be generated by the proposed development and how that traffic is assigned to the local highway network. The routing of traffic along Weston Road has not been assessed based upon measured traffic count information, which would have been helpful.

Nevertheless the 20% distribution of traffic movements to Weston Road is not considered unreasonable, although may present an underestimate. The TA focuses more on potential impact upon the Church Street/Upper Brook Street/Lower Brook Street junction.

Notwithstanding the technical conclusions of the TA, which suggest that any traffic impact upon the local highway network would not be significant or material, the highway authority recognises that the scale of the development proposed is limited to 65 dwellings and this gives a degree of comfort and confidence that the traffic likely to be generated by the proposed development and assigned to the highway network can be accommodated without any adverse traffic or highway safety impact.

Accessibility

The TA provides a section which considers accessibility and sustainable travel options other than by car. In terms of walking there is a continuous footway between the site and the town centre, over a 1.5 km length walk. The TA provides destinations and facilities within a 2 km walking distance, which is considered an upper distance for comfortable walking. The site is however well located to provide opportunities to cycle to the town centre and surrounding area, both in terms of the distances and topography.

The TA demonstrates accessibility within reasonable walking and cycling distances to a number of services, shops and schools etc. and therefore the site can be considered a sustainable location

In addition to the above, there are 2 bus stops located in close distance to the site access, which provide bus services between the site and the town centre, in particular Service 71 and 72 providing the most frequent services. It is considered that the site is adequately served by bus services linking to the town centre and therefore providing an alternative to car borne journeys.

The application provides a Travel Plan Framework, which identifies the travel opportunities and commitments to promote sustainable travel. The highway authority consider that this element can be covered within a planning condition requiring the current drafted framework document being developed into a Travel Plan working document.

Other Matters

There are local issues surrounding the current vehicular usage of Love Lane, which borders the northern and western edge of the site. Although Love Lane is a unmetalled track it has full highway status. The layout of the site is such that Plots 1 to 15 have rear boundaries to Love Lane and the highway authority are concerned at any potential for rear access to be gained onto Love Lane. As such the highway authority would, in the strongest terms, request that a planning condition is imposed upon any consent granted which would have the effect of preventing any permitted development rights to have access, pedestrian or vehicular, to Love Lane.

- 4.1.7 **Rights of Way Officer** – Has **no objection** to the proposal from a rights of way perspective and welcomes the decision to site the public open space in the area

crossed by the path. If permission is granted the applicants must consult the Outdoor Recreation Team before any works are undertaken that may affect the path including the erection of fencing, gates, stiles or any changes to the surface.

4.1.8 **Ecology Officer – No objection** subject to conditions and informatives.

This site is located 4.5km distance from the closest part of the Midland Meres and Mosses RAMSAR site and is considered to have no significant impact on the European site due to no pathways and not to require a Habitats Regulation Assessment.

An Extended Phase 1 Habitat Assessment and Preliminary Protected Species Survey were undertaken by an FPCR ecologist in February 2012. This survey was updated in September 2013. The main features of ecological value are the boundary hedgerows and trees, which are shown for retention, except for creation of access from Morda Road.

The tree inspection for bats was completed by a Licensed bat worker from FPCR during September 2013. The hedgerows and trees on site provided some limited foraging and commuting opportunities for bats at the site boundaries, in particular along the western boundary which links the residential areas in the north to the River Morda. As such recommends a condition to control lighting.

Five ponds in total were observed within 300m of the site boundary, four of which were present within 250m of the site and one within 280m. The closest pond (P1) was located approximately 100m to the south of the site which appeared to be a fishing pond with steep banks and limited aquatic vegetation. This scored an HSI of 0.47 and therefore poor suitability for great crested newts. The other four ponds lie on the southern side of the River Morda, which is considered a barrier for newt dispersal. No mitigation is therefore deemed necessary.

The grassland field compartment could provide suitable foraging ground for badgers. Several 'snuffle' holes were observed within the field boundary; however, no other evidence of badger was recorded within the site or on accessible land within 30m. As there will be risk of harm to badgers if they were to enter the site during construction recommends an informative.

The hedgerows and trees on site present potential bird nesting habitat. It is recommended that nesting habitat is enhanced by erection of bird boxes and an informative is recommended.

The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework.

This proposed development site is within the Environmental Network and as such the proposed scheme must clearly demonstrate how the development will 'promote the preservation, restoration and re-creation of priority habitats and ecological networks' as required by paragraph 117 of the National Planning Policy Framework.

To address this issue, the Landscape Masterplan incorporates public open space and shows additional native tree planting and enhancement of the boundary hedgerows. The development is set back from Morda Road, creating a green buffer zone to include swales and native species planting. It is considered the proposals respect the network function of the site.

4.1.9 **Drainage – No objection.** The details, plans and calculations can be conditioned.

As stated in the FRA, the use of soakaways should be further investigated in those areas of the site which had favourable infiltration rates.

Full details, calculations and location of the percolation tests, should be submitted.

If non permeable surfacing is used on the driveway and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway

A contoured plan of the finished ground levels should be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Surface water collected in the swales will be released to the existing adopted surface water system at an equivalent rate to the existing greenfield run-off as stated in the FRA.

Shropshire Council Flood and Water Management team have requested additional information from the applicant to confirm that exceedance flow from the development is to be contained within the site to ensure that adjacent property is not flooded.

Although not forming part of the comments process for the Flood and Water Management team, the swale/pond could be excavated deeper, below the outlet, to form a permanently wetted pond to reduce the possibility of smell and sludge. The pond could be fenced off for added safety and security.

4.2 **Public Comments**

4.2.1 112 letters of representation have been received raising the following concerns:

- No need for more houses
- Impact on the space between Oswestry and Morda
- Loss of character and community feel of Morda which is designated in the SAMDev as countryside
- Urbanises Morda which is already overdeveloped
- Is not an extension to Oswestry
- The SAMDev report notes the constraints of developing this site

- Does not develop brownfield in accordance with 60% target
- Should be required to start within 6 months and completed within 6 years
- Previous refusal was based on environmental impact and this has not changed
- Insufficient space in Morda Primary School and it has no room for expansion
- Increased pupils at Marches School and potential for more
- Insufficient local services and pressure on existing services such as the local shop, doctors, dentist and no nearby hospital
- Will not increase sense of community
- Potential impact on hedge due to layout being too close to the hedge
- Density and design not related to surrounding area and adjacent design brief led development
- Layout includes road ends which end at the edge of the site and will access future development
- Loss of property value
- No renewable energy proposals
- Designs do not take into account modern lifestyles or those less mobile
- No architectural merit
- No renewable energy proposals
- Insufficient open space
- Loss of light, increased noise, risk of crime, pollution and loss of privacy
- Increase in traffic, congestion and increase in risk of collisions and affect on road safety for pedestrians etc
- Poor access and Morda Road is already highly trafficked, a roundabout should be provided
- The traffic report has been done at the wrong time of year
- Insufficient parking proposed, garages should not be counted and each property should also have a space for visitors
- Impact on Love Lane which is a footpath and proposed properties backing onto Love Lane will be able to gain access
- Insufficient pavement to the town and people do not walk
- Public transport links are poor in the evenings and Sundays and Gobowen Train station is not directly served by public transport from Morda
- Increase in surface water and resultant flooding onto the roads and neighbouring properties
- Does not use rainwater
- The swales will be unpleasant and a safety hazard
- Pressure on mains foul drainage
- Adverse affects on ecology – buzzards, owls, weasels and badgers
- Potential loss of hedge and some plots have buildings within the hedge
- Potential contamination as the site may have been used to bury livestock during the 1967 foot and mouth crisis

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Environmental considerations

- Social considerations
- 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 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.

6.1.4 It is acknowledged that the site is outside the development boundaries for both Oswestry and Morda as set within the Oswestry Borough Local Plan. 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 Given the above, whether the site is appropriate for development rests on whether it is considered sustainable. Paragraph 14 of the NPPF advises that where policies are out of date permission should be granted for sustainable developments unless any adverse impacts would significantly and demonstrably outweigh the benefits or where specific policies within the NPPF indicate development should be restricted. These restrictions relate to specifically designated sites, heritage assets and locations at risk of flooding and the site does not fall within any of these restrictive criteria. The presumption is in favour of sustainable development as tested against the NPPF as a whole. A site needs to be compliant with all three dimensions of sustainable development; economic, social and environmental.
- 6.1.6 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. Furthermore, 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.
- 6.1.7 The site is being promoted as a recommended allocated site for up to 65 houses in the SAMDev pre-submission draft as an allocated site for Oswestry Town. It is acknowledged within the pre-submission draft that the site lies within the Parish of Oswestry Rural, not within the town, however it is being put forward by the Town Council as an extension to the existing built up area subject to the retention of the land adjacent to the River Morda as open space to maintain the physical gap to Morda Village. It is acknowledged that the Rural Parish Council object to this allocation, however the site is within the pre-submission draft and has progressed through a number of rounds of consultation and currently forms part of the final submission.
- 6.1.8 Within the planning statement the agent has summarised the planning history of the site. This notes that the site was proposed for allocation in the 1994 Oswestry Borough Local Plan but was removed on the grounds of its designation as an area of special landscape and on highway grounds. The planning inspector advised it should be re-instated in 1999 but this was not pursued by the Council at the time. The special land designation was subsequently quashed by the High Court in 2000 and as such this designation no longer applies the issue now raised by the local community relates purely to the closing of the gap between Oswestry and Morda and the highway safety grounds. As noted previously, the site is now being promoted in the SAMDev as a preferred option site.
- 6.1.9 Objectors have commented that the site has previous planning refusals and that there has not been any changes in the circumstances of the site. The most recent two applications were in 1999 and 2000 and were both refused on the basis that the site was outside the development boundary and an unwarranted extension of the built environment into open countryside between the settlements of Oswestry

and Morda. It is therefore not correct to say that there have not been any changes to the circumstances of the site as the site is now being promoted as a preferred option site in the SAMDev. This proposed allocation also deals with the issue of the extension into the open countryside and the site is being allocated on the basis that the Council now consider that this extension is acceptable.

- 6.1.10 The concerns of the rural parish council about allocating the site refer to joining the two settlements together; the payment of the CIL monies to the town council when the site is in the rural parish; the impact on services, facilities and highways. All of these matters are considered later in this report, however members need to assess the proposal against the NPPF and the presumption in favour of sustainable development. Officers advise that whether the site is located within Oswestry Rural Parish or Town does not alter the primary policy against which the proposal needs to be considered. Members may prefer to acknowledge that the site is being put forward in the SAMDev but not give that any weight and assess the sustainability as if the site was not being put forward.

6.2 **Is the site sustainable?**

- 6.2.1 The objections from Morda residents and the Oswestry Rural Parish Council consider that the site is not sustainable due to the limited facilities available in Morda and the limited public transport serving the area, especially in the evenings and weekends. However, whether a site is sustainable is not judged purely on the distance from services, this is one of a number of factors identified within the NPPF. The Core Strategy, under policy CS3, sets the market towns, including Oswestry, as the focus for a balance of housing and employment development to maintain and enhance their roles. The site is within the rural parish of Morda, but physically is on the edge of Oswestry. Future occupants of the site would be able to access the services and facilities within the market town as would any other housing allocation site on the edge of the town.

- 6.2.2 Oswestry is the second largest town in Shropshire and, as noted above, the site is being promoted in the SAMDev as part of the overall housing target for Oswestry of 2,600 dwellings and 45 hectares of employment land. Given this positive promotion of Oswestry as a key sustainable settlement officers consider that it would be difficult to argue against the principle of development on the edge of the town. The final version of the SAMDev, currently out for consultation, acknowledges that the scale of development planned for Oswestry is significantly higher than that in recent years but that this will help to deliver additional investment in infrastructure including waste water, electricity, transport and highways. However, site specific issues can be taken into account in the balancing exercise of determining whether a site is sustainable.

- 6.2.3 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system.

6.3 **Economic considerations?**

- 6.3.1 Within the planning statement the agent comments that the site provides housing development in the right location at the right time. Weight can also be given to the fact that this is a full planning application and as such, if granted, would need to commence within three years and is under option with a major house builder. As

such there is a high likelihood of this site being developed.

6.3.2 The development will provide employment for the construction phase; support local businesses in the short and long term as future occupiers will be able to access and use local services and facilities ensuring they remain viable. The provision of more homes will create a stimulus to the economy and help to address the housing shortage.

6.3.3 The submission of the application as a full application also enables full consideration of the contribution to be paid under the community infrastructure Levy. The levy is used for infrastructure in the local area and across Shropshire. For this site, which is within the urban area charging boundary the contribution would be at £40 per square metres. The design and access statement provides a total floor space of 71,203sq ft (6,615sqm), the additional property added during the consideration of the scheme would add 151sqm and at £40 per square metre the development would provide a CIL payment of over £300,000.

6.3.4 Officers acknowledge that the benefits are not site specific. New housing will provide economic benefits and these should be given weight in the determination of the application.

6.4 **Social considerations?**

6.4.1 The development will provide additional housing, including affordable housing and this itself is a material consideration which should be given weight in the determination of the application. For the Oswestry area, including the rural parishes, the requirement is for 10% affordable housing and the applicant has confirmed the developers acceptance of this requirement. For a development of 65 houses this would either be 7 on site (a slight over provision) or 6 on site and a financial contribution towards affordable housing elsewhere in the local area. The proposal is for 6 on site dwellings and a financial contribution and the Council Affordable Housing Officer has confirmed that the affordable housing contribution is the correct level of on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. These units and the contribution will need to be secured as affordable in perpetuity through a S106.

6.4.2 The agent has noted that there is a nursery, several primary schools and a secondary school close to the site and that Oswestry also has a college. The local area also has a shop, public house, village hall and social club and the site is close to the centre of Oswestry. Within the design and access statement the agent has provided a plan which shows the facilities and services within 400m, 800m and 1200m which would be approximately 5, 10 and 15 minutes walking distance.

6.4.3 Concerns expressed by the Parish Council and objectors highlight the fact that the existing school is at capacity and this has been confirmed by colleagues in the Learning and Skills Team. It is acknowledged that the existing school is not ideal in terms of the types of accommodation on the site and the ability to accommodate extra pupils. Morda has been the subject of and is still the subject of a number of planning application for housing which potentially could put pressure on the school. All of the developments (with the exception of the affordable housing scheme by Severnside) would be required to make payments

through the Community Infrastructure Levy (CIL), as detailed above.

- 6.4.4 The Council's Learning and Skills Team has been consulted on the application and they have confirmed that Morda Primary School is full and is forecast to remain so even without any further dwellings being constructed within its catchment. They have calculated that a development of 69 dwellings would generate 12 new pupils to the school and the cost of providing those primary school places is £144,928.
- 6.4.5 It has been shown that the primary school is at capacity. For further residential development in Morda to be acceptable (among other planning considerations) there would be a need to create additional school places. Currently the Oswestry and Surrounding Area Place Plan does not list improvements to Morda Primary School to increase pupil places as a priority, although the Learning and Skills Team is currently updating its priorities for the Place Plans. To make the proposed housing scheme acceptable and to mitigate the effects of the development in terms of school places, additional education funding is required. This extra funding would need to be identified as a priority infrastructure requirement in the Place Plan and CIL proceeds allocated for that purpose. If planning permission is granted for the development on the basis that it is necessary for the additional education funding to be provided, then this item and the associated financial contribution will be fed into the annual review of the Place Plan as a result of being identified through the development management process, and funding allocated accordingly. This approach was agreed by the Portfolio Holder's decision in the report dated 14th February 2014 (see Section 4 Governance arrangements for projects not included on the CIL List).
- 6.4.6 It is considered that without the necessary improvements being made to the school to accommodate the extra pupils there would, with regards to education, be inadequate infrastructure to support the proposed development. Whilst a number of objectors refer to the school not being able to accommodate extra pupils it is considered that this would not weigh negatively in the planning balance as the effects of the development can be mitigated by achieving funding through CIL.
- 6.4.7 Concerns have also been raised locally about the infrequency of the bus service, especially in the evenings. This is noted, however, the bus stops which are available are within walking distance, there is more than one bus which stops at the stop and they run approximately every hour from 7:25am to 7:20pm and take just over 6 minutes to get to the town centre. It is accepted that the buses do not run late into the evening and currently don't serve the development currently being developed at the Smithfield Livestock Market. However, the town is accessible by bus from the site and the wider area is accessible from the town.
- 6.4.8 Officers have considered all of the concerns raised but do not consider that any of the social issues raise significant and demonstrable harm that would outweigh the benefits of new housing on a site on the edge of the second largest settlement in Shropshire.
- 6.5 **Environmental considerations?**
- 6.5.1 The agent suggests that the retention of the existing landscape features and the

provision of the public open space are environmental benefits and that the site will also retain a gap between the proposed development and Morda. This has been called into question by the local residents.

- 6.5.2 It is acknowledged that the development will be on agricultural land which is currently on the edge of Oswestry and provides a green gap between Oswestry and Morda. It is accepted that this will be an adverse impact of the development. However this needs to be balanced against the benefits and whether the harm is so substantial as to warrant refusal of the proposal.
- 6.5.3 To enable better understanding of this issue the application has undertaken and submitted a Landscape and Visual Impact Assessment (LVIA) in accordance with national guidelines. The LVIA deals with landscape effect – the changes to the landscape, separately from visual effect – how people are affected by the changes. This report notes that the site lies in the Natural England character area of Oswestry Uplands and the Shropshire Landscape Typology area of Principal Settled Farmlands. These character areas are described in detail in the LVIA but in summary are areas which are a mix of farming with sub-regular fields and hedge boundaries.
- 6.5.4 In assessing the effects the LVIA considers the change or loss of elements, features, aesthetics and perceptual aspects; addition of new elements and the combined effect; it considers all of the areas in and around the site that may be affected and advises whether the landscape is sensitive to change and how much of a change will occur. The report acknowledges that the site is sensitive to change and that the development will result in change but that the layout, design and retention of features will help to reduce the change in the longer term. The report also acknowledges that the nearby footpaths are sensitive to change but that the retention and supplementation of the hedgerows will reduce the effect of this change.
- 6.5.5 In considering visual impact the LVIA has assessed the impact on pedestrians, including walkers on the footpaths, motorists and residents. It acknowledges that the impact on residents of Glentworth Avenue is high but that this impact is on a private view predominately from upper floor windows. The impact on the properties on the opposite side of Love Lane is also high and from both ground and first floor windows due to these properties being elevated above the site. It also acknowledges that Love Lane and the footpath in the southwest corner of the site are highly sensitive but considers that the improvements to the hedge which will result from the development will mitigate against this impact.
- 6.5.6 The LVIA concludes that “there will be an impact on the landscape setting as a grazed field will be replaced with housing. However, the resulting settlement edge will be well defined, with additional planting and footpaths and open spaces being respected and enhanced. This landscape type can be found extensively within the area and its loss will not impact greatly upon the landscape character due to its scale and locality. It is considered that there is limited intervisibility with adjoining Landscape Character Areas minimizing any impact upon their setting. Visibility is contained to the vicinity of the site with distant views limited by terrain and vegetation. Views from residences and walkers are the most sensitive, and landscape mitigation measures are designed to help lessen the visual impact.

The landscape proposals should increase biodiversity and enhance the wildlife corridors.”

6.5.7 Officers have not assessed the proposal against the same guidelines as landscape and visual impact is a technical specialism which there is not anyone in the Council with the skills or experience. However, consideration of the landscape and visual impact can be still be made. Officers accept that the development of this site will alter the appearance of the site from Morda Bank, the footpaths in the immediate area, and from the view from Morda. However, officers also consider that this development will be read in context with the existing development to the north and west and that the retention of the open space around Cottams would provide a visual break between the historic village of Morda and the new development, which itself will appear as an extension to Oswestry. It is acknowledged that this visual break will be reduced, however the break is currently only a larger break on this side of Morda Bank, on the opposite side the Glentworth Avenue housing development has built within the break.

6.6 **Layout, scale and design**

6.6.1 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.

6.6.2 Within the design and access statement the agent sets out the aims of the development to design an attractive development which relates to the surrounding area and also take advantage of the surrounding countryside, provide new housing and an active frontage to Morda Bank whilst retaining the existing wall and hedge. The D&A also comments on the layout providing natural surveillance across the site with windows overlooking public spaces and private parking courtyards, defensible private gardens, a single point of access and the provision of street lighting.

6.6.3 The proposed layout is for a single point of access off Morda Bank. Either side of the access it is proposed to provide two drainage swales and two open spaces either side of the swales. These are intended to provide a drainage solution to the surface water for the site and also to set the proposed dwellings back from Morda Road and will be commented on later in the report. Along the back edges of the swales and open space are a mix of three terrace houses and 8 detached houses which will all but one have a frontage facing over the swales, open space and Morda Bank with access to these properties served by private driveways off the main estate road. The estate road leads from the access and then splits into a number of cul-de-sacs of properties with private drives off the cul-de-sacs. The affordable houses are all set together in one small group in the southeast corner of the site. The layout proposed provides the larger detached houses along the outside edges of the site along Morda Road and Love Lane with slightly higher density in the centre of the site and the southeast corner.

6.6.4 The amended plan details the proposed number of houses as 4 two bed, 23 three bed, 27 four bed and 5 five bed open market dwellings and 4 two bed and 2 three bed affordable dwellings. This would equate to 6 of the 65 dwellings being affordable and as such to meet the requirements of the adopted policy and current

prevailing target rate of affordable housing of 10% the developer would also have to provide a financial contribution towards off-site affordable housing. It is acknowledged that all six affordable houses would be social rented and in one area of the site. However this would not be un-expected for a site of this size. The Council policy promotes affordable housing to not be identifiable from open market housing and the proposed development is not, there are affordable and open market houses of the same size and design. The policy promotes small groups of affordable housing, up to 6 properties, to allow for ease of management. As such the proposal to group the 6 affordable houses together is considered to be acceptable.

6.6.5 The application form suggests that the dwellings will be finished in brick, render and horizontal timber boarding with interlocking concrete tiles to the roofs with the details and colour to be agreed. The stone wall to the roadside boundary is to be retained, except where the new access is proposed, for other boundaries around the site the application form proposes timber fences, brick walls and hedges. The design and access statement notes that there is a wide variety of styles and designs of properties in the local area.

6.6.6 Objections from the parish council and local residents have commented that the density and designs of the houses is out of keeping with the local area and that the designs are poor quality in comparison to the adjacent development which was supported by a development brief. It is acknowledged that the proposed development is of a higher density than the houses on the opposite side of Love Lane and off Morda Close, however these are very large houses in large plots, which at the time of development was appropriate for the market. The current proposal provides a mix of densities across the site with lower density along the north eastern boundary and the boundary with Love Lane and a higher density in the south eastern corner and the centre of the site. The number of properties proposed has been reduced since the public consultation and initial submission for the SAMDev and now proposes the number put forward in the final version of the SAMDev ready for submission to the planning inspectorate.

6.6.6 It is officers opinion that there is no set prevailing density in the surrounding area with houses being mixed in size and layout. It is acknowledged that the density of the development will be greater than the density of the adjacent developments. However the property sizes and plot sizes are considered to be acceptable. The layout provides small groups of dwellings off cul-de-sacs and the main estate road and provides every property with a private amenity space and two parking spaces, in addition to garages in most cases. The layout also provides open space along Morda Bank which will help with the feeling of openness whilst also retaining the roadside stone wall except for the access point. Overall the scheme is considered to be acceptable and well designed in terms of layout, scale, density and design and is therefore supported by officers.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. As a full application it is possible to fully consider the potential impact on the amenities of existing residential properties in the area. Concerns have been raised by objectors that the development will result in loss of light,

increased noise, risk of crime, pollution and loss of privacy.

6.7.2 The houses on Morda Close, on the opposite side of Love Lane, are at least 39 metres away from the proposed housing and as such are well above the suggested minimum distance between facing windows of 21 metres. The houses on Glentworth Avenue are also over 40 metres from the proposed housing and on the opposite side of Morda Bank. As such these properties are also over the recommended distance and therefore the development will not result in a loss of light or privacy for any of the existing residents.

6.7.3 It is acknowledged that the development of the site will result in a loss of outlook from the neighbouring properties and that this will alter the appearance of the site from these private dwellings. This is noted but the planning system does not protect private views. The impact on the wider landscape, the character of the area and visual impact have been considered previously in this report with reference to the LVIA.

6.7.4 The issues of pollution and noise are not supported with any evidence. It is recognised that new housing will alter the area and that there will be noise on a site which is currently quiet and increased traffic over the current levels. However, residential related noises and traffic and would not be unacceptable in principle. The traffic matters are considered in the next section and the issue of pollution resulting from the previous use of the site is considered later in the report.

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

6.8.1 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 to be reduced.

6.8.2 The site is accessed off Morda Bank which at this point is subject to a 30mph speed limit and has street lighting and existing footpaths on both sides of the highway, though the applicant acknowledges that the path on the southbound side varies in width. The submitted transport assessment advises that the site is 2km from the A5 and 1.5km from the town centre. The assessment has considered existing traffic movements, accidents, cycle and walking links, the proximity of bus stops and existing travel to work patterns, trips and potential trips from the development. A travel plan has also been submitted which intends to promote non-car travel through advertisement, home packs, funding, notice boards and marketing.

6.8.3 Local concern has been raised about the increase in traffic on Morda Bank and also on the wider highway network, the roads leading into the town and the roads leading to the A5. Concern has also been raised about road safety; the access being inappropriate; insufficient parking; insufficient pavements; poor public transport links, especially in the evenings and at weekends; and the impact on Love Lane. The applicant's submission and all of the objectors relevant comments have been considered by the Council Highway Officer, who has

assessed the proposal in line with national guidance but also taken into account local circumstances and knowledge.

- 6.8.4 The Highway Officer has confirmed that they have no objection to the development. The visibility splays proposed from the single point of access are acceptable and meet the recommendations in 'Manual for Streets' and would not result in significant highway safety implications. Although a roundabout may be locally preferred and may also result in traffic calming the Highway Officer has advised that it would not be necessary for this scale of development but has recommended the provision of speed visors. These would need to be paid for through a section 106 financial contribution.
- 6.8.5 The Highway Officer has also confirmed that the site layout and parking provision is acceptable. That the predicted level of traffic movements can be accommodated into the existing highway network without any adverse traffic or highway safety implications.
- 6.8.6 Government guidance advises that it is appropriate to consider walking and cycling as alternative means of travel for trips up to 2km and 5km. This would therefore enable trips to the local food store, school and town centre by foot or bicycle. However, officers acknowledge that these are not always practical. A further alternative is the use of buses and the site is within 30m of bus stops on both sides of the road. These stops would enable access to the town during the day times and early evenings and although it does not permit all travel to be undertaken by non-car means there are opportunities to provide for journeys not using the car. As such officers consider that this site complies with the promotion of alternative means of travel.
- 6.8.7 The Highway Officer has also acknowledged the local concerns about the potential impact of the development on Love Lane if the properties are allowed to create accesses onto the lane. Although Love Lane is a unmetalled track it has full highway status. The layout of the site is such that Plots 1 to 15 have rear boundaries to Love Lane and the highway authority are, in agreement with the local community, concerned at any potential for rear access to be gained onto Love Lane. As such the highway authority would, in the strongest terms, request that a planning condition is imposed upon any consent granted which would have the effect of preventing any permitted development rights to have access, pedestrian or vehicular, to Love Lane.
- 6.8.8 The Council Rights of Way Officer has also confirmed that he has no objection and is supportive of the position of the right of way across the site being through the open space. No comments are made on the impact on Love Lane, however this may be as there is no direct impact from the development at this time and the above proposed condition would prevent any future impact.
- 6.9 **Ecology and trees**
- 6.9.1 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. An ecological survey and an arboricultural assessment have been undertaken and submitted with the

application and these have been considered by the Council's Ecologist and Tree Officer.

- 6.9.2 The applicant has acknowledged the potential for ecology in the immediate area and also identified that the site is currently bounded by established trees and hedges. The proposal is to retain as much of this existing landscaping as possible to retain the features and habitats whilst also providing additional landscaping and habitats. The applicant's consultant has undertaken two surveys of the site and although they acknowledge that the first survey was not done in the optimal survey period the second survey is considered to be sufficient.
- 6.9.3 The surveys conclude that there is no evidence of bats using the trees as roosts; evidence of holes but no other evidence to show that these holes are used by badgers; no suitable amphibian habitats but the hedgerows may be suitable for foraging and commuting; and the hedgerows and trees may also be suitable for nesting birds. With regard to Great Crested Newts the survey notes 5 ponds within 300m but that 4 of these lie on the south of the river and the other is a fishing pond. As such the survey considers that the likelihood of GCN being present is low.
- 6.9.4 Within the recommendations of the report the consultant advises on pollution prevention during development; tree and hedge protection during development; controlling external lighting; checks for bats and nesting birds and enhancements around the public open spaces and swales to improve the existing habitat of the agricultural land after the development. The improvements proposed include planting of species rich grassland and the erection of bat and bird boxes.
- 6.9.5 The comments of the Council Ecology Officer are provided in full at 4.1.8 above and conclude that, subject to conditions and informatives the development will not have a detrimental impact on statutorily protected species. It is acknowledged that the development of the site will alter the habitat but officers consider that the improvements proposed will result in habitat enhancements and not result in a significant impact on the European RAMSAR site. Furthermore the site proposed landscape masterplan, which incorporates public open space, additional native tree planting, enhancement of the boundary hedgerows and the development being set back from Morda Road, thereby creating a green buffer zone to include swales and native species planting will respect the function of the Shropshire Environmental Network as required by Policy CS17.
- 6.9.6 A tree survey has also been carried out and assesses the condition of the 9 existing trees, 3 groups of trees and the hedgerow and recommends tree retention, root protection and monitoring of the condition of the trees. In order to facilitate the development there will be some loss of trees and hedges to form the accesses and layout proposed. 30m of hedge will be removed to form the vehicular access and two sections of 5m length will be removed to form pedestrian accesses, however the removal of these short sections is considered to be acceptable and will be more than mitigated by the additional landscaping proposed. 10m of hedge is required to be removed to accommodate the layout and some crown reductions may be required to ensure that retained trees do not impact on amenities of future residents. One tree is to be removed due to its condition and public safety, however as with the roadside hedges the proposed landscaping will

more than mitigate for these changes.

6.9.7 Full landscaping details are provided which includes planting of new native trees and ornamental species, infilling of existing hedging, planting of new hedging, including low hedges along the frontages of some of the properties and planting of species rich grassland and wildflower meadows. Protection of existing trees and hedges is proposed, including no-dig construction methods in root protection zones. As with ecology it is acknowledged that the development will alter the character of the site in terms of the trees and the hedges, however the proposed landscaping is considered to be appropriate and will more than mitigate any loss of trees and hedges and as such the proposed development complies with policy CS17 in this regard.

6.10 **Drainage**

6.10.1 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 foul drainage is proposed to be connected to the existing mains sewerage system in the local area and there are foul sewers available in the junction of Glentworth Avenue and on Morda Bank, and the surface water is to be discharged to a sustainable drainage system and on site pond. A flood risk assessment has been submitted with the application and this details the local features including the un-named ditch on the south boundary and the river Morda. The FRA considers that the site has low risk of surface water flooding but that the land to the north and east is at high risk.

6.10.2 The FRA also advises that the site is suitable for infiltration or attenuation drainage as detailed in the Shropshire Council information. The report considers the potential for all types of flood risk and acknowledges that the land adjacent to the site is at high risk of pluvial flooding but that the site itself is not. Tests have been undertaken on site which have shown that not all of the site is suitable for soakaways and as such the proposal includes the 2 swales at the roadside. These swales are intended to store surface water drainage and thereby reduce the rate at which the water discharges to the sewer. It is intended that planting be provided around the swales to increase the attractiveness of the area and to encourage biodiversity. This land and the swales would need to be maintained either by Shropshire Council or by a management company and this can be controlled through the S106.

6.10.3 The Parish and local representations have raised significant concerns about the potential for management of surface water and flooding; the use of swales which may also be dangerous and problematic and the impact on the mains foul system. These concerns are noted and are valid material planning considerations. However, there is no evidence of a lack of capacity in the sewerage system and the developers have a right to be provided with a connection by the sewerage operator. As such this will be a matter for negotiation between the developer and the provider.

6.10.4 With regard to surface water drainage the Council Drainage Engineer has not raised any objection to the proposed development or the intended use of swales. They have advised that the water collected in the swales will be released to the

existing adopted surface water system at an equivalent rate to the existing greenfield run-off and have requested additional information to show that the exceedance flows can be contained. The details can be provided at a later date by conditioning the proposal and these details would need to show how the development of the site deals with the surface water from the site without increasing flood risk. The details can also include the requirement to show the ground levels before and after to show the depth of the swales and as advised by the Drainage Engineer a deeper swale would reduce the potential for smell and sludge.

6.11 **Other matters**

6.11.1 The Parish Council and local objectors have also raised concerns that the site was used to bury cattle from the 1967 outbreak of foot and mouth and that this will have contaminated the land. To enable proper consideration of this issue the Council Public Protection Team has been consulted and have provided a very detailed response at 4.1.5 of this report. In summary the advice is that there is no risk to human health from building above carcasses disposed during foot and mouth; that leaching would have been likely for around 20 years and as such ceased some time ago; but that ground stability may be an issue which the developer will need to take into account.

6.11.2 As noted above the application also proposes an area of open space between Morda Bank and the proposed housing. This area of land is sufficient to meet the requirements of the Shropshire Council Supplementary Planning Guidance. The provision of play equipment would be a matter for the Town Council under the CIL regulations and using CIL monies. The maintenance of the open space could either be transferred to the Parish Council or undertaken through a maintenance company paid for by the occupants of the properties on the development site. This matter can be dealt with through the submission of a maintenance agreement which can be controlled by a clause in the S106.

7.0 **CONCLUSION**

7.1 The site is located outside the current development boundaries of both Oswestry development boundary and is therefore classed as a departure from the development plan. However, it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from transport links and the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The proposed layout, scale and design are considered to be appropriate providing an appropriate density and layout; respecting the existing road frontage, Love Lane and retaining a gap between the development and Morda and will not result in unacceptable harm to the amenities of the neighbouring residents.

7.3 The development can be provided with appropriate vehicular access, internal layout and open space. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements and will not be harmful to local

habitats or biodiversity.

- 7.4 Accordingly, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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.



Committee and Date

North Planning Committee

1 July 2014

Item

6

Public

Development Management Report

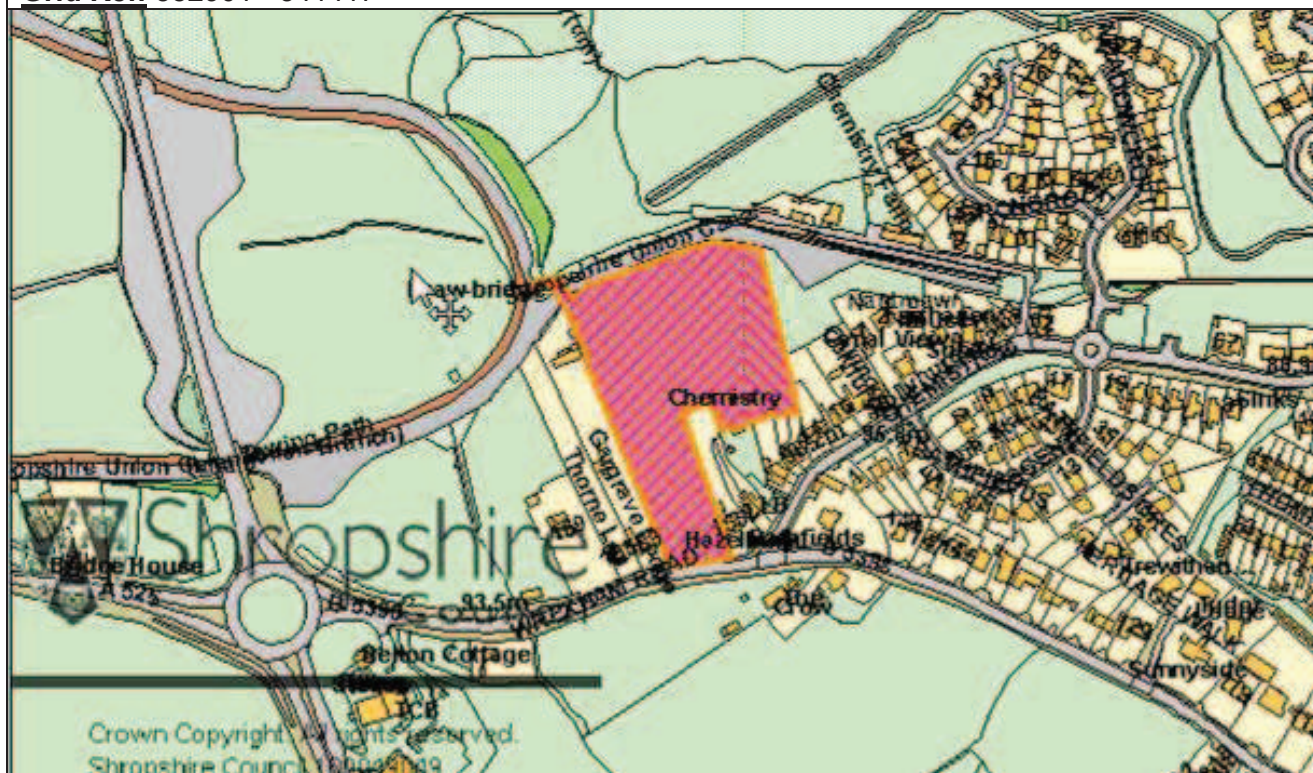
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/00459/OUT	Parish:	Whitchurch Urban
Proposal: Outline application (access, layout, scale, landscaping for approval) for mixed residential development; formation of vehicular access and estate roads; associated infrastructure works;		
Site Address: Development Land East Of 163 Wrexham Road Whitchurch Shropshire		
Applicant: Leith Planning Investments Limited		
Case Officer: Jane Preece	email: planningdmne@shropshire.gov.uk	

Grid Ref: 352901 - 341417



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Recommendation:- Approve, subject to the applicants entering into a S106 agreement to secure the affordable housing contribution and financial contributions towards traffic management/calming measures being introduced along Wrexham Road between the A41 roundabout and Chemistry junction and to the recommended conditions of approval listed in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This report is an addendum to the report presented to members in June 2014 which detailed the proposal for outline planning permission for residential development of on 1.54 hectares of land to the east of Wrexham Road, Whitchurch.

1.2 The following report seeks to advise members on their resolution that Committee were minded to refuse the application. The minutes of the meeting record that members raised the following concerns:

- Density, scale of development and layout
- Highway safety and visibility

These issues will all be considered, however it is not intended to re-visit the issues dealt with in the previous report and the June report is appended for information and reference.

2.0 MATTERS FOR CONSIDERATION

- Density, scale of development and layout
- Highway safety, number of accesses and visibility

2.1 Density, scale of development and layout

2.1.1 Members raised concerns about the density of the proposed development, the proposed layout and number of dwelling and that the proposal would change the character of the site.

2.1.2 The application considered by members at the June meeting was for outline planning permission for 31 dwellings with access, scale, layout and landscaping submitted for approval. As such the number of dwellings and layout, and as such the density and scale of development, were submitted for consideration by members. However, since the June meeting, and taking note of members concerns, the agent has removed layout and landscaping from the matters to be considered. As such only the access details are to be considered and all other matters reserved for later approval. It is therefore for members to determine whether the principle of developing the site is acceptable or not. The number of houses, layout, appearance and landscaping will then need to be re-considered and submitted under applications for approval of reserved matters. Which can be referred back to the committee for consideration.

2.1.3 Officers consider that the site is acceptable in principle. Notwithstanding the indicative plan submitted previously, the site could be developed for housing at a lower density, or with the appearance of a lower density, which would better reflect the character of the area and the view of the site from the wider area. As such it is advised that, following deletion of scale, layout and landscaping from

consideration at this outline stage, there is no longer a reason to refuse the application on these grounds.

2.2 Highway safety, number of accesses and visibility

- 2.2.1 Members raised concern about the proposal for three accesses to the site, two serving single units and the main access to serve 29 dwellings. The concerns were around the lack of visibility from the proposed accesses; the impact of these new accesses on visibility from Chemistry; the increase in traffic and the speeds of traffic along Wrexham Road.
- 2.2.2 The Council Highway Officer provided a detailed response in the June report which raised no objection to the application on the grounds of transport links, highway or access matters.
- 2.2.4 Paragraph 32 of the NPPF advises that to refuse applications on highway capacity grounds the residual cumulative impacts of the development need to be severe. It is acknowledged that the traffic levels will increase and may seem locally to be a problem, but the levels of movements which will result from the development are not sufficient to warrant refusal and would not be defensible on appeal. As such, and as advised at the June meeting, officers consider that a refusal on the grounds of increasing traffic would not be defensible.
- 2.2.5 The main concern raised by members was the issue of visibility and the speed of traffic. Although members acknowledged that the proposal included some improvements to the highway in the immediate area at the time of the June meeting there were no details of the improvements and this was a matter of concern for members. Since the June meeting the applicant's highway consultant has provided detailed plans and schedule of proposed improvements which have been considered by the Council Highway Officer.
- 2.2.6 The improvements consist of:
- Widening the footway across the frontage of the site which will provide improved pedestrian accessibility and also improve visibility from Chemistry
 - Reconfigure the junction of Chemistry with Wrexham Road by increasing the bellmouth of the junction, reconfiguring the kerb on the western side of Chemistry junction and moving the give way line further into Wrexham Road. This will slow traffic approaching from the west and increase visibility.
 - Widen the footway east of Chemistry along Wrexham Road
- All of these details are shown on the plans which will be presented at the committee meeting.
- 2.2.7 The Council Highway Officer has reviewed the submitted information and confirmed that the details shown on the plan are as agreed with Sandy Macdonald (the applicant's highway consultant) in that they depict the current situation and proposed highway alterations. The plans further demonstrate that the proposals ensure that the development access point fully meets the accepted highway criteria standards and in addition provide a material improvement of the Chemistry road junction, both in terms of its layout but also the measure of visibility available to drivers exiting onto Wrexham Road. The highway authority fully support these

proposals and would further advise that an objection on highway safety grounds to the development scheme is neither warranted or sustainable.

2.3 **Other matters**

2.3.1 As noted above the application has been amended since the June committee meeting in that the layout, scale and landscaping details previously submitted for consideration have been removed and the application is now for outline consent with only the access for consideration. Officers re-consulted on this change and a further five letters of representation have been received raising the following concerns:

- No demand for more housing
- Access is not safe
- Junction of Chemistry and Wrexham Road has poor visibility
- Increase in traffic

None of these matters are new issues and all have been considered in detail either in the original report to members in June or this addendum report.

One further letter of support was also received commenting that there is no cause for concern on highway matters and that Whitchurch desperately needs new houses.

3.0 **CONCLUSION**

3.1 Officers have sought to advise members within this report of the issues raised at the June meeting. The submitted scheme has been amended to remove the layout and landscaping from consideration at the outline stage and as such removes the issues of the density and scale of the development and further information has been provided with regard to highway safety and visibility. As such, the officer's recommendation remains the same as that presented at the June meeting, which is that, subject to the applicants entering into a S106 legal agreement to secure affordable housing and a financial contribution towards traffic management/ calming measures being introduced along Wrexham Road between the A41 roundabout and Chemistry junction, and subject to conditions, that planning permission should be granted.

3.2 The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to CS5. However the site is considered to be in a sustainable location; will provide open market and affordable housing; safeguard trees, landscape character and biodiversity, can be provided with an appropriate access and drainage and is therefore considered to be an appropriate site to provide sustainable development. Policy 47 of the National Planning Policy Framework sets a presumption in favour of sustainable development and the proposal accords with policies CS6, CS17 and CS18 of the Shropshire Council Core Strategy and the National Planning Policy Framework.

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.

6.0 **Background**

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS7 - Communications and Transport

CS8 - Facilities, Services and Infrastructure Provision

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS15 - Town and Rural Centres

CS16 - Tourism, Culture and Leisure

CS17 - Environmental Networks

CS18 - Sustainable Water Management

D7 - Parking Standards

SPD Type and Affordability of Housing

7.0 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 APPENDIX 1 - Conditions

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

1. Details of the design and external appearance (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 (Development Management Procedure) Order 2010 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 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.

5. Work shall be carried out strictly in accordance with the submitted Water vole method statement by UES updated 6th May 2014.

Reason: To ensure the protection of water voles.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works and shall be carried out in full compliance, and maintained in accordance with the approved details.

Reason: The site is known to hold archaeological interest.

7. No development shall take place until a landscape management plan, including management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, has been submitted to and approved by the local planning authority. The landscape management plan shall be carried out as approved.

Reason: To secure the provision, establishment and long term management and maintenance of all landscape areas.

8. Notwithstanding the details shown on the approved landscaping plan and tree root protection zones, no development or clearance of vegetation shall take place until a scheme of additional landscaping and tree route protection details, to take into account the submitted comments of Shropshire Councils' Ecologist and Tree Officer and the Canal and Rivers Trust, has further been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be carried out as approved. The submitted scheme shall include:

- a) Planting plans, including wildlife habitat and features for water voles
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate
Native species used to be of local provenance (Shropshire or surrounding counties)
- d) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- e) Full details of the proposed pools/swales
- f) Implementation timetables.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

9. Prior to the commencement of work on site a 10m buffer shall be fenced off parallel to the banks along the length of the water course, to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone. The fencing shall be as shown on the plan contained within the water vole method statement by UES updated 6th May 2014.

Reason: To ensure the protection of Water Voles, a protected species under the Wildlife & Countryside Act 1981 (as amended).

10. Notwithstanding the submitted details, no development shall take place until full details of the surface water drainage details have first been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

Reason: To ensure that (i) soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding and (ii) surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the

waterway structure, water quality and the environmental network and associated ecology.

11. No development shall commence until a contoured plan of the finished road levels has been submitted for the prior approval of the local planning authority, together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 - where exceedance flows up to the 1 in 100 years plus climate change shall not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. The development shall be carried out strictly in accordance with the approved details prior to the first occupation.

Reason: To ensure that any such flows are managed on site.

12. No development shall commence until full details of the layout of the proposed foul sewage system, along with details of any agreements with the local water authority, have been submitted to the local planning authority for prior approval. The development shall be carried out strictly in accordance with the approved details and prior to the occupation of any dwellings.

Reason: To ensure the proper drainage of the site and to minimise the risk of pollution.

13. No development shall take place until full construction details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved buildings occupied.

Reason: To ensure a satisfactory means of access to the highway.

14. No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is occupied.

Reason: To ensure a satisfactory access to the site.

15. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

16. No works shall commence of the formation of any driveways until material and constructional details of the porous surfacing of the driveways, together with details of a drainage system to intercept water from any driveways that slope towards the highway 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 no surface water runoff from the new driveway runs onto the highway.

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

17. Prior to the first occupation of the dwellings details of 10 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.

18. 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.

19. Prior to the first occupation of the dwellings details of 10 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.

APPENDIX 2 REPORT TO COMMITTEE 3RD JUNE 2014

1.0 THE PROPOSAL

- 1.1 The application seeks outline planning permission for the erection of 31 dwellings on 1.54 hectares of land located to the east of Wrexham Road, Whitchurch. The outline application also includes the formation of vehicular access and estate roads to serve the proposed development site, together with the site layout and landscaping. Only matters relating to appearance are reserved for later approval. Whilst the application as originally submitted also included for the provision of a pedestrian bridge over the canal that aspect of the scheme has since been deleted.
- 1.2 The means of access will be directly off Wrexham Road. Twenty seven of the dwellings are intended for the open market and four are intended to be social rented.
- 1.3 For foul drainage disposal the development would be expected to connect to the mains sewer. The surface water from the development is proposed to be disposed of to soakaways and an existing watercourse. Pools and swales are also included within the landscape proposals to accommodate storm water drainage, in addition to providing naturalistic habitat with native species.
- 1.4 To assist the consideration of the application the submission is accompanied by various plans and documents, including a planning statement; a design and access statement; a transport statement and assessment; a flood risk assessment and drainage information; a landscaping visual impact assessment and landscape information/images; an arboricultural report, tree survey and assessment; an ecological appraisal and water vole report and method statement; a heritage statement and historical images; an affordable housing statement and a statement of community involvement.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposal relates to 1.54 hectares of pasture land on the western side of the market town of Whitchurch, located between 163 and 155 Wrexham Road and extending northwards to the Llangollen /Shropshire Union Canal. The site is L-shaped in area.
- 2.2 In terms of current development plan policies the site sits within an area defined as open countryside. In terms of emerging policy the site is not included as a draft allocation in the Pre-Submission version of the Site Allocations and Management of Development (SAMDev) Plan, which is currently open for representations on its 'soundness'. However, the site has been assessed as a potential option and on the basis of the information available was considered to represent a realistic option for development and a site with long term potential in the draft SHLAA 2014. Whilst the site is not within it is contiguous with the development boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is a both a major application and an application where the Parish Council have submitted a view contrary to officers based on material planning

reasons and where the Principle Planning Officer and the Local Member and Committee Chair agree that the application should be determined by the relevant Planning Committee

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **SC Drainage: No objection.** Recommend conditional drainage details for further approval should outline consent be granted.
- 4.1.2 **SC Affordable Housing Officer: No objection.** Current levels show an overprovision of affordable housing. However this will be reviewed and agreed at the time of the full or reserved matters application as will the size and tenure of the affordable units. Any outline consent would need to be subject to a Section 106 Agreement to secure the affordable housing contribution.
- 4.1.3 **SC Public Protection: No objection.** Electric charging points should be included within the development to allow for ultra-low emission vehicles. (NB: Whilst this is recommended as a conditional requirement it has become accepted practice to alternatively attach this advice as an informative).
- 4.1.4 **SC Tree and Woodland Amenity Protection: No objection** in principle. Support the retention of a buffer zone along the canal and retention of the veteran Oak tree in the North West corner of the site which must be retained in open space (15m radius root protection area) and not end up in a garden or too close to property.
- 4.1.5 **SC Archaeology – No objections.** A satisfactory heritage impact assessment has been submitted with the application. Recommend an archaeological watching brief be made a conditional requirement of any consent granted.
- 4.1.6 **Welsh Water** – No comments received.
- 4.1.7 **Inland Waterways - Neutral.** The layout appears to treat the canal as an asset, preserving the green edge and providing suitable landscaping.

Understand that when the developers held an exhibition explaining the project they promised that they provide a road access to the moorings on the southern bank of the canal. This should be the subject of an enforceable planning condition. The present 'off-side' moorings depends on people being able to walk round the current end of the arm, which would no longer be possible with the extension of the canal to the planned new basin. A gate from the proposed housing development would mean that convenient access is maintained.

Not convinced of value of a footbridge linking the site to the towpath. Would be close to the existing lifting bridge and not visually harmonious.

Note that the site is not one of the SAMDev Revised Preferred Options for housing development at Whitchurch.

If the scheme is approved, it would be desirable for a S106 contribution to be made towards the proposed extension of the Whitchurch Canal Arm.

(NB: The comment road access and gate provision is considered to have been superseded with the deletion of the proposed bridge from the scheme).

- 4.1.8 **SC Planning Policy – No objection.** Whilst the site is not being proposed through the SAMDev Plan, it is acknowledged that in the absence of a five year supply of land, greater weight needs to be given to the NPPF's 'presumption in favour of sustainable development'. It is considered that key issues with this site are potential landscape/visual and ecological impact, and on both these counts it is acknowledged the applicant has provided significant further survey work in order to assess and mitigate any issues. It is considered the site is contiguous with the development boundary and self-contained. The site is of a relatively modest scale and whilst it will provide further housing for Whitchurch, it is considered unlikely to undermine the delivery of preferred sites elsewhere in the town.
- 4.1.9 **SC Rights of Way – No objection.** With the removal of the bridge from the scheme there no longer appear to be any implications for public rights of way.
- 4.1.10 **Canal and Rivers Trust – No objections,** subject to the imposition of recommended conditions and informatives. The removal of the bridge crossing from the proposals has addressed our previous concerns that the crossing would create operational difficulties for the Canal and Rivers Trust and affect our ability to maintain, protect and enhance the Llangollen Canal. Biodiversity should be considered and any impacts suitably mitigated. Submitted water vole survey is welcomed. Proposed landscape appears to fit in with rural characteristics. Proposed hedge should be high enough to shield the view of vehicles from the canal. Proposed drainage arrangements, pools and swales has potential to impact on structural integrity of the canal – further conditional details are required in this regard. Consideration should be given to protecting the quiet enjoyment of boaters and residents to prevent future conflict.
- 4.1.11 **SC Learning and Skills – No objection.** Primary school places in Whitchurch are forecast to come under severe pressure as a result of the proposed allocation of significant numbers of new dwellings to the town in the plan period. Shropshire Council's Learning and Skills Division has been working with Planning Policy officers to ensure that the costs of any forecast need for additional school places or building enhancements in the town will be sought from the developers of housing schemes, of which, this proposed scheme is one.
- 4.1.12 **Shropshire Wildlife Trust –** Unable to make informed comment without an ecological survey. The NPPF requirements on conserving and enhancing the natural environment also need to be considered. The Natural Environment and Rural Communities Act 2006 also places a legal duty on the planning authority to have regard for the conservation (and restoration and enhancement) of biodiversity.
- 4.1.13 **SC Ecology – No objections.** Recommend conditions and informative relating to

water voles, bats and nesting wild birds. Water voles: no water voles recorded during January 2014. However, are multi water vole records within 100m of site. Coir rolls pre-planted with native aquatic plants were installed on this length of canal recently. The submitted water vole method statement shows a 10 metre buffer zone to the canal where works are to be limited and supervised by an ecologist. Details of management of the proposed landscaping to support water voles should be conditioned. Bats: Hedgerows, trees, watercourses and other natural habitats have potential to be used by commuting, foraging and roosting bats. Bat boxes are recommended as is the control of lighting. Nesting birds: hedgerows and trees on the site boundaries have potential for nesting birds. Bird boxes are recommended.

- 4.1.14 **SC Highways – No objection**, subject to S106 contributions towards traffic management/calming measures being introduced along Wrexham Road between the A41 roundabout and Chemistry junction and recommended conditions.

Key Issues:

Access

The development site access is located a short distance to the west of the current 30 mph speed limit along Wrexham Road, which then changes to the national speed limit of 60 mph leading to the A41/Wrexham Road roundabout. The 30 mph speed limit is supported by dragons teeth and red carpet 30 roundel treatment. The site is proposed to be served via a single principle estate road junction onto Wrexham Road with 2 individual dwellings served via separate driveways directly onto Wrexham Road. Visibility splays are provided based upon Manual for Streets guidance relating to 30 mph traffic speeds. The applicant however is prepared to fund traffic calming measures between the A41/Wrexham Road roundabout junction towards the site. The highway authority considers the access and visibility standards to be acceptable.

Layout

The layout provided is indicative at this stage and details would be provided as part of a reserved matters application.

As part of the application, proposals have been put forward to increase the footway width along the site road frontage together with alterations to the Chemistry junction and footway widening to the east of Chemistry. These are considered positive measures in potentially reducing traffic speeds in the locality. These, together with the traffic calming measures above could be included within a Section 106 Agreement.

Traffic

Whilst a Transport Statement (TS) is not required given the scale of the development, a TS has nevertheless been prepared which considered the impact of the traffic on the local highway network. The TS acknowledges that the location of the site is such that routing into the town centre is available via Wrexham Road or Chemistry. Traffic counts have not been undertaken as part of this application, however Automatic Traffic Count traffic data, traffic counts have been undertaken

along Wrexham Road in connection with a current live application further to the east of this site to be accessed off Wrexham Road. This provides evidence of traffic movements along Wrexham Road to the east of the Chemistry junction although traffic levels may be more varied past the site access due to the Chemistry junction which would influence traffic flows travelling to and from the A41/Wrexham Road roundabout junction. However, having regard to the scale of the development is considered that the development proposal would not materially increase traffic levels on the road network.

The highway authority recognise the close proximity of the site to the A41 by-pass, which is likely to influence travel routing, particularly during the peak traffic periods.

In addition to the above, the TS and potential traffic generation has also been considered having regard to the near neighbouring development site to the east along Wrexham Road where a further 40 dwellings are proposed. It is considered that the cumulative impact of both sites coming forward does not raise highway capacity issues.

Parking Issues along Wrexham Road

Notwithstanding the above, there are local issues surrounding the on-street parking which takes place along Wrexham Road between Thompson Drive and Joyce Way, which lead to congestion. At present cars park along the southern side of Wrexham Road adjacent to properties which do not have on-site parking facilities. The effect of this length of on-street parking restricts the carriageway to single car width. Discussions have taken place with the applicant's agent to consider potential mitigation measures which may include Traffic Regulation Order(s) to stagger permitted parking lengths along Wrexham Road.

When considering the above it is the highway authority's view that the potential impact of the development upon traffic/on-street parking issues, which currently exist, would not be materially worsened. As stated previously Chemistry provides an alternative route into the town centre. Moreover, it is considered that a highway objection in this regard would not be sustainable. Nevertheless the applicant is prepared to make a financial contribution towards potential mitigation measures which may. Whilst the highway authority would welcome such a financial contribution we do not consider that the tests of Section 106 would be met in that the development is not required, in the highway authority's view, to provide such provision to make the development acceptable. The highway authority would recommend that Members do not give this weight in their consideration of the development proposal.

Sustainability

Bus services are available within reasonable walking distances from the site to gain access to and from the site. The site is outside of a 15 minute walking distance to the town centre but within reasonable walking distance of the Co-op foodstore. The site however is well located in terms of distance and topography to promote cycle use between the site and town centre. The highway authority conclude that the site is sustainable in transport terms.

4.2 Public Comments

- 4.2.1 **Whitchurch Town Council – Object.** Objection on the grounds that the excess traffic and new roads which would be created as a result of this development would make an already hazardous road even more dangerous.

A petition was raised by the residents of Wrexham Road, which had more than 500 signatures, objecting to developments in this area and it was consequently removed from the SAMDev Preferred Options Report.

The Town Council have also requested information appertaining to who permission would need to be sought from in order to erect the proposed bridge over the canal.

- 4.2.2 **Public Representations** - A significant number of representations have been received, both objecting (28) to and in support (20) of the application. The main points raised relate to:

Objections

- The proposal is being driven by profit and not in the interest of the community.
- Traffic issues. The highways will not accommodate the proposed traffic levels that will be generated. The highway is currently hazardous with blind spots and parked vehicles.
- Loss of green space. Development of green land is not acceptable.
- No justification for housing being required in this area.
- There are other more appropriate areas in the town to develop.
- Instead should consider renovating existing derelict buildings to use as housing.
- Impact on ecology.
- Voles are known to habit the canal and their numbers have declined.
- Flood risk. Drainage is an issue in this area with flooding occurring regularly.
- Loss of views over the countryside.
- Devaluation of nearby properties.
- There are insufficient jobs, school places, or capacity with doctors surgeries to accommodate a higher population.
- Increase noise levels. Construction works will cause problems for existing occupiers in the area through noise and dust.
- Overlooking potential. Loss of light and privacy to nearby dwellings.
- Some dwellings have been located to be overbearing to existing dwellings.
- There will be a loss of natural night light and therefore affect the ability to watch the night skies.
- Insufficient garaging has been provided particularly for the larger dwellings. These should also be appropriate in size.
- More parking provision should be made as part of the development.
- Residents will not walk or cycle into town as the road is too dangerous and the footpaths are too narrow.
- The proposed access and parking arrangements for the two dwellings

- fronting Wrexham Road are dangerous.
- More consideration should be given to using green energy such as solar panels.
 - Proposed footbridge will encourage constant gathering of people causing problems for residents and visitors and disturbing wildlife.
 - Proposed footbridge will be an eyesore, visually intrusive and out of keeping with the rural setting.
 - Proposed footbridge will create navigational problems and is not DDA compliant.
 - Proposed footbridge will be of no real benefit to pedestrians or canal users.
 - Development adjacent to the canal will ruin its current rural appearance.
 - The easy access to the canal will also lead to increased litter being dropped from McDonald's through the new estate, along the canal etc.
 - Additional access to and usage of the towpath will lead to less canal users being encouraged into the town.
 - The land should be donated for community uses and not developed.
 - Use of site for allotments or as a campsite would better benefit the community and compliment tourism.
 - There is no guarantee that the landscaping proposals will be carried out once the housing is constructed.
 - The public transport arrangements in the area are not adequate to serve the proposed dwellings.
 - The scale and design of the development is not in keeping with the context of the area.
 - The proposal is inappropriate and unsympathetic to the character and appearance of the area.

Support

- Proposal is a good use of a small field. Seems a very well prepared and sensitive plan.
- The land is small and cannot be viably integrated with any other farmland in the vicinity.
- Other developments have been approved where on-street parking issues have been overcome.
- This small scheme could stimulate the town economy without having much impact on larger proposed developments.
- There potential purchasers already in Whitchurch looking for accommodation who are already in employment and registered with doctors, schools and using the local facilities etc. There is a lack of housing for such local people seeking new family homes, upsizing or downsizing.
- There's a lack of affordable housing in the vicinity and an urgent need for housing for those of the social housing register.
- The governments help to buy scheme only applies to new houses and there are presently none in town, forcing local people to move away.
- The development has been well laid out with a buffer strip for wildlife along the canal.
- The proposal provides suitable housing in a favourable location.
- The site has good/convenient links both to the town and the national road

- network via the by-pass.
- Extra residents in the town will provide additional support to businesses and shops which need all the new custom they can get.
 - Proposed housing layout and mix will make a positive contribution to the housing stock of Whitchurch.
 - Will provide a nice place to live. The site is not overcrowded, will be well landscaped and should fit in nicely with the area.
 - This housing development will benefit Whitchurch.
 - An excellent, well thought out development and perfect location to build.
 - Pleased to note the inclusion of desperately needed affordable housing.
 - Footbridge will be useful for boaters to access Esso station, store and McDonalds and will add business to those facilities.
 - Will be a modest estate, totally in keeping and being on the edge of town close to the by-pass will have little or no impact on Wrexham Road or Chemistry.
 - As local, regular car user always use the by-pass and sure residents will do the same.
 - Will add a welcoming area to people travelling along the canal.
 - Ideally situated for people employed elsewhere but who would still bring money back to the town.
 - Will resolve certain access problems to the canal.
 - The town needs to grow to support local commerce. This is a small, unique and well planned development.
 - Will create opportunities for increased trade in the area, supporting local businesses.
 - Will create opportunities for increased tourism beneficial to the town.
 - Regularly use Wrexham Road and the traffic moves quite quickly, even at peak times.
 - The previous developments at Joyce Way and off Liverpool Road have not had a negative impact on Wrexham Road, despite objections at that time.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Affordable housing
- Layout and character
- Highways
- Drainage
- Ecology
- Impact on residential amenity
- 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 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 Paragraph 49 of the NPPF states that 'relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. In September 2013 the Council published an updated '2012 Five Year Housing Land Supply Statement' which calculated a housing land supply of only 4.95 years for Shropshire as a whole and questions have since been raised as to whether this supply is fully deliverable. Turning to paragraph 14 of the NPPF relating to the presumption in favour of sustainable development this means that 'where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted'. This has the effect of changing the balance of the material considerations in favour of 'boosting housing supply' (a Government priority) and the relative weight that can be attached to the Core Strategy, saved Local Plan and emerging SAMDev Plan housing policies.
- 6.1.3 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. On this basis the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, given that it has been established that limited weight should be given to this housing 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'. 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 Although it is acknowledged that the site is not brownfield it is considered to form part of the urban fringe of Whitchurch. The proposed site is contiguous with the development boundary and has road frontage onto Wrexham Road, which provides access to the A41/A49 Whitchurch by-pass to the west and the town centre to the east. Allowing for this context and setting the site is considered by officers to present a sustainable location for residential development with appropriate transport links. It is also accepted by officers that that the site is reasonably 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, therefore as a site on the edge of Whitchurch and well related to the existing built form and infrastructure the application can be supported as a departure from the adopted policies in line with the presumption in favour of sustainable development in the NPPF.

- 6.1.5 In considering this site for inclusion in the emerging SAMDev Plan, the Councils' Planning Policy Officer advises that: 'the site has been subject to a technical assessment process and sustainability appraisal. The site was considered to have an 'average' sustainability, reflecting its close proximity to a bus route and open space, but being more than 480m from a primary school, local park, play area or recreation facilities. Whilst these issues continue to have relevance, it should be remembered the context of this assessment was to determine potential site allocations rather than assessing specific planning applications.'
- 6.1.6 Otherwise, the principle issues raised by the application relate to highway matters, potential landscape/visual and ecological issues and these are discussed further in sections 6.3 and 6.4 below.
- 6.2 Affordable Housing**
- 6.2.1 Policy CS11 of the Shropshire Core Strategy requires all housing developments to contribute to affordable housing in accordance with the Supplementary Planning Document (SPD) on Type and Affordability of Housing. Therefore, the Councils' Housing Officer has advised that, 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. The level of contribution would need to accord with the requirements of the Housing SPD and at the prevailing housing target rate at the time of reserved matters application.
- 6.2.2 Current levels show an overprovision of affordable housing. However this will be reviewed and agreed at the time of the full or reserved matters application as will the size and tenure of the affordable units. Any outline consent would need to be subject to a Section 106 Agreement to secure the affordable housing contribution. This requirement is acknowledged and catered for in the current submission.
- 6.3 Layout and Character**
- 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 and ensure sustainable design and construction principles are incorporated within the new development.
- 6.3.2 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.
- 6.3.3 The NPPF and policy CS17 of the Shropshire Core Strategy also require consideration to be given to the impact of the proposed development on the

natural environment. More specifically, policy CS17 states that development will need to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment, and not affect the visual, ecological, geological, heritage or recreational values and functions of these assets and their immediate surroundings.

- 6.3.4 Scale and Layout: Although this is an outline application scale and layout does form part of the application and despite objections to the contrary the application has also attracted support that the scheme will provide a well thought out and attractive development. The submitted plan shows the provision of 31 plots and associated access arrangements and public open space provision. The site amounts to 1.54 hectares and it is considered that the proposed layout demonstrates that adequate access, parking and turning arrangements can be achieved together with adequate space about buildings and amenity space and all at a density and pattern that respects the local context and character in accordance with policy requirements. Furthermore, it is specified that the dwellings will be two storey, in keeping with the built form locally and will offer a mix of 2 bed terraces, 3 bed semis and 3/4 bed detached dwellings in accordance with the requirements of the Councils' Housing SPD. Otherwise, all matters relating to the actual design and appearance of individual properties are reserved for later approval.
- 6.3.5 The layout has also been designed around the desire to retain the existing trees and vegetation to the site boundaries and to take into account the presence of the canal to the north by providing a landscape buffer zone planted with scrub, wild flowers, native species trees and hedges and incorporating pools and swales.
- 6.3.6 In commenting on the scale and layout the Councils' Planning Policy Officer offers the opinion that: 'In accordance with CS6, the applicant indicates the indicative layout is responsive to the local environment and of an appropriate scale and pattern. Whilst it is considered the proposed layout would divert somewhat from the immediate surroundings which are predominantly frontage properties, it is considered the site is well contained and does not present the potential for further extensions. The inclusion of the buffer zone is important from this perspective as well, and if approved should be retained.'
- 6.3.7 Trees: The majority of the existing boundary trees are to be retained and protected and the application is supported by tree survey/root protection information, an arboricultural report and landscaping proposals. The Council's Tree Officer has been consulted on the submitted information and proposals and has raised no objection to the scheme.
- 6.3.8 Landscape/visual impact: Residents/objectors are concerned that the proposal will spoil the look of the locality and be visually damaging. It is acknowledged that the development of the land will change the character and appearance of the site itself and the outlook over/onto the land from nearby properties and the locality. However, the issue is whether that change will be so harmful as to warrant refusal.
- 6.3.9 The Councils Planning Policy Officer advises that: 'The site has been assessed as having high/medium landscape sensitivity in the North Shropshire Landscape

Character Assessment. This was primarily due to the open valley side which acts as a corridor into the town and the setting of the canal is the most sensitive issue relating to the site. It is acknowledged the applicant has provided further information through a Landscape Visual Impact Assessment and this has informed specific landscape proposals for the site. Whilst the Landscape Visual Impact Assessment does identify general localised visual impact issues, it concludes the impact on the wider area is unlikely to be significant. Notwithstanding that this assessment is based upon an earlier iteration of the proposal which included a footbridge over the canal, in the absence of any further technical information it is considered the applicant has provided sufficient information to enable the council to weigh up the benefits and dis-benefits of this proposal visual impact terms.'

- 6.3.10 Having regard to the submitted LVIA and the manner in which the design, layout and landscaping of the scheme has consequently been informed it is officer opinion that the visual impact of the development as proposed at this stage will not be so materially harmful as to warrant refusal. It is considered that due consideration has been given to the characteristics of both the site and of the wider setting and that appropriate landscaping measures have been incorporated into the scheme in a positive manner - in particular involving the provision of a mitigating buffer zone of 'naturalised' landscaping/green space where the site visually merges with the canal and the valley beyond and the retention of existing boundary trees. As the footbridge has now been retracted from the scheme this particular feature is no longer a cause for assessment or concern in visual impact terms.
- 6.3.11 Open space: Open space provision takes two forms: on-site provision and off-site contributions through the Community Infrastructure Levy.
- 6.3.12 Well designed and implemented open space delivers a number of social benefits, including improved health and wellbeing, as well as providing environmental benefits. The development proposal includes the provision of on-site open space in the form of a wildlife area within the red edged area of the application site, to include tree retention, native species planting and new wetland habitat. The provision of the space is largely responsive to visual impact and ecology issues, given the canal side location, and will secure appropriate mitigation and biodiversity enhancements. In this context the scheme has attracted no objections from the Canal and Rivers Trust and the Councils' Tree Officer and Ecologist and is considered to comply with the NPPF and Core policy CS17. Some matters of detail, such as tree root protection areas; actual species planting and the constructional details of the pools/ swales need either refining or submitting for further approval, but this can be addressed by condition.
- 6.3.13 Landscaping forms part of the outline application and it is expected that the naturalised character of this open space, together with the landscaping proposals for the site generally (ie those areas not assigned to private gardens) will be retained and maintained for the lifetime of the development in compliance with Core Strategy CS6.
- 6.3.14 Objectors are concerned that landscaping/open space will neither be provided nor maintained. In all instances the developer will be required to satisfy the Council

that appropriate arrangements have been made whereby the open space and landscaped areas within the site will be maintained in perpetuity. Both the provision and maintenance of the open space and landscaping could be controlled by imposing a landscape management and maintenance condition or through the S106.

6.4 Highways and rights of way

- 6.4.1 Paragraph 32 of the NPPF 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 can be reduced.
- 6.4.2 The site is located on the northern side of the B5398 Wrexham Road, a Class C road. The A41/A49 Whitchurch by-pass lies in close proximity to the west (about 230 metres distant). Chemistry Road, to the east, also provides an easterly route with pedestrian footways leading into the town. The train station lies 2.7 km distant and is accessible by foot, cycle or car. The closest bus stop is 350 m distant at Chemistry. It is accepted that the site has reasonable access to road networks, footways and public transport links. The agent has stated that once the development is complete there may be justification for a closer bus stop and a request has been made to the Area Transport Planning Commissioner in this regard.
- 6.4.3 With particular regard to car based travel, whilst some supporters of the application have no highway issues the proposed development has attracted objections from local residents and the Town Council alike in relation to traffic issues, access provision and highway safety concerns. Additional traffic on Wrexham Road as a result of the development is highlighted as a point of contention due to existing traffic congestion and parking issues.
- 6.4.4 Whilst not normally required for a development of this scale, in view of local concern over traffic and highway issues the application is supported by a transport statement and assessment. In the relevance to the debate an extract from the summary and conclusions of the transport statement is quoted below:

'... 4.3 The location of the site suggests that most of the traffic generated would enter and leave via the bypass. It is estimated that around 20% might use Wrexham Road and a further 20%, Chemistry and Smallbrook Road, to access the town.

4.4 In the peak hour, that is likely to represent only 4 additional movements on each of the roads. That represents an increase of only around 1% and is considered to be de minimis.

4.5 Offsetting any perceived harm from the above will be the consequential improvement resulting from the development and the further improvements offered in conjunction with it.

4.6 As part of the development, the hedge along the Wrexham Road frontage will be removed, and a widened footway (minimum 1.8 metres wide) will be provided. That will significantly improve matters for

pedestrians in the immediate locality. It is understood that the footway is now used much more than was previously the case, following the opening of the McDonald's restaurant at the service area.

4.7 An advantage of the footway widening is that it removes one of the major obstructions to visibility from the Chemistry junction. At present, due to the curvature of the road, approaching traffic can be obscured from view. That will not be the case once the development is complete, and the improvement to visibility will be significant.

During the public consultation process, members of the public highlighted the fact that cars can turn left into Chemistry at a faster speed than is desirable. This creates problems for those using accesses close to the junction.

4.12 Having undertaken checks with Autotrack, it appears possible to amend the radius at the junction to slow traffic down a little. ...

4.13 The topographical survey has also highlighted the fact that Wrexham Road immediately east of Chemistry is materially wider than elsewhere. That width may have been necessary at the time when the route was the A525, but it is considered that there would be positive benefits in widening the footway in this area. ...

4.14 A consequence of that widening is a narrowing of the carriageway, and this is likely to reduce traffic speeds slightly in the area.

4.15 The Highway Authority has also indicated that it will consider changes to the speed limits in the vicinity of the site, possibly providing a 40 mph speed limit from the bypass up to the commencement of the 30 mph zone, which would be relocated probably about 120 metres west of its current position.

4.16 The movement of the speed limit is a very particular benefit to the development, but the other two benefit the public at large only, except insofar as residents will use the junction with Chemistry and the footways.'

6.4.5 The Council's Highway Officer has been consulted on the application and the supporting documents and has advised that there is no objection to the application on transport links, highway and access grounds. The Highway Officers detailed comments are given in section 4.1.14 above. In summary, it is agreed that future residents of the development are likely to use the more direct routes to/from the site via the by-pass and Chemistry rather than Wrexham Road and that, in this context, there will be no tangible negative impact on Wrexham Road such that would warrant refusal. As regards the specific access arrangements and details required to make the scheme acceptable to meet the appropriate highway standards, then these matters can be dealt with by imposing the recommended conditions. Likewise it is anticipated that the required improvements to existing highway conditions that are being offered, ie those associated with traffic management/calming measures being introduced along Wrexham Road and the A41 roundabout and Chemistry Road junction can be secured in the form of contributions via a section 106 agreement.

6.4.6 The agent has also indicated that they are prepared to make a financial contribution towards resolving the traffic/parking issues along Wrexham Road between Thompson Drive and Joyce Way. Whilst a financial contribution would

be welcome by the highway authority, the advice to Members is that this it is not necessary to make the scheme acceptable in highway and planning policy terms and on this basis no weight should be given to the offer in arriving at the planning decision. To incorporate such a provisional requirement within a section 106 agreement would also not meet the tests of the CIL regulations.

6.4.7 As regards rights of way, the proposal does not directly affect established public rights of way. As part of the original proposals the applicants did intend to provide a footbridge connecting to the canal towpath. However, the need for the footbridge was questioned by residents and neither favoured by the Canal & Rivers Trust, the Councils' Right of Way Officer or the Councils Highway Officer. Amongst other concerns (such as visual impact) the Canal & Rivers Trust were concerned that the bridge would encroach onto their land and affect their operational ability to access and maintain the canal. The Councils' ROW and Highway Officer were concerned that the bridge did not offer any direct connection to the public rights of way network and that no clear arrangements for the long term maintenance of the bridge in perpetuity had been provided. Both Highways and Rights of Way made it clear that the Council did not have the resources to adopt and maintain the bridge in the future and that, rather than a community benefit the footbridge was therefore seen as a liability and dis-benefit. Hence it has been deleted from the scheme.

6.5 **Drainage**

6.5.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development. The application is supported by a flood risk assessment (FRA) and drainage information. For foul drainage disposal the development would be expected to connect to the mains sewer. The surface water from the development is proposed to be disposed of to soakaways and an existing watercourse. Pools and swales are also included within the landscape proposals to accommodate storm water drainage, in addition to providing naturalistic habitat with native species.

6.5.2 On assessing the submitted information the Council Drainage Engineer has raised no objection in principle and is satisfied the final drainage details, plans and calculations could be controlled through appropriately worded conditions of approval. In accordance with the submitted FRA, this includes the investigation of the use of soakaways in the first instance and the submission of full details, calculations and location of the percolation tests and the proposed soakaways. If soakaways are not feasible, then drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be alternatively be submitted for conditional approval. Further recommended drainage conditions cover: the design and a contoured plan of the finished road levels; the material and construction details of the porous driveway surfacing; details of a drainage system for any drives that slope towards the highway and the layout of the proposed foul sewage system.

6.5.3 The Canal & Rivers Trust have highlighted a concern that the arrangements for the disposal of surface water together with the creation of the pools and swales within the landscaping buffer/area may affect the integrity of adjoining canal. However, they are also satisfied that this concern can be adequately addressed

by imposing a condition requiring full details of the intended surface water drainage arrangements.

6.5.4 For environmental reasons, the Councils' Ecologist states that no drainage should be discharged to the adjoining watercourses. This requirement can be factored into the consideration of the final conditional drainage details for further approval. Otherwise, the Ecologist supports the inclusion of the proposed ponds and swales as an opportunity for biodiversity enhancement in accordance with the environmental objectives of the NPPF and Core Strategy CS17.

6.5.5 Concerns have been raised by local residents regarding existing drainage problems in the area. However, the above requirements for the submission of a detailed drainage calculations and surface water management measures would need to demonstrate that the drainage arrangements were adequate to deal with the surface water which falls on the site and therefore would not be permitted to increase flood risk elsewhere.

6.5.6 As such it is acknowledged that there is local concern about increased surface water problems 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.

6.6 **Ecology**

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.

6.6.2 The application is supported by an ecological appraisal and water vole report and method statement. The Councils' Planning Ecologist has been consulted on the application and supporting documents and is satisfied that, subject to the imposition of conditions and informatives relating to water voles, bats and nesting birds the site can be developed without adversely impacting on statutorily protected species and habitats.

6.6.3 Furthermore, new planting and wetlands will be introduced to the site as part of the landscaping proposals that will, subject to the agreement over specific details and plant species etc, offer opportunities for biodiversity enhancements.

6.6.4 Accordingly, the development is considered capable of complying with national and local planning policy requirements in relation to ecology and wildlife.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.7.2 Concerns have been raised locally regarding the impact on views, potential loss of privacy/overlooking and noise and disturbance.

- 6.7.3 The impact on a private view is not a planning matter. The wider landscape impacts have already been considered above. Whether existing residents will be able to see the new properties or not is not a reason to refuse the application.
- 6.7.4 At this outline planning stage the scale and layout of the site has been submitted for approval, although the design of the actual dwellings is reserved for later approval. However, the layout plan does show that the site can be developed without causing any unacceptable overlooking or loss of light to existing residential properties due to the positioning of and separation distances between the existing and the proposed new properties.
- 6.7.5 The residential use of the site would result in a number of traffic movements, although all vehicles would emerge onto the main B5398 road, it is not envisaged that these traffic movements, or the use of the site for residential purposes in general, would cause any substantive noise and disturbance to existing residential amenity that would warrant refusal.
- 6.8 **Other 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 due to its location the future residents of the proposed development are likely to utilise the services and facilities within the town. The proposed 31 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 31 dwellings on this site would be in addition to this allocation. In this context the Council's Planning Policy Officer states that: 'The site is of a relatively modest scale and whilst it will provide further housing for Whitchurch, it is considered unlikely to undermine the delivery of preferred sites elsewhere in the town.'

6.8.4 It is also acknowledged that there are issues within Whitchurch regarding certain facilities, services and infrastructure, including school places. With particular regard to the issue of school places the Council's Learning and Skills Division has been working with Planning Policy officers 'to ensure that the costs of any forecast need for additional school places or building enhancements in the town will be sought from the developers of housing schemes, of which, this proposed scheme is one.' Overall it is considered that the proposed addition of 31 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. Furthermore, Members may wish to note that some representations received in support of the scheme are from people already living and/or working in the town, and so already using the existing facilities and services, but looking to acquire new accommodation in Whitchurch.

7.0 CONCLUSION

- 7.1 The site is located outside the current Whitchurch development boundary and is therefore classed as a departure from the development plan. However, it is accepted that the site is in a sustainable location, where it benefits from transport links and the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities.
- 7.2 The development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9.
- 7.3 The development includes suitable measures to safeguard existing trees and local landscape character and will not be harmful to local habitats or biodiversity. Furthermore, the submitted plans indicate that the layout will be sympathetic to characteristics of the site and its setting, including the provision of open space and landscaping, and that there will be no adverse impact upon local or residential amenity.
- 7.4 The development can be provided with an appropriate vehicular access, parking and turning provision. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements and further drainage details to safeguard against flood risk and drainage concerns can be addressed by imposing appropriate conditions.
- 7.5 Accordingly, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy.
- 7.6 Accordingly, approval is recommended subject to:

- Conditions of approval;
- The completion of a s106 agreement to secure the affordable housing contributions.
- The completion of a s106 to secure contributions towards traffic management/calming measures being introduced along Wrexham Road between the A41 roundabout and Chemistry junction.

7.7 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 - 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.



Committee and Date
 North Planning Committee
 1 July 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

<u>Application Number:</u> 13/04868/OUT	<u>Parish:</u>	Cockshutt-cum-Petton
<u>Proposal:</u> Outline application for the erection of five dwellings and formation of vehicular access (all matters reserved)		
<u>Site Address:</u> Development Land East Of Shrewsbury Road Cockshutt Shropshire		
<u>Applicant:</u> Mrs W Crabb		
<u>Case Officer:</u> Jane Preece	<u>email:</u> planningdmne@shropshire.gov.uk	

Grid Ref: 343575 - 328906

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Recommendation:- That planning permission be granted, subject to a S106 agreement to secure the affordable housing contribution and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline planning permission for the erection of five dwellings on 0.37 hectares of rough grazing land located off the A528 Shrewsbury Road, Cockshutt. All matters are reserved for later approval, although reference to the formation of a vehicular access has been submitted as part of the description of development.

1.2 To assist the consideration of the application an indicative site layout plan has been provided, showing an indicative layout of five detached dwellings and the new access. The indicative dwelling layout plan is for information and illustrative purposes only. Otherwise, the application is accompanied by a Design and Access Statement, an Ecological Assessment and correspondence from the agent.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal relates to a parcel of land located on the eastern side of the A528 Shrewsbury Road and on the southern fringe of the village of Cockshutt. The site is bounded by residential development to the north, agricultural land to the east, a telephone exchange to the south and Shrewsbury Road to the west. Residential development exists opposite the site, on the other side of Shrewsbury Road.

2.2 In terms of current development plan policies the site sits just outside the development boundary for the village and therefore within an area defined as open countryside. In terms of the emerging Site Allocations and Management of Development (SAMDev) Plan the site remains outside the established development boundary for Cockshutt.

2.3 Whilst the site is not within the development boundary, it does have road frontage and is considered to be contiguous with the existing residential development.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Officer recommendation contrary to Parish Councils view and the Local Member is of the opinion the Parish Councils views are material and valid and that therefore the application should be considered by Committee for determination.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 **SC Drainage** – No objection raised in principle. Should planning permission be granted then further drainage details, plans and calculations will be required for prior assessment. Recommend the imposition of appropriate drainage conditions accordingly on any outline planning permission issued.

4.1.2 **SC Ecology** – No objection. The submitted Ecological Assessment concludes that there is little scope for protected species on the site. Recommend informatives,

referencing the Ecological Assessment and setting out the legislation in relation to the protection of wild birds.

- 4.1.3 **SC Highways Development Control** – No objection. Acknowledge that the footway provision does not meet desired standards beyond the site road frontage but consider it would be difficult to sustain an objection on pedestrian safety grounds alone. An improvement of the footway provision along the site road frontage is proposed as part of the development. Recommend the imposition of appropriate highway conditions.
- 4.1.4 **SC Affordable Homes** - Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of the Reserved Matters.
- 4.1.5 **SC Planning Policy** – No comments received.
- 4.1.6 **SC Public Protection** – No objection. The properties are set well back from the road and therefore there are no expected air quality or noise issues requiring comment. However in order to make the properties ready for EV charging point installation of isolation switches must be connected so that a vehicle may be charged in the garage or driveway. Recommend condition accordingly.
- 4.2 **Public Comments**
- 4.2.1 **Cockshutt Parish Council** – Original comments: At the meeting of Cockshutt cum Petton Parish Council held on 12 December 2013 it was agreed that the Council had insufficient information to accurately assess this application. Comments made in the Design and Access Statement regarding the objection to Preferred Sites identified through the SAMDev consultation process need to be explored further with Shropshire Council. The Parish Council resolved that it has no alternative but to submit an objection to the application.

Re-consultation comments: At the meeting of Cockshutt cum Petton Parish Council held on the 9 January 2013 it was resolved to object to the application. The Council considered the following:

The site is outside the current development boundary for Cockshutt and is not considered a preferred site for the Site Allocations and Management of Development (SAMDev) Plan. As part of the SAMDev consultation process in 2012 the Parish Council undertook a series of meetings which reviewed all the potential sites put forward by owners/agents and a comprehensive review of each individual site was undertaken. Sites were assessed against set criteria and, if meeting those criteria, progressed to a further stage. The site in question progressed to the further stage but was not supported by the Parish Council as it did not fulfil the second stage criteria. The Council's overriding consideration at this stage was the wish to develop on the West side of the A528 with sites being capable of a developing up to 5 properties of a mixture of housing type. This site, to the east of the A528 did

not meet the Councils preferences.

The Design and Access Statement questions the suitability of 2 sites included in the SAMDev Plan for Cockshutt on highways issues as part of the justification for this application. During the SAMDev review process mentioned above the Parish Council raised similar concerns and sought the advice of a Senior Officer of Highways Development Control. The Officer confirmed that as the access to both sites was already in existence and that entry to A528 was in the 30mph speed limit section there would be no objections from Highways to considering them as preferred sites. The Parish Council rejects the comments that these 2 sites are unsuitable. The Parish Council understands that Shropshire Council Planning Policy Team also considers the objections to these 2 sites not to be valid. The sites will be included in the final Plan to be submitted to the Secretary of State.

With regard to the application site, the Parish Council has serious concerns regarding pedestrian access to the facilities in the centre of the village. The pathway is narrow and could put pedestrians in danger. The application states this access can be improved but does not expand. The Parish Council questions the applicants ability to do so.

The application is for Outline Permission and drainage details could be made conditional and submitted for approval at the reserved matters stage. However, the Parish Council considers these issues material, as noted below, and should be submitted and reviewed at this stage. The Parish Council strongly supports the comments made by local residents, Mr GD Ashley and Mr FE Tomlinson regarding the impact changes to the current drainage system could have. It also understands the sewage pumping station is at maximum. The Parish Council considers any development of this site will have an adverse effect on the sustainability of this area of the village.

Reasons why this site was not included in previous Local Plans should be reviewed and considered.

The Parish Council also considers the site as an undeveloped open green space on the approach to the centre of the village, a major contribution to the rural characteristic of Cockshutt, which was another factor considered by the community when selecting our preferred sites to the West, that will retain the village character a great deal more than a development with a main road frontage.

The Parish Council acknowledges that this highly speculative application has been submitted due to the lack of a Five Year Land Supply and the resulting reference to the National Planning Policy Framework in determining the application. The Parish Council, working with Shropshire Council, is planning a structured approach to the long term development of the village. The Parish Council has regularly consulted with and reported back to the local community during the SAMDev process and has received full support of its actions. In addition, the reasons why this site was not selected during the SAMDev process was explained fully on several occasions to the agent acting for the applicant. By submitting the application at this specific time confirms a total lack of regard of the views and aspirations of the local community and the actions taken by the Parish Council on its behalf. To re-iterate, the Parish Council objects to this application.

Further re-consultation comments: At the meeting of Cockshutt cum Petton Parish Council held on 8 May 2014 having considered the re-consultation documentation, it was resolved to continue to object to the application.

4.2.2 **Local representations** – Seven representations of objection have been received. The main objections relate to:

- Support the Parish Council objection and their efforts to manage the village in a sensible way. Their reasons are clearly defined in SAMDev submission.
- Future development should be directed west of the A528 around the village centre, in accordance with the wishes of the community.
- Proposal is outside the development plan.
- Footpath is too narrow. Danger to families and children walking alongside the A528. Restricted wheel chair access.
- Drainage. Aware of the problems these houses could bring being built on top of a main water drain and main sewage line/ an underground culvert runs through the middle of the site. Any disturbance to existing drains will cause severe flooding.
- Planning has previously been rejected for a larger development on this site, upheld by a Government Inspector.
- Completing the development at the Meadows would be of greater benefit to the village.
- Would seriously damage the character of the village.
- Ribbon development.
- Potential drop in mains electricity supply capacity and voltage.
- Potential roadside parking.
- Question whether there are issues of deliverability in respect of parcels C002A and C002B. Keen to ensure that any inaccurate statements made within this application do not affect SAMDev consultation.

5.0 **THE MAIN ISSUES**

- Policy and principle of development
- Accessibility and highways
- Drainage
- Social dimension
- Economic dimension
- Environmental dimension

6.0 **OFFICER APPRAISAL**

6.1 **Policy and 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 Paragraph 49 of the NPPF states that 'relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. In September 2013 the Council published an updated '2012 Five Year Housing Land Supply Statement' which calculated a housing land supply of only 4.95 years for Shropshire as a whole and questions have since been raised as to whether this supply is fully deliverable. Turning to paragraph 14 of the NPPF relating to the presumption in favour of sustainable development this means that 'where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted'. This has the effect of changing the balance of the material considerations in favour of 'boosting housing supply' (a Government priority) and the relative weight that can be attached to the Core Strategy, saved Local Plan and emerging Site Allocations and Management of Development (SAMDev) Plan housing policies.
- 6.1.3 The site is outside the development boundary previously defined within the North Shropshire Local Plan and also has not been carried forward as a preferred option site within the emerging SAMDev document. On this basis the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, given that it has been established that limited weight should be given to this housing 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'. 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. The NPPF defines sustainability as having three dimensions: the social dimension, the economic dimension and the environmental and these are discussed further below, together with the technical matters relating to highway and drainage issues.
- 6.1.4 Members will note that both the Parish Council and local residents have made reference to a previous rejection of this site for housing development. To clarify, the comments relate to land allocation within the former North Shropshire Local Plan and not a previous planning application. Whilst the Parish Council have requested that the reasons for rejection be reviewed, officers would highlight that the adoption of the North Shropshire Local Plan occurred nearly 9 years ago (December 2005) and the policy considerations at that time would now be out of date. Furthermore, there is a clear distinction between what Policy Officers would choose to allocate as planned development within the context of the availability of reasonable alternatives as part of the development plan process and how Development Control Officers respond to an application for planning consent where the development must be considered on its own merits and in the present circumstances where it has been established that local housing policies have negligible weight.

Notwithstanding the above officer opinion, Members may wish to take into

consideration the response of the agent to the previous housing land allocation rejection. The agent states that at no time did the Inspector indicate that the site was unsuitable for development (including pedestrian access to the villages' community facilities). The proposal at that time was for 20 or more dwellings on a larger site and the site was in direct competition with an alternative site to the north. The Inspector concluded that '...there was little to choose between the two sites, but supported the site to the north of the village because he felt pedestrian access to the school was easier, and the northern site was more clearly defined.'

- 6.1.5 As regards the future development proposals for Cockshutt as put forward within SAMdev, the village is defined as a Community Hub with a housing guideline of around 50 additional dwellings over the plan period. It is envisaged that this will be delivered through the development of 5 allocated sites of up to 5 dwellings (delivering around 20 homes) which are all located to the west of the A528 'so as to provide some balance to the village'. In addition to identified site allocations, there are existing commitments of around 18 dwellings and it is envisaged that the remainder of the target will be delivered with development by infilling, conversions and small groups (again up to 5 dwellings) on suitable sites within the identified development boundary. Whilst it is acknowledged that the approach to direct housing land allocation only to the western side of the village may reflect the preferences of the Parish Councils' and the wishes of the community, the soundness of this approach has yet to be tested when SAMDev is submitted to the Secretary of State. It is understood from the agent that objections to the plan have been lodged and therefore it cannot be assumed that it will be approved in its current form. As it stands SAMDev is not yet in force and is not at a stage where it can be given significant weight in the determination of planning applications. To reiterate, at the time of writing the absence of a five year supply of housing in combination with the presumption in favour of sustainable development remain as significant considerations. As a main service village and identified Community Hub it is accepted in principle that Cockshutt is sustainable settlement and capable of accommodating an appropriate level of new housing development.

6.2 **Accessibility and highways**

- 6.2.1 Paragraph 32 of the NPPF 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.
- 6.2.2 The site is located on the outskirts of the village on the eastern side of the A528, a principle road known as Shrewsbury Road. The site is within the local speed limit of 30 mph and will if permitted continue the line of residential development on this side of the road. The site has road frontage and abuts a continuous footway link to the main village facilities to north, whilst a bus stop is located directly adjoining the site. Although it is acknowledged that the site is not brownfield it is considered to form part of the fringe of the settlement and has access to appropriate transport links offered by the village. It is also accepted by officers that that the site is close to the facilities and services within Cockshutt. Cockhutt is one of the main service villages within the north of Shropshire and has a good range of local facilities serving the settlement and the outer lying smaller settlements. Indeed, the village has been identified as a Community Hub within the emerging SAMDev. In principle, therefore

as a site on the edge of the village and reasonably well related to the existing built form and infrastructure the application can be supported as a departure from the adopted policies in line with the presumption in favour of sustainable development in the NPPF.

6.2.3 Concerns have been raised by local residents regarding the adequacy of the pedestrian link to the main village and highway safety issues. In terms of specific access details the Councils' Highway Officer has been consulted on the application. The Highway Officer is of the professional opinion that the application site has sufficient frontage to be able to provide satisfactory visibility splays in line with desired standards and, subject to the access being laid out and constructed satisfactorily, raises no objection in principle to the residential development. The details as currently submitted indicate a single access point onto the principle road, which is welcomed from a highway perspective. In response to a neighbour concern that the proposal will lead to 'on street' parking the Highway Officer has advised that pedestrian access to the Shrewsbury Road frontage to each of the dwellings should be resisted to avoid/discourage potential parking on the A528.

6.2.4 Turning to pedestrian matters, in response to concerns expressed over the narrow nature of the existing footway, the agent has confirmed that a properly sized footpath can be formed along the complete road frontage of the proposed site. Beyond the site frontage and the village centre third party land prevents the widening of the footway. The Highway Authority has considered both the nature of the existing footway and the agents offer. On balance, the Highway Officer is of the opinion that the proposed footway improvements to the site frontage can be secured by condition and that otherwise the narrow nature of the existing footway beyond does not constitute a substantive reason to sustain refusal on pedestrian safety grounds alone. Furthermore, as pointed out by the agent, as part of the emerging SAMDev, there are preferred housing sites proposed to the southern and south western part of the village that could not only use the same footpath route into the village but would also benefit from the offer of the improved section along the proposed site frontage.

6.2.5 Taking on a board the professional opinion of the Highway Officer, overall the development is considered capable of satisfying policy in accessibility and highway terms and there are no substantive barriers to the granting of consent on highway grounds.

6.3 **Drainage**

6.3.1 The NPPF requires consideration to be given to the potential flood risk of development. Core Strategy Policy CS18: Sustainable Water Management states that development will integrate measures for sustainable water management to reduce flood risk and avoid an adverse impact on water quality.

6.3.2 Foul mains drainage is available in Cockshutt and for foul drainage disposal the development would be expected to connect to the existing mains sewer. The agent has confirmed that a manhole exists in the northern corner of the application site, and so direct connection to the mains sewer is possible. The route of the mains sewer has been shown on an accompanying plan. It will be the applicants'/ developers responsibility to pursue consent from the service provider to connect into the foul main sewer. Whilst the Parish Council have mentioned that the

sewage pumping station is at capacity this issue is a matter for the service provider and is not a reason to refuse planning permission.

6.3.3 On assessing the application as submitted the Councils Drainage Engineer commented that the disposal of surface water from the development to the mains sewer (as indicated on the submitted application forms) would not be acceptable as it can result in increased flood risk elsewhere. In response the agent has confirmed that surface water will alternatively be disposed of to soakaways in accordance with the Drainage Engineers guidance. The Drainage Engineer has consequently raised no objection in principle and advises that the final surface water drainage details can be controlled through appropriately worded conditions of approval. This includes the submission of full details, calculations, dimensions of the percolation tests and the proposed soakaways together with their location for prior approval.

6.3.4 As such 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.

6.3.4 On a further drainage matter concerns have been raised by local residents concerning the potential of the development to disturb existing drains that cross the site and that this in turn generates a risk to creating flooding and drainage problems in the area. In response the agent has undertaken a drainage survey of the site to identify the existing drains and submitted a plan on which the line of the known drains is identified and the illustrative layout of the housing development adjusted to take into account the presence of the drains. The revised layout would not appear to comply with the requirements of the Drainage Engineer for a 6 m easement to be provided, although it must be emphasised that the submitted plan is for illustrative purposes only and that the final layout is reserved for later approval and so too is the scale and size of the dwellings. It is not therefore considered that the presence of the drains precludes the granting of outline consent for residential development in principle. Within any subsequent reserved matters application the detailed scheme and layout would need to be designed and laid out to take into account the presence of the existing drains and any easement requirements.

6.4 **Social dimension**

6.4.1 In respect of fulfilling the social dimension of sustainability the main benefit of the proposal is that it will help meet the future housing needs of the area and contribute to the Councils' lack of a 5 year land supply for housing, a government priority.

6.4.2 Affordable housing: Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application. A standard S106 agreement to secure the financial contribution would need to be entered into and completed prior to the grant of outline planning permission.

6.4.3 From the site it is considered that future residents will have reasonable access to goods, services and facilities locally by foot, cycle or car and reasonable access to the highway network and public transport options in this location. Matters of scale, layout, landscaping and appearance and design are reserved matters and the assessment of such at a later stage can ensure that the scheme will be sustainable in its design, incorporating sustainable and energy efficient measures, and providing a pleasant environment in which to live, contributing to the health and well being of potential residents. In this context it is envisaged that the development of the site could further satisfy the social dimensions of policy.

6.5 **Economic dimension**

- 6.5.1 In respect of satisfying the economic dimension of sustainability the main benefits will firstly arise from the development process, generating employment during the construction phase and the potential associated spending on sourcing goods, products and services locally. Moreover, once completed, future residents of the development will also have the potential to increase spending on local goods, facilities and services and to access employment and schools locally. In so doing, the residential development will contribute to the socio-economic balance of the village, supporting and enhancing its role as a sustainable settlement in accordance with Core Strategy policies CS1 and CS4 and the NPPF.
- 6.5.2 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.
- 6.5.3 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. 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.
- 6.5.4 With regard to this specific application site, the proposed 5 dwellings on this site have not been taken into account in the consideration of the housing growth proposed for the settlement in the SAMDev. Cockshutt is proposed to have approximately 50 new homes but as the site has not been promoted through the SAMDev the proposed 5 dwellings on this site would be in addition to this allocation. Taking into account the Councils current lack of 5 year housing land

supply it is considered that the proposed addition of 5 dwellings on the application site would not result in a level of development that would prejudice the SAMDev preferred option sites or, bearing in mind the fact that Cockshutt has been identified as a Community Hub capable of accepting housing development schemes for up to 5 units, put pressure on local infrastructure which would justify refusing the application.

6.6 **Environmental dimension**

- 6.6.1 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 and pattern taking into account the local context and character.
- 6.6.2 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 on the outskirts of 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.
- 6.6.3 The NPPF and policy CS17 of the Shropshire Core Strategy also require consideration to be given to the impact of the proposed development on the natural environment. More specifically, policy CS17 states that development will protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not affect the visual, ecological, geological, heritage or recreational values and functions of these assets and their immediate surroundings.
- 6.6.4 Site context and character – The Parish Council and local residents are concerned that the proposal will harm the open character of this part of the village. It is acknowledged that the development of the land will change the character and appearance of the site itself and the outlook over the land from nearby properties. However, the issue is whether that change will be so harmful as warrant refusal.
- 6.6.5 In respect of landscape there are no recognised local or national landscape designations that influence the site and the site is not seen as having a high landscape sensitivity. The land itself is used as rough grazing agricultural land and has no protection as designated open. Indeed, the site sits on the edge of the village, where residential development generally abuts agricultural land and the character of the area is that of semi-rural. There is already residential development in the immediate vicinity (to the west and north) and this existing development is linear in form, following the line of the approach road into the village centre. Reference has been made to the fact that the development will constitute ribbon development in a negative sense. However, it is considered that whilst the development will continue the line of residential development on the eastern side of Shrewsbury Road, it will reflect the pattern and form of road frontage development in this part of the village and constitute contiguous development. It will not extend development southward beyond the extent of the residential development on the

opposite side of the road.

6.6.6 In paying due regard to the physical characteristics of the site and its surroundings therefore, it is not considered that a linear road frontage development will appear visually or contextually out of character with the pattern and form of development in this location and that the loss of the open field frontage to a small scale development of no more than five houses would result in a significant and demonstrable harm which would justify the resistance of the outline application.

6.6.7 Ecology: The NPPF requires consideration to be given to the impact of the proposed development on the natural environment. Core Strategy Policies CS6 and CS17 state that all development should protect the natural environment whilst enhancing environmental assets.

6.6.8 At the request of the Council's Planning Ecologist, the application is supported by an Ecological Assessment. The Planning Ecologist accepts the findings of the Assessment that there is little scope for protected species to be present on the site and acknowledges that Churton Ecology (2014) recommend that additional hedgerow planting takes place of native, locally sources species around the site boundaries. Native hedgerow planting and any new planting generally introduced to the site as part of a reserved matters landscaping scheme will provide opportunities for biodiversity enhancements.

6.6.9 Accordingly, the development is considered capable of complying with national and local planning policy requirements in relation to ecology, wildlife and landscaping, in accordance with the requirements of the NPPF and Core Strategy Policies CS6 and CS17 in relation to the need to protecting the natural environment and enhancing environmental assets.

6.6.10 Impact on residential amenity - Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.6.11 At this outline planning stage the layout of the site has not been submitted for approval, although an indicative layout has been provided. Providing due regard is paid to orientation, separation distances and boundary treatments, on balance, it is considered that the site can be developed without causing any unacceptable overlooking or loss of light. Accordingly it is considered that policy CS6 can be satisfied.

6.7 **Other Matters**

6.7.1 The councils public protection officer raises no objection to the application however in order to make the properties ready for Electrical Vehicle charging point installation of isolation switches must be connected so that a vehicle may be charged in the garage or driveway. A condition has been recommend by public protection requiring that an independent radial circuit isolation switch must be supplied at each property for the purpose of future proofing for electric vehicle charging points. The NPPF highlights at paragraph 35 that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people and developments should be located and designed where practical to amongst other items incorporate facilities for charging plug-in and other

ultra-low emission vehicles. Having considered the request for the imposition of such a condition, in light of the recently published Planning Practice Guidance dated 6th March 2014 planning conditions should only be imposed where they are necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects. The recommended condition is not considered necessary to make the development acceptable and therefore the requirement for EV charging points will be attached as an informative to any consent issued in accordance with adopted practice

7.0 **CONCLUSION**

- 7.1 The site is located outside the current Cockshutt development boundary and is therefore classed as a departure from the development plan, contrary to Core Strategy policies CS4 and CS5. Furthermore, the site has not been identified as a site for future residential development within the emerging SAMdev. However, taking into consideration the Councils' lack of a 5 year housing land supply, it is accepted that the site is in a sustainable location, where it benefits from transport links and the facilities, services and infrastructure offered by the village and will provide additional housing supply to help sustain the settlement and in accord with national planning policy priorities relating housing provision. In this context the application is considered to satisfy the socio-economic dimensions of sustainability as set out in the NPPF.
- 7.2 The development will need to provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9. Both affordable housing and infrastructure provision offer community, social and economic benefits that lend to the sustainability of development in accordance with the requirements of the NPPF.
- 7.3 Officers are satisfied that the development can be served by satisfactory access and drainage arrangements, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6 and CS18, saved Local Plan policy D7 and the associated sustainable objectives of the NPPF.
- 7.4 Notwithstanding the need to submit a reserved matters application for further assessment in relation to matters of layout, appearance and landscaping, in principle the site is considered capable of being developed in a manner that will not be unduly harmful to the physical characteristics of the locality or to residential amenity. Accordingly, the proposal satisfies policies CS6 and CS17 and the NPPF at this outline stage.
- 7.5 Sufficient information has been provided with the application to satisfy officers that the development will not be harmful to the natural and historic environment. In this context the proposal is considered to satisfy Core Strategy policies CS6 and CS17 and the associated sustainable objectives of the NPPF.
- 7.6 Accordingly, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy.

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.

10.0 Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

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

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

D7 - Parking Standards

SPD Type and Affordability of Housing

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 Brian Williams
Appendices APPENDIX 1 - Conditions

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

1. Details of the access, appearance, landscaping, layout 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 4 of the Development Management Procedure Order 2010 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. This permission does not purport to grant consent for the layout shown on any of the deposited plans submitted with application.

Reason: To enable the Local Planning Authority to consider the siting and layout of the development when the reserved matters are submitted.

5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The number of units
 - The means of enclosure of the site
 - The levels of the site
 - The foul and surface water drainage of the site
 - The finished floor levels
 - Details of a scheme for the localised widening/regularisation of the footway along the site road frontage

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

-



Committee and Date
 North Planning Committee
 1 July 2014

Item
8
 Public

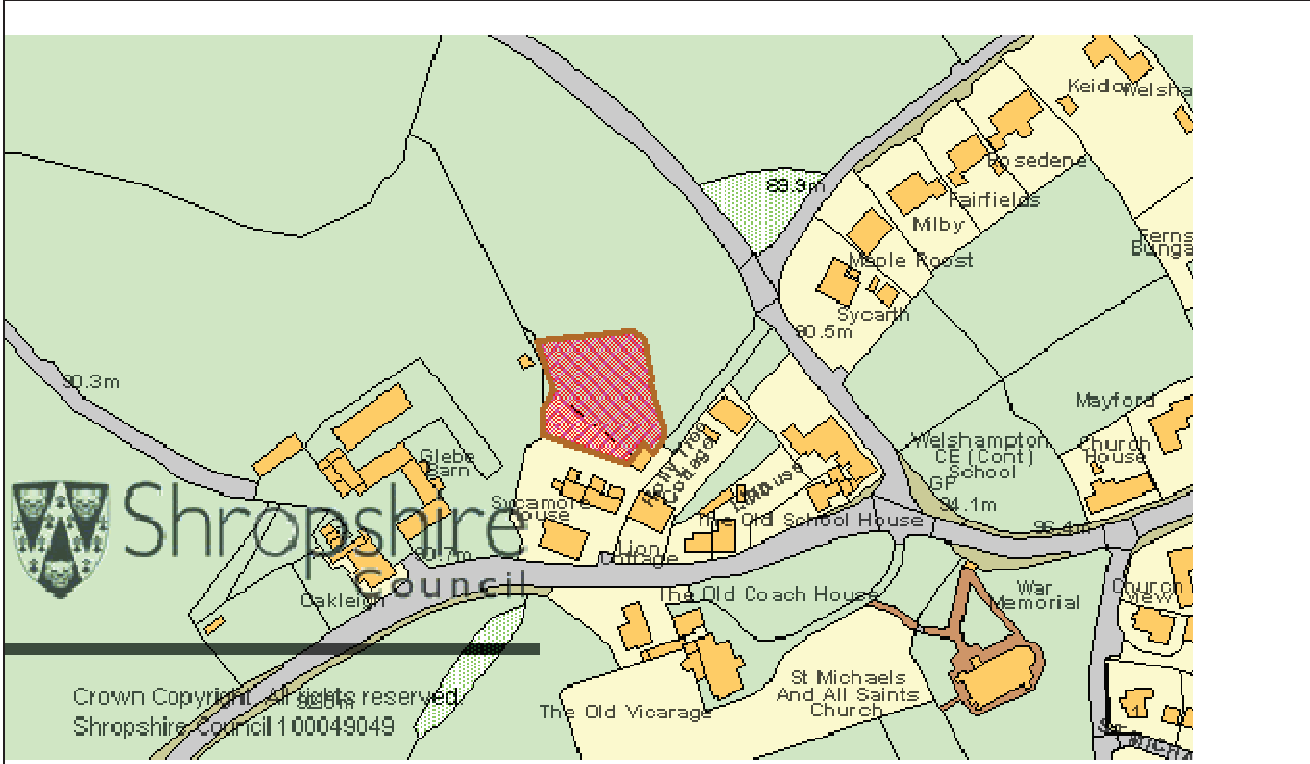
Development Management Report

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

Summary of Application

Application Number: 14/01723/OUT	Parish:	Welshampton And Lyneal
Proposal: Outline application for the erection of 2No dwellings (to include access and layout)		
Site Address: Proposed Residential Development Land West Of Stocks Lane Welshampton Shropshire		
Applicant: Mr & Mrs R K & M A Mainwaring		
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 343245 - 335010



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Recommendation:- That planning permission be granted subject to the applicants entering into a S106 agreement to secure a financial contribution to affordable housing and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline approval for the erection of two detached dwellings to the north of Sycamore House off Stocks Lane within the village of Welshampton with all matters reserved apart from access.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal site is located at the north western edge of the village of Welshampton and is currently a flat agricultural field currently used for grazing which extends to approximately 0.363 acres in size.

2.2 The eastern boundary to the site is formed by a private driveway (to Holly Tree Cottage). The car parking area to the nearby primary school and pre-school is also located further to the east around the junction with Stocks Lane.

2.3 To the west is a paddock which is separated from the application site by way of a ditch and mature trees. Beyond the paddock are barn conversions formerly associated with Oakleigh Farm.

2.4 To the south are a number of outbuildings belonging to Sycamore House, with the farmhouse itself fronting onto the main village road.

2.5 The northern site boundary is provided by the existing private access drive to the converted barns at Oakleigh. On the other side of this are open fields.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

The Parish Council has objected to the application contrary to the officer recommendation and the local ward member has requested that the application be referred for determination by planning committee in accordance with the Council's 'Scheme of Delegation'.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Parish Council -

The Parish Council's input into the SAMDev consultation included the following statements:

- All development to be in line with the Village Design Statement
- To keep in line with statements in the Parish Plan.
- The Village Design Statement (VDS) includes the following:
- If future development is to take place the following should be considered:-
- Any such schemes must carefully consider the method of disposing of surface and foul water, not only within the curtilage of the scheme but the effect the scheme will have on existing properties.

It was resolved to **object** to the application for the following reasons:

- The application is outside the current and proposed development boundary.
- Drainage concerns as in particular there is often flooding on the north side of the access road.
- The suitability of the private access road to support the number of vehicles now proposed to use it.
- Sustainability and local infrastructure which is expanded on below.

Traffic - The proposed development will use an access next to the Community Car Park which is used by the Primary School and Pre-School. This area is very congested at certain times of the day and this has been raised with the Police. The Council would request that all risks associated with additional development in the area are explored.

Sustainability and local Infrastructure - The Parish Council would draw the attention of Shropshire Council to the fact that at the current time applications amounting to 28 houses, in addition to this application, have been submitted for determination. The Parish Council is concerned about over development for what is essentially a small village. If all submitted applications are granted in such a short time frame, the village would potentially increase its housing stock by approximately 30%. This large increase cannot be considered sustainable. If planning applications amounting to the same percentage were submitted in Shrewsbury or Oswestry would Shropshire Council not take an holistic approach?

Shropshire Council Housing Enabling Team has also confirmed that there are currently only 2 households on the housing register already resident within the Parish. The need for 30 houses must be questioned.

Although it is acknowledged that Welshampton has the benefit of some services, primary school, pub, hairdresser and garage (no petrol), the Parish Council has serious concerns that such a large increase in dwellings overall will negatively impact the sustainability of the village as a whole and cause major concerns to the local infrastructure.

Sustainability as outlined in NPPF paragraph 7

Economic benefits - apart from providing an economic gain from the actual developments, such large scale development will not enhance the local employment economy as there are no local businesses which could support such an increase in population.

Social benefits - the local primary school has a limit on expansion due to physical restraints and access to all other services (eg shopping, medical facilities etc) will need transport to access them as there is inadequate public transport.

Environmental benefits – the size of development that is currently being proposed for Welshampton as a whole does not contribute to protecting and enhancing the natural environment. The need to use transport to access all local services does not minimise waste and pollution. It will not contribute to a low carbon economy.

Local Infrastructure

As outlined above, Welshampton does not have the benefit of a mains sewage system. Other elements of infrastructure should be investigated to assess whether such a large increase of dwellings is capable of being sustained. For example, water pressure, electricity, pavements to access village service, the cumulative impact on already busy A and B roads, and most significantly, the village primary school.

It is not the intention of the NPPF to facilitate unsustainable, random, highly speculative, unnecessary development which results in a small community of 100 houses being extended by 30%. It is not the intention of the NPPF to build houses where children have to be driven to school, where all employment has to be accessed by private transport.

It is not the intention of the NPPF to cause social upheaval by the building of too many houses for the local need, arising in a massive increase in the number of new residents from outside the region.

The Parish Council is seriously concerned that to determine each application in isolation will result in a dysfunctional village. To develop a large number of houses on isolated sites without the proof of housing need, when each application will be "claiming" the same demand, will lead to properties not being sold, bankrupt developers and eyesores of empty half-built sites.

The Parish Council does not want this to happen, and nor should Shropshire Council.

- 4.1.2 **SC Affordable Housing: no objection.** Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.
- 4.1.3 **SC Highways** – The Highway Authority raises **no objection** to the granting of outline consent subject to conditions relating to visibility splays, parking and turning.
- 4.1.4 **SC Drainage: No objection** subject to inclusion of conditions and informatives if the application is to be approved.
- 4.1.5 **SC Ecology** - Shropshire Councils ecology team has been consulted and their comments will be reported to members by means of late representations.
- 4.2 **Public Comments**
- 4.2.1 Local ward member - wish to record my opposition to the development for the reasons set out by the Parish Council.
- 4.2.2 A objection has also been received from a neighbouring household which raises the following issues -
- Highways & Access – addition of 2 new properties could amount to 16 cars

regularly using Stocks Lane

- The site line from the end of the drive is extremely limited when looking left up Stocks Lane.
- Impact on adjacent primary school and pre-school car park
- Area around car park and lane suffers congestion with potential risk to schoolchildren
- village has no mains drainage. Proposal site is at bottom end of village and question whether the land can take yet another two septic tanks in the vicinity. Surrounding land is marshy - hence the reeds and grasses nearby.
- services in Welshampton are already overloaded and telecommunications in the village are abysmal. Further properties accessing broadband nearby will weaken signal further and substantially affect ability to conduct business as homeworkers, especially with regards online communications

5.0 THE MAIN ISSUES

- Principle of Development
- Details of Proposal
- Impact on Amenity
- Ecology
- Drainage
- Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. 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 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy and in particular policies CS4, CS5, CS6, CS11 and CS17. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case.

6.1.3 There are currently three major policy considerations in the assessment of planning applications for housing:

- Five year housing land supply/housing supply.
- Weight to relevant policies in emerging Plan
- NPPF presumption in favour of sustainable development/boosting housing supply

6.1.4 Five year housing land supply/housing supply

A supply statement produced in September 2013 indicated a 4.95 years housing land supply for Shropshire and a 5.28 years supply for Shrewsbury. However questions remain over whether emerging SAMDev Plan sites can be counted in these figures and, if so, which sites and how many of these dwellings on each site

are likely to be delivered within the five year period. Given these circumstances, it is considered prudent that NPPF paragraph 49 and the presumption in favour of sustainable development (paragraph 14) should apply to the consideration of applications.

6.1.5 Weight to relevant policies in emerging Plan

The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.1.6 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people.

6.1.7 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen. Such designations are being made via the SAMDev Plan, currently being prepared by the Council.

6.1.8 The SAMDev Plan sets out proposals for the use of land and policies to guide future development in Shropshire up to 2026 and covers the whole of the administrative area of Shropshire Council (excluding Telford & Wrekin). The Council has recently completed the latest consultation state on its Pre-Submission Draft Version which follows on from several stages of consultation over the past four years. The next stage is that the Plan and all the representations made on the Plan will be submitted to the Secretary of State for examination by an Independent Planning Inspector later in 2014.

6.1.9 The draft document identifies Welshampton and Lyneal as being a Community Cluster where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with housing guidelines of around 20 additional dwellings in Welshampton and 5 additional dwellings in Lyneal. The Parish Council have given their agreement to the designation of a boundary around the main built up area of the village. All new development is subject to establishing adequate foul drainage and water supply. No allocated sites have been identified within the area of the village.

6.1.10 The "saved" policies of the North Shropshire Local Plan include Policy H6 which relates to infilling, groups of houses and conversions within identified settlements within development boundaries. Welshampton was identified as a Main Service Village under that policy and a settlement boundary was provided within which appropriate new housing development would normally be permitted. At that time the whole of Oakleigh Farm and its outbuildings, which have since been converted to residential use, lay outside of the settlement boundary which instead followed the western boundary of Sycamore House to the east. The proposed settlement boundary shown within the SAMDev pre submission draft also shows the proposed settlement boundary as following the western boundary of Sycamore House and therefore excludes the application site.

6.1.11 The Council's view is that the SAMDev Plan has reached a point, being settlement

and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan has not been through the examination stage), the weight has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications. The absence of a 5 year supply and the NPPF aim of boosting housing supply would be significant considerations.

- 6.1.12 Sites that are not within development boundaries or, in the case of some emerging hubs and clusters, within settlements, should be considered as being in the 'countryside' in policy terms, where Policy CS5 (Countryside and Green Belt) applies, having regard to any other material considerations. This requires new development to be strictly controlled in accordance with national planning policies protecting these areas. In the case of new dwellings these are generally required to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need in accordance with national planning policies.
- 6.1.13 On the basis of Policy CS5 and the site's location outside of the settlement boundary planning permission for a new dwelling would not normally be permitted.
- 6.1.14 3. NPPF presumption in favour of sustainable development/boosting housing Supply. The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to 'boost significantly the supply of housing', with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 6.1.15 The determination of this application rests primarily on whether other material considerations change this view, with the circumstances being sufficiently exceptional to justify a departure.
- 6.1.16 As the current application is for outline approval only the principle issue for consideration in this instance is whether the sustainability of the site location overrides the departure from emerging local plan policy and lack of local support, as voiced by the Parish Council, for the proposal.
- 6.1.17 In terms of sustainability the proposal site is not deemed to be isolated within open countryside sitting as it does at the edge of the village which offers a range of services and facilities including a Primary School, parish hall, Church, hair salon, and library. A bus service operates Monday to Saturday from a bus stop adjacent to the Sun Inn.
- 6.1.18 On balance given the site location of the proposed dwelling at the edge of the village and within easy walking distance of the various services and facilities it is considered that the proposal for two dwellings might be considered to be sufficiently sustainable to meet the overriding aims of the NPPF and to warrant departure from the local plan. It is therefore recommended that in this case that

greater weight is accorded to the NPPF than the saved local plan policies and that the proposed development is deemed to be acceptable in principle.

Policies CS11 (Type and Affordability of Housing) and CS17 (Environmental Networks) are also considered to apply to the consideration of this application.

- 6.1.19 CS11 requires an integrated and balanced approach to be taken with regard to existing and new housing, including type, size, tenure and affordability. Housing developments should be designed to be capable of adaptation to accommodate lifestyle changes, including the needs of the elderly and people with disabilities. All new open market housing is required to make contributions to the provision of local needs affordable housing.
- 6.1.20 Policy CS17 seeks to ensure that new development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreation values and functions of these assets, their immediate surroundings or their connecting corridors.

6.2 Details of Proposal

- 6.2.1 The proposal is submitted in outline form only and other than the affected site area, the principle of development for 2 dwellings and access all other matters are intended to be dealt with by way of reserved matters. Access is proposed to be provided via Stocks Lane and the existing stone access driveway which serves the existing converted barns adjacent Oakleigh Farm.
- 6.2.2 Additional information supplied with the application does however indicate that the intention would be for the construction of 2 no 3 bedroom dwellings to face towards the existing farmhouse in brick facing materials and slate roofing.
- 6.2.3 The applicants envisage that the proposed dwellings would include an eaves height of around 3.95 metres for house one with a ridge height of around 7.62 metres. House two would be intended to have an eaves height of around 4.8 metres and a ridge height of 6.83.
- 6.2.4 It is explained that parking areas would be provided to the north of the dwellings with rear garden areas to the south. Foul sewage is proposed to be dealt with by way of a septic tank and surface water disposed via a soakaway whilst a total of 4 car parking spaces would be proposed.
- 6.2.5 However, all of these details would need to be carefully considered as part of any future reserved matters application should the current application be approved.

6.3 Impact on Amenity

- 6.3.1 Information submitted with the application explains that existing stock fencing would be supplemented by native mixed species hedges although if the application were to be approved details of landscaping and boundaries would be required for consideration at Reserved Matters stage to ensure that the proposal would blend within its rural surroundings.
- 6.3.2 In terms of impact on the amenity of other residential dwellings it is considered that

the size of the proposed plot together the distances involved entails that, subject to detail at reserved matters stage, the introduction of the proposed new dwellings could be achievable without the need to significantly impact on the amenity of existing properties either in terms of overshadowing or overlooking.

6.4 **Ecology**

6.4.1 An ecological survey prepared by Churton Ecology has been submitted with the application. This concludes that 'the grassland is of low ecological value but the hedgerows are of higher ecological value.'

6.4.2 The Council's Ecology team have been consulted on the proposal their comments will be reported to members by means of late representations.

6.5 **Drainage**

6.5.1 The Council's drainage engineer was consulted on the proposal and raised no objection. However it was recommended that conditions and informatives be attached in the event that the application was approved. These require the submission of drainage details, plan and calculations for approval at the reserved matters stage.

6.5.2 It was noted that the application form states that the surface water drainage from the proposed development is to be disposed of via soakaways but that no details and sizing of the proposed soakaways have been provided. It was also noted that SuDS Applicability for the site is Attenuation. Percolation tests and soakaways are required to be designed in accordance with BRE Digest 365 and full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. It is also required that a catchpit should be provided on the upstream side of the proposed soakaways.

6.5.3 The Engineers advises that If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s run-off rate should be provided. The attenuation drainage system should be designed with the capacity to cope with storm events of up to 1 in 100 year + 30% for climate change and to safeguard against cause flooding of any property either within the proposed development or any other in the vicinity. This is to ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

6.5.4 It was also required that if non permeable surfacing is proposed to be used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

6.5.5 An informative has also been requested to ensure that as part of the SuDS, the applicant should consider employing measures such as water butts, rainwater harvesting and permeable surfacing on any new access road.

6.5.6 Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage fields would also be required to be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form) in order to ensure that the foul water drainage system complies with the Building Regulations H2. British Water

'Flows and Loads: 3' should be used to determine the number of persons for the proposed development i.e. for a 4 bedroom dwelling, the population equivalent should be 6 and the sizing of the septic tank and drainage fields should be designed to cater for a minimum of 6 persons and in accordance with the Building Regulations H2 Paragraph 1.18. These documents should also be used if other form of treatment on site is proposed.

6.6 Highways

6.6.1 The Highways team have been consulted on the application and commented as follows:

The application proposes to gain access to the adopted highway via the private drive and access junction onto Stocks Lane to the north of the access to the school car park. The private drive already serves a number of properties and is considered satisfactory in layout to cater for the likely increase in traffic generated by the proposed dwellings. Whilst it is acknowledged that the site access is located close to the school and experiences the associated traffic movements at the start and finish of the school day, it is not considered that a highway objection solely on the increase in traffic from the proposed properties potentially causing an unacceptable impact on the use of Stocks Lane at these times is a sustainable highway objection and the Highway Authority raises no objection to the proposals.

6.6.2 Visibility from the private drive junction along Stocks Lane in a north westerly direction is however restricted by the boundary hedge. This is shown to be in the applicant's ownership and a visibility splay of 2.4 metres by 43 metres should be provided in connection with the developments.

7.0 CONCLUSION

7.1 On the basis of the current 5 year supply issue officers are of the view that the NPPF "presumption in favour of sustainable development" applies.

7.2 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and is deemed not to have any adverse implications relating to environmental and highways safety matters.

7.3 The proposal is therefore considered to accord with the relevant policy provisions set down within the NPPF and Core Strategy Policies CS4, CS5, CS6, CS11 and CS17 and is recommended for approval subject to a section 106 agreement requiring the affordable housing contribution required by Policy CS11.

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 1990.

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.

10.0 BACKGROUND

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

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
D7 - Parking Standards
SPD Type and Affordability of Housing

11. 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

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

1. Details of the means of access, landscaping, layout 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 4 of the Development Management Procedure Order 2010 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
The levels of the site
The means of foul and surface water drainage of the site
The finished floor levels

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

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

5. Prior to any above ground works a visibility splay shall be provided at the access point onto Stocks Lane at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43.0 metres in a north westerly direction along Stocks Lane. All growths and structures in front of this line shall be lowered to and maintained at a height not exceeding 0.9 metre above the level of the adjoining highway carriageway.

Reason: To provide a measure of visibility from the access in a north westerly direction along the highway in the interests of highway safety.

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<u>Committee and Date</u>
North Planning Committee
1 July 2014

<u>Item</u>
9
Public

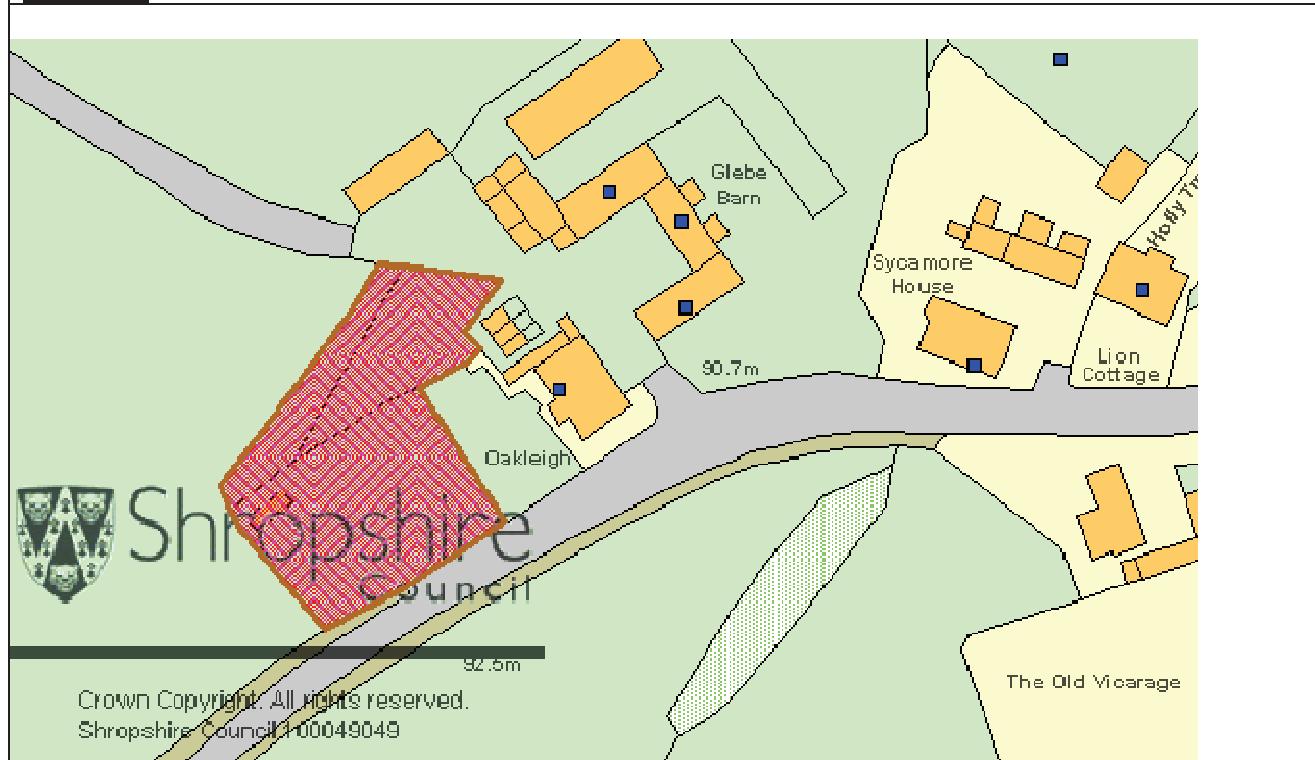
Development Management Report

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

Summary of Application

Application Number: 14/01721/OUT	Parish:	Welshampton And Lyneal
Proposal: Outline application for the erection of a single detached dwelling to include access, layout and scale		
Site Address: Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG		
Applicant: Mr & Mrs R K & M A Mainwaring		
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 343161 - 334954



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Recommendation:- That planning permission be granted subject to the applicants entering into a S106 agreement to secure a financial contribution to affordable housing and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline approval for the erection of a single detached dwelling on land adjacent to Oakleigh Farmhouse, to the west of the village of Welshampton, with all matters reserved apart from access.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal site is an level agricultural field located to the north of the A495 at the western edge of the village of Welshampton which measures approximately 0.420 acres.

2.2 Boundaries to the site are provided by mature mixed species hedges to the west, east and south with some open post and wire fencing to the north. Access is proposed to be gained from Stocks Lane via the private road which serves the existing barn conversions adjacent to Oakleigh Farm.

2.3 To the east of the site is garden area belonging to Oakleigh Farmhouse and 3 no. converted farm buildings whilst there are open fields to the west and north.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has objected to the application contrary to the officer recommendation and the local ward member has requested that the application be referred for determination by planning committee in accordance with the Council's 'Scheme of Delegation'.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Welshampton and Lyneal Parish Council –

The Parish Council's input into the SAMDev consultation included the following statements:

- All development to be in line with the Village Design Statement
- To keep in line with statements in the Parish Plan.
- The Village Design Statement (VDS) includes the following:
- If future development is to take place the following should be considered:-
- Any such schemes must carefully consider the method of disposing of surface and foul water, not only within the curtilage of the scheme but the effect the scheme will have on existing properties.
- It was resolved to object to the application for the following reasons:
- The application is outside the current and proposed development boundary.
- Drainage concerns as in particular there is often flooding on the north side of the access road.
- The suitability of the private access road to support the number of vehicles now proposed to use it.

- Sustainability and local infrastructure which is expanded on below.

Traffic - The proposed development will use an access next to the Community Car Park which is used by the Primary School and Pre-School. This area is very congested at certain times of the day and this has been raised with the Police. The Council would request that all risks associated with additional development in the area are explored.

Sustainability and local Infrastructure - The Parish Council would draw the attention of Shropshire Council to the fact that at the current time applications amounting to 29 houses, in addition to this application, have been submitted for determination. The Parish Council is concerned about over development for what is essentially a small village. If all submitted applications are granted in such a short time frame, the village would potentially increase its housing stock by approximately 30%. This large increase cannot be considered sustainable. If planning applications amounting to the same percentage were submitted in Shrewsbury or Oswestry would Shropshire Council not take an holistic approach?

Shropshire Council Housing Enabling Team has also confirmed that there are currently only 2 households on the housing register already resident within the Parish. The need for 30 houses must be questioned.

Although it is acknowledged that Welshampton has the benefit of some services, primary school, pub, hairdresser and garage (no petrol), the Parish Council has serious concerns that such a large increase in dwellings overall will negatively impact the sustainability of the village as a whole and cause major concerns to the local infrastructure.

Sustainability as outlined in NPPF paragraph 7

Economic benefits - apart from providing an economic gain from the actual developments, such large scale development will not enhance the local employment economy as there are no local businesses which could support such an increase in population.

Social benefits - the local primary school has a limit on expansion due to physical restraints and access to all other services (eg shopping, medical facilities etc) will need transport to access them as there is inadequate public transport.

Environmental benefits – the size of development that is currently being proposed for Welshampton as a whole does not contribute to protecting and enhancing the natural environment. The need to use transport to access all local services does not minimise waste and pollution. It will not contribute to a low carbon economy.

Local Infrastructure - As outlined above, Welshampton does not have the benefit of a mains sewage system. Other elements of infrastructure should be investigated to assess whether such a large increase of dwellings is capable of being sustained. For example, water pressure, electricity, pavements to access village service, the cumulative impact on already busy A and B roads, and most significantly, the village primary school.

It is not the intention of the NPPF to facilitate unsustainable, random, highly

speculative, unnecessary development which results in a small community of 100 houses being extended by 30%. It is not the intention of the NPPF to build houses where children have to be driven to school, where all employment has to be accessed by private transport.

It is not the intention of the NPPF to cause social upheaval by the building of too many houses for the local need, arising in a massive increase in the number of new residents from outside the region.

The Parish Council is seriously concerned that to determine each application in isolation will result in a dysfunctional village. To develop a large number of houses on isolated sites without the proof of housing need, when each application will be "claiming" the same demand, will lead to properties not being sold, bankrupt developers and eyesores of empty half-built sites.

The Parish Council does not want this to happen, and nor should Shropshire Council.

4.1.2 **SC Affordable Housing: no objection.** Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

4.1.3 **SC Highways** – The Highway Authority **raises no objection** to the granting of outline consent subject to conditions.

The application proposes to gain access to the adopted highway via the private drive and access junction onto Stocks Lane to the north of the access to the school car park. As submitted however the access route has been not included in the red line of the respective application sites; though qualified within the supporting statements.

The private drive already serves a number of properties and is considered satisfactory in layout to cater for the likely increase in traffic generated by the proposed three dwellings. Whilst it is acknowledged that the site access is located close to the school and experiences the associated traffic movements at the start and finish of the school day, it is not considered that a highway objection solely on the increase in traffic from the proposed properties potentially causing an unacceptable impact on the use of Stocks Lane at these times is a sustainable highway objection and the Highway Authority raises no objection to the proposals.

Visibility from the private drive junction along Stocks Lane in a north westerly direction is however restricted by the boundary hedge. This is shown to be in the applicant's ownership and a visibility splay of 2.4 metres by 43 metres should be provided in connection with the developments.

The visibility splay and private drive between the respective application sites and

Stocks Lane should be included in the red line of the application site

4.1.4 **SC Ecology** – Shropshire Councils ecology team has been consulted and their comments will be reported to members by means of late representations.

4.1.5 **SC Drainage - No objection.** Drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

4.2 **Public Comments**

4.2.1 Local ward member - wish to object for the reasons which are set out in the Parish Council's letter of objection and which I support.

4.2.2 Neighbour objector comments have also been received from 3 households –

- Proposal would cause severe invasion of privacy to property by way of overlooking.
- Natural light to property would be blocked.
- Traffic would be nuisance during winter months with vehicle lights shining straight into living areas.
- Entrance to property is off an unadopted road of which entrance is at back of school running along the school parking area.
- Entrance is currently blocked at either end of school day by traffic.
- Proposed site is green belt area.

5.0 **THE MAIN ISSUES**

- Principle of development
- Details of Proposal
- Impact on Amenity
- Ecology
- Drainage
- Highways

6.0 **OFFICER APPRAISAL**

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6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. 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.

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6.1.3 There are currently three major policy considerations in the assessment of planning applications for housing:

- Five year housing land supply/housing supply.
- Weight to relevant policies in emerging Plan
- NPPF presumption in favour of sustainable development/boosting housing supply

6.1.4 Five year housing land supply/housing supply

A supply statement produced in September 2013 indicated a 4.95 years housing land supply for Shropshire and a 5.28 years supply for Shrewsbury. However questions remain over whether emerging SAMDev Plan sites can be counted in these figures and, if so, which sites and how many of these dwellings on each site are likely to be delivered within the five year period. Given these circumstances, it is considered prudent that NPPF paragraph 49 and the presumption in favour of sustainable development (paragraph 14) should apply to the consideration of applications.

6.1.5 Weight to relevant policies in emerging Plan

The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.1.6 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people. The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen. Such designations are being made via the SAMDev Plan, currently being prepared by the Council.

6.1.7 The SAMDev Plan sets out proposals for the use of land and policies to guide future development in Shropshire up to 2026 and covers the whole of the administrative area of Shropshire Council (excluding Telford & Wrekin). The Council has recently completed the latest consultation state on its Pre-Submission Draft Version which follows on from several stages of consultation over the past four years. The next stage is that the Plan and all the representations made on the Plan will be submitted to the Secretary of State for examination by an Independent Planning Inspector by the end of July 2014.

6.1.8 The Draft document identifies Welshampton and Lyneal as being a Community Cluster where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with housing guidelines of around 20 additional dwellings in Welshampton and 5 additional dwellings in Lyneal. The Parish Council have given their agreement to the designation of a boundary around the main built up area of the village although it is stated that all new development is subject to establishing adequate foul drainage and water supply. No allocated sites have been identified within the area of the village.

6.1.9 The "saved" policies of the North Shropshire Local Plan include Policy H6 which relates to infilling, groups of houses and conversions within identified settlements within development boundaries. Welshampton was identified as a Main Service Village under that policy and a settlement boundary was provided within which

appropriate new housing development would normally be permitted. At that time the whole of Oakleigh Farm and its outbuildings, which have since been converted to residential use, lay outside of the settlement boundary which instead followed the western boundary of Sycamore House to the east. The proposed settlement boundary shown within the SAMDev pre submission draft also shows the proposed settlement boundary as following the western boundary of Sycamore House and therefore excludes the application site.

- 6.1.10 The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan has not been through the examination stage), the weight has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications. The absence of a 5 year supply and the NPPF aim of boosting housing supply would be significant considerations.
- 6.1.11 Sites that are not within development boundaries or, in the case of some emerging hubs and clusters, within settlements, should be considered as being in the 'countryside' in policy terms, where Policy CS5 (Countryside and Green Belt) applies, having regard to any other material considerations. This requires new development to be strictly controlled in accordance with national planning policies protecting these areas. In the case of new dwellings these are generally required to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need in accordance with national planning policies.
- 6.1.12 On the basis of Policy CS5 and the site's location outside of the settlement boundary planning permission for a new dwelling would not normally be permitted.
- 6.1.13 NPPF presumption in favour of sustainable development/boosting housing supply
The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to 'boost significantly the supply of housing', with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 6.1.14 The determination of this application rests primarily on whether other material considerations change this view, with the circumstances being sufficiently exceptional to justify a departure.
- 6.1.15 As the current application is for outline approval only the principle issue for consideration in this instance is whether the sustainability of the site location overrides the departure from emerging local plan policy and lack of local support, as voiced by the Parish Council, for the proposal.
- 6.1.16 The application sites lies outside of the area of the Welshampton settlement boundary, both as proposed within the latest draft SAMDev Plan and the previous settlement boundary identified within the North Shropshire Local Plan. In both

cases the boundary follows the western boundary of Sycamore House and excludes Oakleigh Farm, and its adjacent converted outbuildings.

6.1.17 In terms of sustainability the proposal site is not deemed to be isolated within open countryside sitting as it does at the edge of the village which offers a range of services and facilities including a Primary School, parish hall, Church, hair salon, and library. A bus service operates Monday to Saturday from a bus stop adjacent to the Sun Inn linking to the settlement to other market towns.

6.1.18 On balance given the site location of the proposed dwelling at the edge of the village and within easy walking distance of the various services and facilities it is considered that the proposal might be considered to be sufficiently sustainable to meet the overriding aims of the NPPF and to warrant departure from the local plan. It is therefore recommended that in this case that greater weight is accorded to the NPPF than the saved local plan policies and that the proposed development is deemed to be acceptable in principle.

6.1.19 Policies CS11 (Type and Affordability of Housing) and CS17 (Environmental Networks) are also considered to apply to the consideration of this application. CS11 requires an integrated and balanced approach to be taken with regard to existing and new housing, including type, size, tenure and affordability. Housing developments should be designed to be capable of adaptation to accommodate lifestyle changes, including the needs of the elderly and people with disabilities. All new open market housing is required to make contributions to the provision of local needs affordable housing. Policy CS17 seeks to ensure that new development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreation values and functions of these assets, their immediate surroundings or their connecting corridors.

6.2 **Details of Proposal**

6.2.1 The proposal is submitted in outline form only and other than the affected site area, the principle of development for 1 dwelling and access all other matters are intended to be dealt with by way of reserved matters. Additional information supplied with the application does however indicate that the intention would be for the construction of a single 4 bedroom dwelling of double fronted design in brick facing materials and slate roofing. A garage would also form part of the reserved matters proposals and a total of 4 car parking spaces is also referred to within the application form. Foul sewage is proposed to be dealt with by way of a septic tank and surface water disposed of via a soakaway.

6.2.2 The applicants envisage that the proposed dwelling and garage would measure 207.80m square with the dwelling having an eaves height of around 4.88 metres and ridge height of around 7.54 metres. However, all of these details would need to be carefully considered as part of any future reserved matters application.

6.3 **Impact on Amenity**

6.3.1 The stated intention is that existing mature mixed species hedges to the east, west and south would be retained in order to provide screening for the proposed development and to ensure a degree of privacy. If the application were to be approved details of landscaping and boundaries would be required for

consideration at Reserved Matters stage to ensure that the proposal would blend within its surroundings.

6.3.2 In terms of impact on the amenity of other residential dwellings the nearest affected properties would be Oakleigh Farmhouse and the three converted farm buildings formerly linked to the farm. It is considered that the size of the proposed plot together the distances involved entails that, subject to detail at reserved matters stage, the introduction of a new dwelling could be achievable without the need to significantly impact on the amenity of existing properties either in terms of overshadowing or overlooking.

6.4 **Ecology**

6.4.1 An ecological survey prepared by Churton Ecology has been submitted with the application. This concludes that 'the grassland is of low ecological value but the hedgerows are of higher ecological value.'

6.4.2 The Council's Ecology team have been consulted and their comments will be reported to members by means of late representations.

6.5 **Drainage**

6.5.1 The site is identified within the Environment Agency's Flood Risk Maps as being within Zone 1. The Council's drainage engineer was consulted on the proposal and raised no objection. However it was recommended that conditions and informatives be attached in the event that the application was approved. These require the submission of drainage details, plan and calculations for approval at the reserved matters stage.

6.5.2 It was noted that the application form states that the surface water drainage from the proposed development is to be disposed of via soakaways but that no details and sizing of the proposed soakaways have been provided. It was also noted that SuDS Applicability for the site is Attenuation. Percolation tests and soakaways are required to be designed in accordance with BRE Digest 365 and full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. It is also required that a catchpit should be provided on the upstream side of the proposed soakaways.

6.5.3 The Engineers advices that If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s run-off rate should be provided. The attenuation drainage system should be designed with the capacity to cope with storm events of up to 1 in 100 year + 30% for climate change and to safeguard against cause flooding of any property either within the proposed development or any other in the vicinity. This is to ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

6.5.4 An informative has also been requested to ensure that as part of the SuDS, the applicant should consider employing measures such as water butts, rainwater harvesting and permeable surfacing on any new access road.

6.5.5 Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage fields would also be required to be submitted for approval

including the Foul Drainage Assessment Form (FDA1 Form) in order to ensure that the foul water drainage system complies with the Building Regulations H2. British Water 'Flows and Loads: 3' should be used to determine the number of persons for the proposed development i.e. for a 4 bedroom dwelling, the population equivalent should be 6 and the sizing of the septic tank and drainage fields should be designed to cater for a minimum of 6 persons and in accordance with the Building Regulations H2 Paragraph 1.18. These documents should also be used if other form of treatment on site is proposed.

6.6 Highways

6.6.1 The Highways team have been consulted on the application and raise no objection to the application. The highways officers has observed that the site is served by a private drive that already serves a number of properties and is considered satisfactory in layout to cater for the likely increase in traffic generated by the proposed dwellings. Whilst it is acknowledged that the site access is located close to the school it is not considered that a highway objection solely on the increase in traffic from the proposed properties potentially causing an unacceptable impact on the use of Stocks Lane is a sustainable highway objection.

6.6.2 Visibility from the private drive junction along Stocks Lane in a north westerly direction is however restricted by the boundary hedge. This is shown to be in the applicant's ownership and a visibility splay of 2.4 metres by 43 metres should be provided in connection with the developments and will addressed by the imposition of an appropriately worded condition.

7.0 CONCLUSION

7.1 On the basis of the current 5 year supply issue officers are of the view that the NPPF "presumption in favour of sustainable development" applies.

7.2 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and is deemed not to have any adverse implications relating to environmental and highways safety matters.

7.3 The proposal is therefore considered to accord with the relevant policy provisions set down within the NPPF and Core Strategy Policies CS4, CS5, CS6, CS11 and CS17 and is recommended for approval subject to a section 106 agreement requiring the affordable housing contribution required by Policy CS11.

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 1990.

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.

10.0 **BACKGROUND**

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters
 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
 D7 - Parking Standards
 SPD Type and Affordability of Housing

Relevant planning history:

NS/08/00613/FUL Proposed conversion of agricultural barns into 3 dwellings, formation of new vehicular / pedestrian access and car parking area CONAPP 4th June 2008

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 Brian Williams
Appendices APPENDIX 1 - Conditions

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

1. Details of the layout and scale, appearance and landscaping (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 4 of the Development Management Procedure Order 2010 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
The levels of the site
The means of foul and surface water drainage of the site
The finished floor levels

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

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

7. Prior to any above ground works a visibility splay shall be provided at the access point onto Stocks Lane at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43.0 metres in a north westerly direction along Stocks Lane. All growths and structures in front of this line shall be lowered to and maintained at a height not exceeding 0.9 metre above the level of the adjoining highway carriageway.

Reason: To provide a measure of visibility from the access in a north westerly direction along the highway in the interests of highway safety..

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Committee and Date
 North Planning Committee
 1 July 2014

Item
10
 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: 14/00922/VAR	Parish: Whixall
Proposal: Variation of condition no.2 attached to 13/00778/VAR to allow for reduction in height of infill boarding to the first floor doors	
Site Address: Avalon Hollinwood Whixall Whitchurch Shropshire	
Applicant: Mr B Allmark	
Case Officer: Jane Preece	email: planningdmne@shropshire.gov.uk

Grid Ref: 352130 - 336190



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

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning permission to vary condition number 2 (approved plans) attached to 13/00778/VAR to allow for reduction in height of infill boarding to the first floor doors on the north elevation of the dwelling now known as Avalon.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site lies within the settlement of Hollinwood and originally formed part of the curtilage associated with a former dwelling (known as Sunnyside). The site sits amid residential development and is bounded to the north by 16 Hollinwood, to the east by the road (with residential development directly opposite), to the south/south west by two further building plots and to the west by fields.

2.2 The erection of a detached dwelling on each of the two adjoining building plots has yet to be completed by virtue of an extant planning permission issued in 2004.

3.0 REASON FOR COMMITTEE OF APPLICATION

3.1 Parish Council objection in conflict with officer recommendation and the Local Member is of the opinion the proposal will adversely affect residential amenities in conflict with officer opinion and that the application warrants a committee decision on this material issue.

4.0 Community Representations

4.1 Consultee Comments

Whixall Parish Council – Object. Whixall Parish Council supported the condition of original height of infill boarding and their position remains unchanged.

4.2 Public Comments

Four representations of objection have been submitted by local residents. The main objections relate to:

- Any reduction in the height of the cladding would increase potential overlooking of the neighbouring garden (16 Hollinwood) and would be contradictory to previous history of the site and committee decisions
- Applicants assertion that lowering the height of the cladding by 200mm will increase light and ventilation to the bedroom appears unlikely, as the doors are north facing
- This further variation appears to be the first stage of a plan whereby the height of the boarding is reduced until the point is reached where the doors and balcony come back into use. The doors openings should be properly blocked up from floor level and replaced by windows as shown in the original permission

- The application should be refused

5.0 THE MAIN ISSUES

- Background
- Impact on residential amenity
- Other matters

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 Planning permission 13/00778/VAR granted consent in retrospect for the variation of conditions No. 2 (approved plans) and No. 3 (removal of permitted development rights) attached to planning permission 10/02710/FUL to allow first floor windows to be changed to doors (including removal of unauthorised balcony guard rail and installation of solid infill to block external lower section of doors); removal of hedges to west boundary, retention of wall to northern boundary, removal of unauthorised boarded fence to northern boundary and replacement with hedge planted on original boundary; retention of existing greenhouse and garden store and take down/reduce height of southern wall, with the planting of a hedge behind.
- 6.1.2 This current proposal specifically relates to the infill panelling that blocks the external lower sections of the doors. Under 13/00778/VAR the infill panelling was approved to a height of 1100mm. This application seeks to lower the height of the infill panels from 1100mm to 900mm. A safety rail will be provided at 1100mm to comply with Building Regulations.
- 6.1.3 Planning law allows for the variation of any condition imposed on a planning application but the consideration of the proposal has to take into consideration the reason it was imposed. The reason for imposing condition 2 was “*To safeguard the residential amenities of the neighbouring property.*” Accordingly, providing the proposed variation of the condition does not adversely impact on residential amenities then there would be no reason to refuse it. This matters is considered below.
- ### 6.2 Impact on residential amenity
- 6.2.1 Policy CS6 of the Core Strategy refers to the need safeguard residential and local amenity and recognise the importance of ensuring that developments do not have unacceptable consequences for neighbours and/or residential amenity.
- 6.2.2 Neighbours object to the lowering of the infill panelling on the grounds that it would increase the size of the glazed opening above and therefore increase potential overlooking of the neighbouring garden (16 Hollinwood). However, whilst the height of the infill panelling will be reduced by 200mm from its current height the size of the glazed opening above will be no larger (deeper) than the window frame approved under the original planning permission reference 10/02710/FUL. Furthermore, it is not considered that the proposal will affect the residential amenities of the neighbouring property in terms of loss of privacy and overlooking to any greater degree in comparison with what has previously been accepted and approved in 2010. Accordingly, the proposal is considered to satisfy the requirements of Core Strategy policy CS6.

6.2.3 Officer note that there were no objections from neighbours to the windows approved within the elevation concerned as part of the 2010 plans and technically the applicant could remove the current glazed opening and infill panelling and insert the windows as approved in the 2010 scheme which would relate in an opening the same size as proposed in the current application.

6.2.4 As such it is officers opinion that, in these circumstances, refusal on the grounds of loss of amenity could not be sustained

6.3 **Other matters**

6.3.1 The works to the northern and southern boundaries as required under conditions 3 and 4 attached to 13/00778/VAR have been undertaken to the satisfaction of the Councils Enforcement Team. Therefore as part of this application conditions 3 and 4 will be reworded to reflect this position.

7.0 **CONCLUSION**

7.1 Having regard to the plans approved as part of application reference 10/02710/FUL it is considered that the proposed variation to planning permission 13/00778/VAR is acceptable in that the amendment proposed will not affect the residential amenities of neighbouring properties to any greater degree in terms of loss of privacy and overlooking such that would justify refusal. Accordingly, it is considered that the proposal satisfies policy CS6 of the adopted Core Strategy.

7.2 The works to the northern and southern boundaries as required under condition 3 and 4 attached to 13/00778/VAR have been undertaken to the satisfaction of the Councils Enforcement Team. Therefore as part of this application conditions 3 and 4 will also varied to reflect this position.

7.2 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:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

RELEVANT PLANNING HISTORY:

10/00559/FUL Erection of a detached dwelling with integral garage and formation of vehicular access GRANT 12th April 2010

10/02710/FUL Erection of a detached dwelling with integral garage and formation of new vehicular access (amendment to planning approval reference 10/00559/FUL dated 12th April 2010) GRANT 25th August 2010

12/03765/VAR Variation of Conditions No. 2 (approved plans) and No. 3 (removal of permitted development rights) attached to planning permission 10/02710/FUL to allow first floor windows to be changed to doors and Juliet balcony; removal of hedges to west boundary and erection of a wall REFUSE 29th January 2013

12/03766/FUL Application under Section 73a of the Town and Country Planning Act 1990 for erection of greenhouse and garden shed and erection of boundary walls and gate (retrospective) REFUSE 29th January 2013

13/00778/VAR Variation of Conditions No. 2 (approved plans) and No. 3 (removal of permitted development rights) attached to planning permission 10/02710/FUL to allow first floor windows to be changed to doors (including removal of unauthorised balcony guard rail and installation of solid infill to block external lower section of doors); removal of hedges to west boundary and retention of wall and removal of unauthorised boarded fence to northern boundary and replacement with hedge planted on original boundary; retain existing greenhouse and garden store and take down/reduce height of southern wall, planting of a hedge (amended application) GRANT 2nd May 2013

13/00779/FUL Application under Section 73a of the Town and Country Planning Act 1990 for erection of greenhouse and garden shed; removal of hedges to west boundary and retention of wall and removal of unauthorised boarded fence to northern boundary and replacement with hedge planted on original boundary; and take down/reduce height of southern wall, planting of a hedge and erection of gate piers (retrospective) (amended application) GRANT 2nd May 2013

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 Pauline Dee Cllr Chris Mellings
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

2. Any hedge plants that have planted as part of the approved hedge planting work that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, then they shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the establishment and maintenance of a reasonable standard of hedge in accordance with the approved boundary details.

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

3. The works undertaken to northern and southern boundary treatments that replaced the boarded fence with the planting of a hedge of indigenous species and reduced the height of the southern boundary wall (to a maximum of 900mm) with the planting of a hedge directly behind the lowered wall shall be retained and maintained in accordance with the approved details.

Reason: To safeguard the visual amenities of the area.

4. The solid infill cladding shall be retained in accordance with the approved details.

Reason: To safeguard the residential amenities of the neighbouring property.

5. The garage hereby approved shall not be used for any purpose other than those incidental to the enjoyment of the dwelling but not including use as living accommodation.

Reason: To safeguard the character of the neighbourhood and to ensure the provision on adequate on-site parking.

6. Other than the proposals hereby approved and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following

development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- erection of a porch
- fences, gates or walls
- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.

-



<u>Committee and Date</u>
North Planning Committee
1 July 2014

<u>Item</u>
11
Public

SCHEDULE OF APPEALS AS AT COMMITTEE 1st July 2014

Appeals determined

LPA reference	13/01580/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Shropshire Towns and Rural Housing
Proposal	Construction of 2 no. 2 bed homes
Location	Birch Grove Ruyton XI Towns SY4 1LH
Date of appeal	28.02.2014
Appeal method	Written
Date site visit	14 May 2014
Date of appeal decision	Dismissed
Costs awarded	
Appeal decision	

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Appeal Decision

Site visit made on 14 May 2014

by **K E Down MA(Oxon) MSc MRTPI MSB**

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

Decision date: 4 June 2014

Appeal Ref: APP/L3245/A/14/2214183

Birch Grove, Ruyton XI Towns, Shropshire, SY4 1LH

- 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 Jason O'Donoghue, Shropshire Towns and Rural Housing against the decision of Shropshire Council.
 - The application Ref 13/01580/FUL, dated 11 April 2013, was refused by notice dated 2 October 2013.
 - The development proposed is construction of 2no. 2 bed homes to Site 2 (currently a parking area).
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The original application related to two separate sites in Birch Grove. However, the Council considered the two sites separately under different application references. This appeal relates to the site described as Site 2 in the original application and I have therefore referred only to this site in the description of development above. The Council altered the address of the site to "Land South West of Birch Grove", which is accurate.

Main Issue

3. There is one main issue which is the effect of the proposed development on the living conditions of residents in Birch Grove with respect to parking provision and highway safety.

Reasons

4. The appeal site is a small car park at the end of Birch Grove, a cul-de-sac of flats and semi-detached houses and bungalows, understood to date from the 1970s. Most dwellings have no off street parking. It is clear from the evidence that although the car park is privately owned it was provided at the time the dwellings were built and has, since that time, always been available for the parking of residents' vehicles. In addition to the car park there is on street parking. This, owing to the limited width of the carriageway, is restricted to one side of the street. There is a turning head at the end of the cul-de-sac which provides access to a double garage associated with No 8 and the access to the
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appeal site. The parties appear to agree that there is little or no opportunity to provide additional off street parking and my observations of the frontages and the topography would support that view.

5. The Council raises no objection to the dwellings themselves. They would be affordable two bedroom, two storey houses and each would be provided with private garden space and two off street parking spaces. I have no reason to take a contrary view and shall therefore restrict my further consideration to the main issue, arising from the loss of the existing car park.
6. Ruyton XI Towns is a small, rural settlement which appears to have limited services and amenities. It is about 3km from the larger settlement of Baschurch and an estimated 15km from Shrewsbury. I have no evidence regarding public transport services but in my view people living in Birch Grove would have a no less than average level of car dependency for getting to work and accessing a range of shops and services. In view of the fact that car ownership has increased since the dwellings were built, demand for car parking is unlikely to have fallen since the estate was built. I note that the Highway Authority has required two spaces for each of the proposed dwellings, rather than the one each originally proposed. I see no reason why, in principle, demand for parking at the existing dwellings should be materially different.
7. Surveys by local residents have shown a maximum of eight vehicles parked in the car park and a maximum of nine parked on the highway. From my observations I consider that the car park would be capable of accommodating up to ten vehicles, if well parked. The appellant's evidence, which accords with parking surveys by local residents in this respect, suggests that a maximum of nine or 10 vehicles could be parked on the highway in the cul-de-sac. There are thus up to 20 spaces available to serve the four flats, two bungalows and six houses without off street parking. This would be reduced to about 10 if the appeal was allowed.
8. The appellant carried out surveys which have been submitted in evidence and which tended to show a low usage of the car park and availability of on street parking space. However, many of the surveys were undertaken during the day. Where they were undertaken in the early morning or evening some 10-14 vehicles were recorded including six or seven in the car park. Local residents, the Parish Council and Local Members considered the findings not to reflect accurately parking demand in the street and undertook additional surveys. These were carried out mostly in the early morning or evenings or at weekends and recorded at these times mostly seven or eight vehicles in the car park and between six and nine on the street. At the time of my site visit, mid-afternoon on a weekday when demand would be expected to be below maximum, there were six vehicles in the car park and four parked on the street.
9. It appears from the evidence that somewhere between 10 and 16 vehicle spaces, including between six and eight in the car park, are regularly used by residents for overnight parking. These figures do not appear unduly high, given the number and type of dwellings in the street, and are likely to be an accurate reflection of parking demand. If the car park was to be removed this would lead, even taking the lowest figures, to the on street parking spaces being fully utilised. In the worst case some six vehicles would be unable to find street parking in the cul-de-sac. During my site visit I saw high levels of street parking

in the other arm of Birch Grove. This might be expected to increase in the evenings and at weekends, meaning that alternative parking nearby is unlikely to be available. Moreover, and allowing that one of the vehicles in the car park is a camper van, an average of about six vehicles would be displaced from the car park, more than 50% of its maximum capacity. This is a significant number.

10. I am not therefore satisfied by the evidence that displaced vehicles would be able to find alternative parking spaces within a convenient distance of the dwellings. This would lead to a material loss of amenity to the existing residents, some of whom are understood to be elderly and all of whom will have moved to Birch Grove in the expectation that the current car parking facilities would remain. Furthermore, people may park on the footway and in the turning head, resulting in a hazard to pedestrians and difficulty with turning which would be harmful to highway safety if vehicles, especially larger ones such as the refuse collection vehicle, were forced to reverse out of the cul-de-sac.
11. It is therefore concluded on the main issue that the proposed development would have a materially detrimental effect on the living conditions of residents of Birch Grove with respect to parking provision and highway safety. This would be contrary to Policies CS6 and CS8 of the Shropshire Local Development Framework: Adopted Core Strategy (CS), dated 2011, which taken together expect development to create sustainable places that achieve an inclusive and accessible environment with safe and healthy communities. In particular, developments should safeguard local amenity, including through appropriate car parking provision, and protect and enhance existing facilities. I agree with the Council that such facilities are not limited to those which are necessarily free or available to the general public.
12. The CS policies accord with the National Planning Policy Framework (NPPF) which sets out, as a core planning principle, that planning should seek to secure a good standard of amenity for all existing and future occupants. It goes on to state that developments should create safe and secure layouts which minimise conflicts between traffic and pedestrians. Local parking standards should take into account the accessibility of the development, its type, mix and use and the availability of public transport.
13. Set against the identified harm is the provision of two affordable dwellings. This would boost housing supply in the area where there is an acknowledged need for more homes. It would also help to address an identified need for affordable housing in the area. However, an extract from the Local Housing Need Analysis, dated August 2013 and submitted in evidence, shows that whilst there were 40 applicants for affordable housing in the area only two of these currently lived in the Ruyton XI Towns parish and of these only one required a two bedroom home. Therefore, whilst there is a need for affordable housing in the area it is not clear from the evidence that there is an overriding need for it to be located in Ruyton XI Towns. On balance, I do not find that the advantages of the two affordable dwellings would outweigh the harm to the living conditions of existing residents, through the loss of parking facilities.
14. The appellant, an "arm's length management organisation" of the Council, points out that the car park is privately owned (by the Council's Housing Revenue Department) and its use by local residents could be prevented at any time. That may be so. However, it is clear from the evidence that the parking

area was originally created to provide a facility for the occupiers of the nearby dwellings and that its loss, some 40 years later, would materially harm the living conditions and safety of those residents. This would be contrary to local and national planning policy. As such the development of the site should be resisted. Its potential loss through the civil action of the owner carries very limited weight in the planning balance.

15. The appellant alleges that the site has been used for anti-social behaviour and for fly tipping. The evidence for this is sparse and it is contradicted by local residents and the Parish Council. The latter, having reviewed the police reports in the minutes of council meetings, can find no trace of such incidents. I saw no evidence of misuse during my site visit. It is further suggested that the site is not financially viable to maintain. However, no evidence to support this claim has been provided. Overall these matters therefore carry little weight.
16. Finally, the Highways Authority did not raise an objection to the proposed development. However, this was on the basis that the appellant's original survey suggested that the site was underused and its loss could be compensated for by on-street parking provision. Additional evidence indicates that this is not the case. The views of the Highway Authority, whilst a material consideration, are not therefore overriding in this case.
17. New Planning Guidance was published on-line on 6 March 2014 and applies from that date. The content of the guidance has been considered but I am satisfied that it does not alter my conclusions in this case.
18. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR