



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

Date: Monday, 15 September 2014

**Committee:**  
**North Planning Committee**

**Date:** Tuesday, 23 September 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](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 10)

To confirm the Minutes of the meeting of the North Planning Committee held on 26<sup>th</sup> August 2014, attached, marked 2.

Contact Shelley Davies on 01743 252726.

## 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 Between Twyford Lane And Holyhead Road West Felton Shropshire SY11 4EQ (14/00734/OUT) (Pages 11 - 44)

Outline application (access for approval) for residential development

## 6 Development Land At The Cross West Felton Shropshire (14/00133/OUT) (Pages 45 - 78)

Outline application for mixed residential use; formation of new vehicular access and estate roads and creation of public open space

## 7 Land North Of Norton Farm, Main Road, Norton In Hales, Shropshire (14/00260/FUL) (Pages 79 - 100)

Residential Development of 14 detached dwellings.

## 8 Land Off Bearstone Road, Norton In Hales, Market Drayton, Shropshire (14/00790/OUT) (Pages 101 - 120)

Outline application for the erection of fourteen dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access)

## 9 Cross Keys Inn, Kinnerley, Oswestry, SY10 8DB (14/02864/FUL) (Pages 121 - 140)

Erection of 1 No dwelling with detached garage (revised scheme)

## 10 Land Adjacent To 10 Sungrove, Wem, Shropshire (14/02498/FUL) (Pages 141 - 150)

Erection of 2 no. one bedroom retirement bungalows.

## 11 Proposed Residential Development Land South East Of Childs Ercall Shropshire

**(14/03006/OUT)** (Pages 151 - 166)

Outline application for the erection of 2 detached dwellings; to include means of access

**12 Land At The Wheatlands, Baschurch, Shropshire, (14/02718/VAR)** (Pages 167 - 174)

Variation of Conditions 6 and 7 of planning permission 12/02314/OUT Conditions relate to protected species (Great Crested Newts) which no longer appear to be present at the site.

**13 Proposed Development Land South Of B5063, Welshampton, Shropshire (14/01063/OUT)** (Pages 175 - 192)

Outline application (access) for the erection of 7 dwellings

**14 Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG (14/01721/OUT)** (Pages 193 - 218)

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

**15 Proposed Residential Development, Land West Of Stocks Lane, Welshampton, Shropshire (14/01723/OUT)** (Pages 219 - 242)

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

**16 Development Management Report to Consider Planning Applications subject to S106 resolution having regard to the Council's published 5 years housing supply Land Supply Statement of 12th August 2014** (Pages 243 - 264)

**17 Appeals and Appeal Decisions** (Pages 265 - 266)

**18 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 21<sup>st</sup> October 2014, in the Shrewsbury Room, Shirehall, Shrewsbury.

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## Committee and Date

North Planning Committee

INSERT NEXT MEETING DATE

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 26 August 2014**

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

**2.00 - 5.35 pm**

**Responsible Officer:** Shelley Davies

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

### **Present**

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Martin Bennett, Pauline Dee, David Lloyd and David Minnery

### **35 Apologies for Absence**

Apologies for absence were received from Councillors Steve Davenport, Gerald Dakin, Vince Hunt and Peggy Mullock (substitute: Roger Hughes).

### **36 Minutes**

That the Minutes of the meeting of the North Planning Committee held on 29<sup>th</sup> July 2014 be approved as a correct record and signed by the Chairman.

### **37 Public Question Time**

There were no public questions, statements or petitions received.

### **38 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.

### **39 Land Between Twyford Lane and Holyhead Road West Felton (14/00734/OUT)**

#### **RESOLVED:**

That consideration of this application be deferred to a future meeting of the Committee.

### **40 Development Land At The Cross West Felton (14/00133/OUT)**

#### **RESOLVED:**

That consideration of this application be deferred to a future meeting of the Committee.

#### 41 **Development Land Off Chapel Lane Trefonen Oswestry (14/00426/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 to assess the impact of the proposed development on neighbouring properties and the surrounding area.

The Principal Planning Officer noted the significant local objection to the proposed development and reported that the Parish Council, at an extraordinary meeting held on 23<sup>rd</sup> August 2014, agreed to reverse the decision made at the 24th June meeting and now objected to the application. She explained that the Highways Officer had advised that if permission was granted an additional condition would be required in relation to the proposed mini roundabout and detailed a further additional condition advised by the Coal Authority.

Mr Julian Francis, Chairman of the Trefonen Rural Protection 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:

- They were concerned by the weight given by the Case Officer in relation to boosting housing numbers and believed the National Planning Policy Framework had been misinterpreted;
- A 5 year land supply had been proved in the approved Site Allocations and Management Development DPD submission;
- The Officer's report acknowledged that Trefonen had not been put forward as a Hub or Cluster;
- There was no economic justification for building in Trefonen;
- They challenged the view that additional housing would automatically bring children of primary school age to the village;
- The important rural character of the village had been underplayed by the Case Officer; and
- The proposal would block views of Offa's Dyke and remove a final green wedge of open space.

Councillor Tony Cheetham, 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:

- Over 200 residents had attended the Parish Council meeting when the application was discussed;
- There was a strong feeling of objection to the application;
- The proposal would have a negative impact on the village;
- Concern was raised in relation to the pinch point which Members observed at the Site Visit;
- The development would increase traffic in the village;

- The proposal would not preserve the rural character of the village; and
- Concern had been raised in relation to potential unrecorded mine shafts on site.

Mr Stuart Taylor, agent for 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 development of the site would increase the sustainability of the village, especially the school;
- The applicant had agreed to a shorter timescale for the development to commence to avoid concerns relating to land-banking;
- The proposal would provide smaller, low cost dwellings for young families; and
- Only limited weight could be given to the as yet unexamined Site Allocations and Management of Development DPD.

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

- As seen at the site visit today, the site was in an area of open countryside;
- Development of the site was contrary to the 2014 Parish Plan;
- At a meeting on 23<sup>rd</sup> August 2014 the Parish Council rescinded a previous decision and now objected to the application;
- The strength of objection in the village was unprecedented;
- The size of the development was not in keeping with the area;
- The size of the village had doubled in previous years, mostly in the last twenty years;
- The development would harm the unique character of the area;
- There were limited services available in the village;
- Trefonen had not been put forward for development in the approved Site Allocations and Management of Development DPD;
- A group had been formed to safeguard the rural character of the village; and
- The development would block views of Offa's Dyke and have a detrimental impact on the village.

During the ensuing debate Members of the Committee indicated that the proposed development was contrary to both current saved policies of the Oswestry Local Plan and emerging policies in the Site Allocations and Management of Development DPD and would have an adverse impact on the rural character of the village. Additionally Members commented that Trefonen was not a sustainable location for development due to the limited number of services.

The Principal Policy Specialist advised that limited weight could be given to these policies in view of the age of the saved policies and the fact that the emerging policies were subject to unresolved objections and had not yet been subject to examination in public.

Having considered the submitted plans for the proposal Members of the Committee unanimously indicated that the harm resulting from the development would significantly outweigh the benefits of the proposed development and expressed their objection to the proposal.

**RESOLVED:**

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

1. It was acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply to which significant weight was given. However it was considered that this was outweighed by the harm identified. Furthermore weight was given to the fact that the proposed development was not plan led being contrary to both current saved policies of the Oswestry Local Plan and emerging policies in the Site Allocations and Management of Development DPD albeit that limited weight was given to those policies in view of the age of the saved policies and the fact that the emerging policies were subject to unresolved objections and had not yet been subject to examination in public. It was considered that the development of this site would have an adverse impact on the intrinsic rural character and beauty of the village, take up a visually valuable green space, be development on valuable agricultural land and not contribute towards conserving and enhancing the natural environment contrary to policies CS5 and CS6 of the Shropshire Core Strategy and the NPPF. It was not considered that this development in the settlement was sustainable due to the limited number of services available to future residents in Trefonen and the consequent need to travel to access services but with limited public transport, and opportunities for non-car based travel to do so. The harm resulting from the development would therefore significantly outweigh the benefits of the proposed development and would fail the environmental role of sustainable development contrary to the National Planning Policy Framework.

**42 Proposed Development Land South Of The Hawthorns Ellesmere (14/00822/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 to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Councillor Jeff Elnor, representing Ellesmere Town 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:

- Concern had been raised by members of the public in relation to this application;
- The site had been removed from SAMDev due to access issues;
- The pinch point at Trimpley Street resulted in daily traffic problems;



- The primary school and doctors surgery were at capacity; and
- An engineering solution was required to resolve the highway issues before any development could be approved.

Mrs Penny Bicknell, agent for 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 considered sustainable;
- The site was not in a flood zone;
- Objections had been received in relation to the third option site;
- The issues relating to the school and doctors being at capacity had been addressed in the Officer's report;
- The development would not have an adverse impact on the issues raised regarding Trimpley Street and the developer had agreed to a financial contribution for any improvements required; and
- There was a need for new housing in Ellesmere.

The Highways Officer explained that there was no easy solution to resolve the issues caused by the narrowed section of Trimpley Street. He added that the highway authority acknowledged that the development would have a negative impact upon traffic flow but did not consider the impact to be severe to warrant an objection.

Having considered the submitted plans for the proposal, the majority of Members expressed the view that whilst they had concern in relation to the negative impact the development would have on the traffic flow along Trimpley Street they could not justify refusal of the application for this reason and therefore supported the Officer's recommendation.

**RESOLVED:**

That subject to:

- The conditions set out in Appendix 1;
- An amendment to condition 2 as detailed on the schedule of additional letters;
- The applicant entering into a S106 agreement to secure the provision of affordable housing; and
- All matters reserved for later approval be determined by this Committee, subject to any objections being received.

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

**43 Land North Of Milford Road Baschurch (14/01123/OUT)**

The Area Planning Manager introduced the outline application and drew Members' attention to the schedule of additional letters. He confirmed that Members had attended a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area and advised the following amendment to condition 7:

*As part of any application for reserved matters that includes the medical centre details of a scheme for the localised widening/regularisation of the Milford Road carriageway to a width of 5.5 metres between the new access and its junction with the B5067 and improvement to junction radii shall be submitted to and approved in writing by the Local Planning Authority. The proposed improvements shall be fully implemented in accordance with the approved details prior to the medical centre first being brought into use.*

*Reason: In the interests of highway safety.*

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

- He had sympathy with the local residents who would be affected by the development;
- The proposal was supported by the Parish Council following careful consideration; and
- The land reserved for the medical centre was not a red herring and would be needed in the future as Baschurch was expanding;

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

**RESOLVED:**

That subject to:

- The conditions set out in Appendix 1;
- The amendment to condition 7 as detailed above;
- The applicant entering into a S106 agreement to secure the provision of affordable housing and the dedication of the land for a medical centre for the period of the plan (2026); and
- All matters reserved for later approval be determined by this Committee, subject to any objections being received.

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

**44 Mount Farm Tarporley Road Whitchurch (14/01264/FUL)**

The Principal Planning Officer introduced the application. She drew Members' attention to the schedule of additional letters in particular the European Protected Species three test matrix and confirmed that Members had attended a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

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

- The site had been approved in Site Allocations and Management of Development DPD;
- Concerns had been raised by residents in relation to the foul and surface water drainage;
- There had been flooding issues a number of years ago;
- The sewage system was not fit for purpose and required upgrading; and
- Concern had been raised in relation to a temporary foul drainage scheme and stressed that a permanent scheme was required.

The Principal Planning Officer advised Members that the developer would not want the temporary foul drainage scheme to become a permanent solution.

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 conditions set out in Appendix 1;
- The additional condition as suggested by the Council Ecologist; and
- The applicant entering into a S106 agreement to secure the provision of affordable housing.

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

**45 Development Land South Of Chester Road Whitchurch (14/02222/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 to assess the impact of the proposed development on neighbouring properties and the surrounding area.

In response to a query from a Member regarding electricity supply issues in Whitchurch, the Principal Policy Specialist reported that this had been acknowledged and solutions were being put in place to resolve these issues by the main electricity provider.

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

**RESOLVED:**

That subject to:

- The conditions set out in Appendix 1;

- An amendment to condition 2 as detailed on the schedule of additional letters; and
- The applicant entering into a S106 agreement to secure the provision of affordable housing.

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

#### **46 Land South of Hermitage Farm Shrewsbury Road Hadnall (14/01872/FUL)**

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 to assess the impact of the proposed development on neighbouring properties and the surrounding area.

In response to concerns relating to highway safety, the Highways Officer reported that there were plans for a pedestrian crossing which would provide an element of traffic calming.

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 conditions set out in Appendix 1;
- An amendment to condition 2 as detailed on the schedule of additional letters; and
- The applicant entering into a S106 agreement to secure the provision of affordable housing; and
- All matters reserved for later approval be determined by this Committee, subject to any objections being received.

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

#### **47 1 Cae Onan Morda Oswestry (14/02507/FUL)**

The Principal Planning Officer introduced the application and confirmed that Members had attended a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Ms Gemma Brett, Neighbour, 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 proposed extension would result in a loss of light and privacy to her property;

- The light assessment failed to take into consideration the loss of light to her kitchen and landing;
- The height of the proposed extension was not mentioned in the Officer's report;
- The retaining wall was not able to bear the weight of the extension;
- The extension would overlook her landing resulting in a loss of privacy;
- The property was currently for sale and would add value to the house;
- The proposal would result in a loss of value for their home; and
- This would be the second extension in the area and would set a precedent.

Mr Mark Phelan, 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 proposal was to extend the living accommodation of the property which was insufficient compared to the sleeping accommodation;
- The extension could be built under permitted development rights;
- He had approached his neighbours to explain the proposal before the application was submitted;
- He understood the impact on the neighbouring property;
- A builder had confirmed that the wall was able to take the weight of the extension; and
- He was willing to lower the decking or remove it altogether.

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

- The proposal would be overbearing and result in a loss of light to the neighbouring property; and
- If permission was granted a condition should be added to ensure the side window was frosted.

During the ensuing debate Members expressed the view that the proposal was unacceptable and would adversely affect the amenity of the neighbouring property.

At this point the application was withdrawn by the applicant.

#### 48 **Appeals and Appeal Decisions**

**RESOLVED:**

That the appeals and appeal decisions for the northern area be noted.

#### 49 **Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee would take place on Tuesday, 23rd September 2014 in the Shrewsbury Room, Shirehall.

Signed ..... (Chairman)

Date: .....



Committee and Date

North Planning Committee

23 September 2014

Item

**5**

Public

## Development Management Report

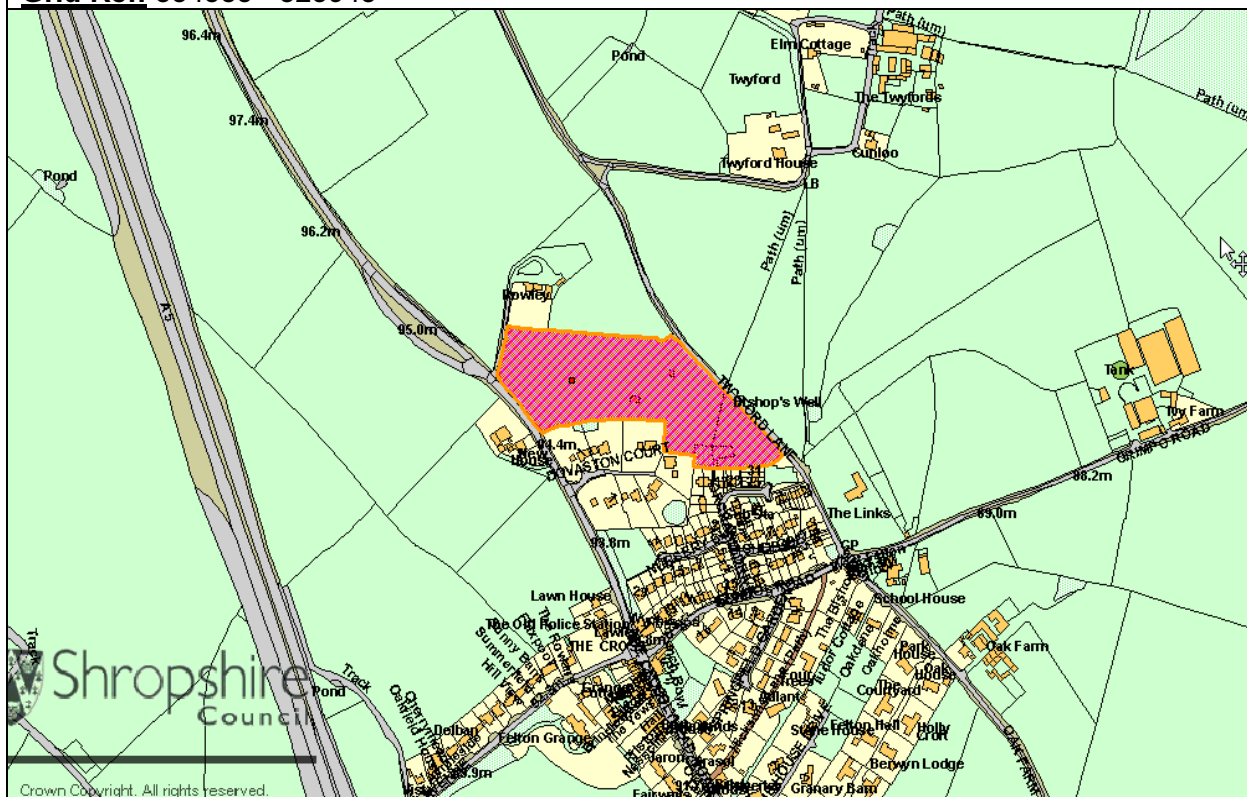
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/00734/OUT	<b>Parish:</b> West Felton
<b>Proposal:</b> Outline application (access for approval) for residential development	
<b>Site Address:</b> Land Between Twyford Lane And Holyhead Road West Felton Shropshire SY11 4EQ	
<b>Applicant:</b> Mr T Humphreys And Mr G Davies	
<b>Case Officer:</b> Karen Townend	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 334585 - 325943



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**Recommendation:** That delegated power be granted to the Area Planning Manager to grant planning permission subject to the resolution of the Highways Agency concerns

**and subject to the applicants entering into a S106 agreement to secure affordable housing at the rate relevant at the time of the submission of reserved matters and a financial contribution towards the improvement of the existing highway footway and subject to the conditions as listed below.**

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 The application seeks outline planning permission for residential development on the land between Holyhead Road and Twyford Lane, West Felton. Access is the only matter which is submitted for consideration at this time with the matters of layout, scale, appearance, and landscaping reserved for later approval. As such the application seeks consent for the principle of developing the site for housing and the access to the site. The planning statement submitted with the application suggests 32 dwellings but does not provide any indication on mix, tenure or layout.

1.2 In support of the proposal the application has been submitted with a planning statement, heritage statement, highways, drainage and flood risk assessment, ecological report and a block plan showing the area of land to be allocated as open space.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The site is 2.45 hectares in area and is currently used as grazing land for horses. It is located on the edge of the village between the low density, large detached, Dovaston Court development off a single cul-de-sac, the minor road, Twyford Lane, and the single detached dwelling, Rowley, which is itself set back from the main road. Opposite the site is agricultural land.

2.2 The field is enclosed on Holyhead Road with a stone wall which varies in height from 0.9m to 1.4m across the frontage of the site. Other boundaries are made up of hedges and trees. The site contains two grade 2 listed structures, the Cider Press and Dovaston Gate and two small agricultural buildings. Agricultural access is currently from two fields gates off Twyford Lane and a public footpath currently crosses part of the site. The land gently slopes up from Holyhead Road to the centre and then falls back to a low point in the eastern corner of the site.

2.3 West Felton is a village which was previously identified in the Oswestry Borough Local Plan as a Larger Settlement where new development would be concentrated. It currently has a school, shop, Chapel, hall and public house. The housing is a mix of the original village centred around The Cross and the small area on the opposite side of the new A5 and more recent developments. The housing does not follow any set form, design or appearance, however it is in the majority two storey.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 Councillor Charmley has requested that the application be considered by the North Planning Committee to discuss the sustainability of the site and the concerns over traffic, infrastructure, school places, carbon emissions and loss of agricultural land and ecological habitat. Furthermore the Parish Council has



objected to the proposed development which is contrary to the officer recommendation.

#### **4.0 COMMUNITY REPRESENTATIONS**

##### **4.1 Consultee Comments**

##### **4.1.1 West Felton Parish Council** – Following consultation on the amended plan and additional information advised:

Having studied the plans WFPC still **strongly OBJECTS** to this amended plan for the following reasons:

- a. Although the density of housing is now more sensible this application still represents 12 houses more than WFPC's SAMDev target of ZERO new houses in this village - which 89% of respondents to the updated West Felton Parish Plan state they wish to remain as Open Countryside with ZERO new market housing.
- b. The three new large housing estates in the village are: 35 at Tedsmore, 25 at The Cross and 12 on Twyford Lane so this total of 72 houses would create a significant adverse cumulative effect or "Housing Shock".
- c. This development would represent an undesirable extension of the village beyond the village boundary.
- d. Any reduction in the width of Holyhead Road or any introduction of other traffic calming measures on this road such as a chicane with lights or signs showing priority right of way would create problems at the best of times and chaos during the several times each year when traffic is diverted off the A5 through the village.
- e. WFPC fully agrees with SC's four reasons for REFUSAL namely: Visual harm to the character of a rural village by extending the built up area beyond its existing boundaries; Loss of Agricultural land; Harm to pedestrian safety; Cumulatively, with the 35 houses already granted off Tedsmore Road it would result in a significant increase in the number of dwellings with consent outside of a plan-led process with a detrimental effect on community cohesion.
- f. The amended plan only tries to address the harm to pedestrian safety and with a deeply flawed plan at that.
- g. Cllr Steve Charmley has agreed to see that if SC Officers seek to grant this plan it must go to committee.

Previous comments received are as follows:

Strongly objects to this third large housing scheme for the village on grounds similar to its objection to the 25 new houses proposed across the Holyhead Road from this site.

**STRONGLY OBJECTS** to this plan because it is unsustainable for these reasons: exacerbating existing traffic problems, insufficient infrastructure in the village, no places in the village school, insufficient professional jobs in the village creating extra travelling and increased carbon footprint also leading to a dormitory village scenario, adverse environmental effects upon this feeding ground for many wild species including endangered birds, loss of prime agricultural land.

Additional reasons for WFPC'S STRONG OBJECTION are as follows: the volume impact of all these houses being built all at the same time would have an adverse effect upon the existing village community and village life, it would also be contrary to the expressed wishes of the vast majority of the local inhabitants, and it negates our SAMDev status of Open Countryside.

And the attached additional two WFPC letters of objection to the 25 new houses at The Cross also apply to this 32 houses scheme by Dovaston Court.

WFPC asks SC to ensure that this application goes to the SC North Planning Committee and that WFPC is informed of the time date and venue of the relevant Planning Committee Meeting so that WFPC can also make a spoken representation to the Committee.

West Felton Parish Council strongly objects to this proposal for speculative development on the grounds that this development would form yet another test case, where if permission were granted this development would cause demonstrable harm to the village as it would be contrary to the policies and principles of sustainable development as documented in the National Planning Policy Framework (NPPF), adopted Core strategy and SAMDev.

Over the last 25 years 270 houses have been built in the parish, a 75% increase from 1988 house numbers, 214 of these have been built in West Felton Village almost trebling its size. In 2005 parishioners were asked about the future direction housing should take within the parish as part of the consultations for the current Parish Plan. 73% of respondents stated they wanted to see no more development in the village for the next local plan period as the village should be given some 'breathing space'.

With this in view West Felton Parish council expressed the overwhelming feelings from the Parish to Shropshire Council that West Felton should become Open Countryside to the period to 2026. This has now been carried forward through at least three rounds of public consultation. A poll was carried out in March 2013 asking residents if they still wished West Felton to be carried forward as Open Countryside or to become a Hub or Cluster, out of 402 responses returned, 384 (95.5%) responses expressed the view to maintain Open Countryside. This is conclusive evidence of the wishes of villagers of this resilient community, who through localism and engagement in the parish planning process should be listened to and their wishes acted upon.

We believe that the National Planning Policy Framework does not change the statutory status of the development plan in Shropshire as the starting point for decision making. Proposed development that conflicts should be refused unless other material considerations indicate otherwise. The adopted core strategy is in full conformity with the NPPF, therefore the NPPF does not indicate otherwise, furthermore the Core Strategy is of recent adoption following all the necessary legal and policy steps – an up to date local plan.

Page 28/29 of the Core Strategy States that: *" In rural areas, new development of a scale and location appropriate to the size, role and function of each settlement*

*will have delivered significant community benefit, helping places to be more sustainable”*

Policy CS2 states “ *Develop the role of Shrewsbury as a sub regional centre, and Shropshire’s market Towns and key centres as more sustainable and self sufficient settlements, providing the main focus for new housing, employment and infrastructure development and the preferred location for a range of services and facilities to serve the wider needs of their respective hinterlands”*

Para 49 of the NPPF states that “*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites”*.”

The Shropshire Site Allocations and Management of Development (SAMDev) Plan complements the core strategy by identifying the sites that will meet the agreed core strategy vision and housing requirements – the SAMDev plan is at an advanced stage, having undergone three stages of public consultation, and most importantly exists in the context of a recently adopted Core Strategy and a positive approach towards delivery.

Para 216 of the NPPF states that: “*Decision takers may also give weight to relevant policies in emerging plans according to: The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)”*

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given), and the degree of consistency of the relevant policies in the emerging plan to the policies in the framework the greater weight may be given.

The Planning Minister, Nick Boles, has recently confirmed that emerging plans may be afforded some weight (Hansard 17<sup>th</sup> July 2013), stating that, “We will make it clear that once a plan has reached the point that, first it has become specific and secondly, it has gone through a fairly substantial level of public consultation it will be come something of real materiality – to use a lawyers phrase – as a consideration in decision making”

It is Shropshire Council view that the SAMDev plan has reached this point being settlement and site specific and having undergone very substantial public consultation, namely three months of Issues and Options consultations in spring 2012 and eight weeks of revised Preferred Options consultation in July / August 2013

In view of the above, West Felton Parish Council considers that there is a very clear case for refusal of this application even before sustainability factors are considered.

Sustainability - Para 14 of the NPPF states: “*The Policies in Paragraphs 18-219 of the NPPF taken as a whole constitute the Governments view of what sustainable Development in England means for the planning system”*.”

Presumption in favour of Sustainable Development or is the proposal “sustainable”? Sustainable means as defined by the UK Sustainable Development Strategy *Securing the Future* sets 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

Para 14 of the NPPF states that “*at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking*”

For decision taking this means: Where the development plan is absent, silent or relevant policies are out of date, granting permission unless: - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

West Felton Parish Council feel that the adverse impacts of this scheme far outweigh the benefits (of which we struggle to find any for the community) and that demonstrable harm to the village will be caused if permission is granted.

They Include:

1. Promoting long distance commuting to work (dormitory villages) West Felton is not well placed for large scale housing development as there are few employment opportunities, (if any in the village) and few services / shops within the village, therefore the village will act as a dormitory village promoting car travel and increasing carbon dioxide emissions - this cannot be ignored as since sustainability is the golden thread it must be given significant weight. Dormitory villages are not sustainable and do not promote a sense of community spirit and were specifically excluded as an option for village development right at the start of the Core Strategy consultations.

2 Loss of the best and most versatile agricultural land - Para 112 states: “*Local Planning Authorities should take into account the economic and other benefits of the best and most versatile Agricultural land. Where significant development of agricultural land is demonstrated to be necessary local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.*” The site forms part of the open countryside and is situated on some of the best quality agricultural land in the locality, (thought to be Grade 2) as demonstrated by the site being flat, level, with deep soil, fertile, very free draining and relatively stone free. It is able to be cultivated or grazed for 12 months of the year. There is also no evidence that land of this quality is essential and *demonstrated to be necessary* to be used for development, as other sites of much lower quality have already been put forward and accepted in the Oswestry Area through the SAMDev process and will meet the projected housing growth to 2026

3. Capacity of School - West Felton School is over capacity – any further development in the village will increase out commuting to take / collect children from school promoting car travel and increasing carbon dioxide emissions - this cannot be ignored as since sustainability is the golden thread it must be given significant weight.

4. Congestion at A5 Junctions Weirbrook / Queenshead - Queenshead junction over the years has had a proven track record as an accident black spot with many fatalities since its construction. This development is at the North of the village and as such the use of the Queenshead Junction will be much increased by some 50 + additional cars. At peak times there are significant queues to get onto the A5 which lead to drivers taking chances and on some occasions causing accidents. This development will increase the problems of congestion at this junction.

5. Effect on the amenity and wellbeing of residents through the connection with the Countryside. - Throughout the Parish plan consultations, a major factor that has dominated public engagement sessions is resident's connection with the surrounding countryside. Building a large estate in this location will cause demonstrable harm to the village amenity and the wellbeing of nearby residents. We strongly feel that a massing of residential properties in this location will create Urban Sprawl and remove the intrinsic beauty of the connection with the countryside that can be viewed as you travel north out of the village. Para 109 states that: "*The planning system should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscape, geological conservation interests and soils.*"

6. Effect on Wildlife - Whilst it is accepted that this site is Agricultural land, local evidence suggests it is a valuable feeding ground for Lapwing (which have also nested previously) and has been for at least 30 years. Large flocks of Fieldfare, Redwing and Starlings are seen on a daily basis visiting the site as the farming methods employed have directly led to a good source of food. Barn Owls are also seen regularly during the evenings hunting along hedgerows around the site. We therefore consider this site to be valuable for the maintenance of species that have been shown to be in serious decline on a national basis.

West Felton Parish Council is concerned that we now have developers seeking piecemeal, green field sites, such as this application site which are not related to Shropshire's development plan which has established through much public consultation sustainable sites to meet the needs of Shropshire to 2026. This application is not based on any evidence of housing need for the village nor has it been consulted upon at a pre application stage in clear contravention of Para 66 of the NPPF '*Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of views of the community*'

The current situation relating to the 5 year housing land supply probably wont increase the numbers of houses built but will give developers an opportunity to

ignore identified sites in preference to more developer led, unplanned but profitable Greenfield sites in open countryside – this is what is now proposed for West Felton.

Wages are generally low, and employment opportunities limited in the former Oswestry Borough area. We believe that this proposal will attract people from outside Shropshire who will then commute considerable distances to their place of employment creating a dormitory village. This is not good planning in the 21<sup>st</sup> century when sustainability must be a material consideration, SAMdev has real 'materiality', to grant permission would harm the public perception of the planning system, which is harm to planning itself and peoples perception of a just society. We request that this application is refused so that the important planning principles involved can be tested at appeal if necessary.

This Parish Council has already objected strongly to Shropshire Council Planning application 14/00133/OUT. This additional notification is to evidence the reasons for those objections with reference to the National Planning Policy Framework (NPPF) and other relevant Planning related guidance.

Traffic - It is noted that the Highways Agency are not able to comment upon Planning applications of less than 50 houses. This means that the potential safety implications of cumulative applications for more than 50 houses can be hidden. Recently Planning application 13/01221/OUT has been approved for 35 houses and 4 commercial units. The additional 25 houses subject of this application means a potential addition of 60 houses and 4 commercial units. We therefore request that Highways Agency are informed of the combination of these 2 applications, in the sure knowledge that more potential applications of this type, from the same or other applicants are waiting in the wings. This is covered in NPPF para 32, bps 2 and 3. The additional weight of traffic, particularly on the dangerous Queens Head/A5 junction is drawn to the attention of planners and the Highways Agency. How many small applications will it take to have a proper assessment of traffic infrastructure needs?

There is also particular concern at the immediate environment of access from this site on and off Holyhead Road. The lack of proper pavement on the western side of Holyhead Road in this vicinity means that pedestrians using the site will be forced either to cross the road more frequently, merely to find access to a full pavement but with an intention to cross back to the western side of the road to access the current local village centre shop premises, or such future shop premises as may exist in that location.

Agricultural Land Grade - This Council is aware, from information from a national soil laboratory, that the agricultural land grade of the site is at least grade 3a and probably grade 1. Each of these grades is defined with Planning Policy Statement (PPS) 7 as being "The best and most versatile land." This is considered in NPPF paras 17, bp 7, 109, 110 and 112. Such land is offered protection from development, in that the need to develop agricultural land should first be demonstrated and, if needed for development, then land of poorer quality should be used in preference to that of higher quality. This Council demands that the applicant, at their cost have the land surveyed to determine its proper agricultural land classification and that the determination of this application awaits the results

of the relevant survey.

This will serve to educate not just on this application, but also on potential other, cumulative applications in a similar location, such as those adjacent to this site. We owe it to our future generations to preserve our best quality agricultural land. On page 2 of NPPF is quoted “Resolution 42/187 of the United Nations General Assembly, (which) defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”

School - We are aware that West Felton CoE Primary School has recently had new extensions to cover the needs of the existing school role. CIL funds of £75,000 have been earmarked by SC’s education authority from application 13/01221/OUT to cover the additional school influx likely from that development. These additional 25 houses will put even more pressure on the school. This is covered by para 72 of NPPF.

CO2 emissions - NPPF devotes many paragraphs to the need to use Planning to reduce the nation’s carbon footprint; notably NPPF paragraph 7, bp 3 and in paragraphs 34, 37, 93 and 95. The village of West Felton is already a dormitory village, with people travelling long, unnecessary distances for work, secondary schools, shopping and most leisure. The creation of dormitory villages is against this NPPF guidance. The environmental role in development, with the economic role and social roles is equal are mutually dependant; para 8 NPPF.

Democratically expressed local wishes - West Felton’s 2005 Parish Plan is still extant and, up to date. Despite that a new parish Plan is being worked on. In the first Parish Plan 75% of people expressed their wish for no further large-scale development in the parish. The recent Parish Plan conducted a poll, which showed that 95.5% of the survey respondents (45% of Parish adults) were opined against further large-scale development. It is accepted that the lack of Shropshire Council’s ability to meet its 5 year housing land supply means, according to NPPF para 49 that, “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

However, NPPF para 17, bp 1 defines the need for, “...empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.”

West Felton’s plan is up to date. Paragraph 69 of NPPF requires local authorities to, “...involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning.” Bearing in mind the amount of work already undertaken by West Felton’s Parish Plan group, the determination of this application, against the clear majority wishes of residents, is a ‘slap in the face’ for this process and can only make it more difficult to encourage people to continue this vital work.

Biodiversity - The site is one locally renowned for wild birds which fill the old, well-established and therefore good habitat hedgerows on this edge of village site. This

is covered by para 109 of NPPFbp 3. Para 110 says, “Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework.” Development here would go against this principle. This Council requests a wildlife survey of birds in the vicinity of this site to determine is worth to biodiversity and the need to protect species such as Lapwing, which are regularly seen in the vicinity, as guided by NPPF para 117 bp 3.

Edge of Village - Core Strategy 17 at para 7.8 refers to promoting and maintaining links between urban areas and the adjoining countryside. This application, if granted will have the reverse effect, severing the existing, edge of village link between the urban area and surrounding countryside.

Pre application engagement and front loading - This Council wishes to point out that there has been no community engagement about this application, as is advised in NPPF paras 188-190. This has already caused considerable resentment in the village and does not bode well for local views about the application.

### **WFPC further objection**

The Planning Practice Guidance was published on 6<sup>th</sup> March 2014, giving greater clarity to a range of material planning considerations. West Felton Parish Council ask that in light of this new guidance that further assessments are now carried out for the two yet to be determined applications above, with particular reference to the impact of cumulative developments on a settlement.

### **Planning Practice Guidance 2014**

This guidance gives additional information to inform para 32 of the NPPF, Under Transport Assessments ( Para 13 ) Reference 42-013-20140306 bullet 6 and 7 it makes reference to specific situations where Transport assessments are needed which are very important to all the applications in West Felton because of the affect on the junctions with the A5.

### **Bullet point 6**

Relates to the need for a TA where the cumulative impacts from multiple developments are situated in a particular area.

### **Bullet point 7**

Relates to whether there are particular types of impacts around which to focus the TA or statement such as assessing the traffic at peak times.

Although the DOT have signed off the application at The Cross, in light of this new guidance, as the housing numbers at the Cross and Tedsmore Road exceed 50 dwellings, (not to mention Twyford Lane) cumulative impacts now need to be taken into consideration at the A5 Junctions, before a decision is reached.

We also believe that due to the presence of protected bird species on both Twyford Lane and The Cross application sites, there is a requirement under Habitats and Wild Bird Directives to ensure a proper survey is carried out.

We also reiterate that full Environmental and sustainability surveys are carried out in respect of:



- The Best and Most Versatile agricultural land
- Climate Change
- Carbon reduction

We are aware that clearly the site for 13/01221/OUT had previously been identified in the SHLAA as appropriate for the full process of Environmental Impact Assessments by Shropshire Council under their adopted Planning and Local Plan procedures. The site has been through the stage 1 process and had been identified as ready for the stage 2 process. Obviously the stage 2 process did not happen.

Also it is now clear that Shropshire Council during the relevant stage 1 assessment referred to the parcel of land since subject to application 13/01221/OUT as “The Best and Most Versatile Agricultural Land” and was also aware that the ‘Twyford Lane’ application is on land of a similar quality.

- 4.1.2 **Learning and Skills Officer** – The school is more than full and any additional pupils from housing will exacerbate the overcrowding problem. If we were to provide a new classroom, which forecasts suggest we will need to, then we could be looking in the region of a £300k cost, particularly in the light of the difficulties of the site. In which case, it may be fairer on the proposers, but yet still feasible from an education viewpoint, to adapt/extend the current building in other ways. In order to generate funding for this, I have used our calculation formula that tells us how many school pupils we are likely to get from each development and multiplied that by the government’s per place figure. This is the regular way we work out a precise cost in these matters. For the two proposed developments above, the figures produced in this way are:

Twyford Lane (5-6 pupils): £67,213

The Cross (4/5 pupils): £52,510

If these sums put the CIL premium from each development in difficulty, is there an S106 route?

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

The current prevailing target rate for affordable housing in this area is 10% and for a scheme of 32 new homes, this would mean a provision of 3 Affordable houses on site and a financial contribution. The assumed tenure split of the affordable homes would be 2 for affordable rent and 1 for low cost home ownership and these would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme. However as this is an outline application the percentage contribution and number of affordable homes will not be set at this time, but will be reviewed at the time of the reserved matters application. The size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team

before any further application is submitted.

- 4.1.4 **Conservation Officer** – No objection. The application is in outline therefore has no comment to make other than the cider press should remain and its setting respected and enhanced by any development that may be found acceptable on this site. Any scheme proposed for this site should be designed in line with the requirements of NPPF paras 131 and 132.

The area is not within a Conservation Area but within the site is a Grade II listed Cider Press approx. 40m north-east of the site of the now demolished property called The Nursery. The cider press has been disused for many years but is thought to be of late C18 date. Constructed of regularly coursed and dressed sandstone blocks with red brick to higher areas of the gable ends and the list description notes slate roof but it is noted that the Heritage Report found stone tiles in the building and it is thought that these probably may have been on the building. The stone press survives complete (although now out of position) with circular grooved base etc. The building survives in near complete state and therefore is a good example of a cider press of a small scale.

The stone archway on the edge of the site is also grade II listed. As it is adjacent to the proposed open space it will not be as affected by the development as the cider press could be, although there may be some development in close proximity to it. Does not consider that the proposed development will be any more detrimental than those already built adjacent to it on the existing development

- 4.1.5 **Archaeology Officer** – No comments.
- 4.1.6 **Highways Agency** – Will not require a full Transport Assessment. However, due to the potential cumulative impact of this development with other proposals the developer will need to assess the impact of the proposed development at the A5 Queen's Head junction in accordance with Circular 02/2013. The assessment should include consideration of the work currently being undertaken by the Highways Agency.

Submitted a holding objection requiring the Council not to make a decision for two months.

- 4.1.7 **Highways Officer** – The highway authority is aware of the latest advice from the Highways Agency, who maintain a holding position to consent being granted pending an assessment of the traffic information submitted by the applicant's agent, which seeks to demonstrate that the scale of the development would not have an adverse impact upon the trunk road junctions.

It is noted that the application has been amended and now seeks outline consent for a maximum of 12 dwellings including access and with all other matters for subsequent approval. In addition the applicant has offered a contribution of £10,000 towards widening of the footway along the eastern side of Holyhead Road.

With regard to the potential to widen the footway along the eastern side of Holyhead Road, the highway authority consider that whilst this would be

achievable it does not provide any additional benefits that can otherwise be gained in respect of the footway scheme promoted as part of application 14/00133/OUT. The highway authority have previously considered the footway being widened by moving the short height wall further back towards the mature trees. However this would be likely to have an adverse impact upon the tree routing system of the mature trees and therefore unacceptable.

The land to the rear of the wall however is owned by Shropshire Council and there is scope to provide an off-road section of footway through the grassed area and in effect by-pass the narrowed section. The benefit of this would be to serve both the residents of the proposed development and those currently residing at Dovaston Court together with other users walking that route. A scheme therefore would need to be agreed with the Council to access this land through the wall at either end. Clearly it would be a matter if residents wished to utilise such a facility but it would provide an available facility rather than pedestrians having to walk into the highway carriageway as is currently the case.

The highway authority consider that the above footpath improvement would represent an overall pedestrian safety benefit in the locality.

In terms of the delivery of the footpath scheme and the costs it is requested that this should be a matter to be delegated to officers in terms of the cost of the works and agreement upon those works within land owned by the Council.

#### Access

Whilst the application seeks permission for residential development of the site, all matters are reserved for subsequent approval other than access. In this regard, the submitted plan indicates the provision of a centralised access position along the site road frontage. This is at a location just inside of the 30 mph speed limit extent. Satisfactory visibility is available from the point of access in both directions along Holyhead Road which both meets and exceeds 30 mph standards. However given the proximity and current extent of the 30 mph speed limit and site, the highway authority would generally wish to see the speed limit extended further out and/or introduce a 40 mph buffer speed limit. This is considered to be good practice in assisting the reduction of traffic speeds when entering the built up area and therefore providing, in effect, a traffic calming feature.

In order to facilitate the access bellmouth layout and construction, the sandstone wall would need to be removed and realigned together with the setting back or tapering of the wall either side of the junction to accommodate the appropriate visibility splays. It is not clear to what extent the wall would be effected although the alignment of Holyhead Road is such that it helps to minimise the impact upon the wall.

The highway authority conclude that the site provides a satisfactory means of access which meets acknowledged standards.

#### Traffic

As with the previous housing application on land adjacent to Tedsmore Lane, concern has again been raised regarding the impact of additional traffic on the

highway network including the cumulative impact upon the Trunk Road junctions on to the A5. The latter is a matter solely for the highway agency and I note their consultation response dated 4 April.

Insofar as Shropshire Council as the local highway authority is concerned in relation to the local highway network, it is considered that the traffic likely to be generated by the development of the site can be accommodated without an adverse capacity or safety impact. This acknowledges the cumulative impact of the permitted site at Tedsmore Lane and further development being promoted in respect of current application 14/00133/OUT. The highway authority advise that any objection based upon highway safety or traffic impact would not be sustainable.

#### Accessibility and Sustainability

From a transport perspective, West Felton can be considered a sustainable location in terms of access to a school, church, local shop and recreational facilities. All these facilities are within reasonable walking distance of the proposed development site.

Public transport service 70 operates on a half hourly basis between Shrewsbury and Oswestry, stopping at the Punch Bowl PH within West Felton.

Based upon the above the highway authority do not fundamentally question the sustainable credentials of this site in terms of the availability of local services within reasonable walking distances and public transport provision to travel to Oswestry and Shrewsbury.

4.1.8 **Rights of Way Officer** – No objection. Public footpath UN1 runs within the southern boundary of the proposed open space. Provided it is protected during and after any development I would not raise any objection from a rights of way perspective.

4.1.9 **Ecology Officer** – No objection. Trees to be removed should be assessed for potential bat roosts and the results and any necessary mitigation submitted prior to determining the application. Recommends conditions relating to bats and nesting birds.

#### Great crested newts

Greenscape Environmental have confirmed that they searched for a pond at Bishops Well but none was found. No other ponds are deemed to require great crested newt surveys.

#### Bats

There are two buildings located on the site. A former stone and brick built cider press and another brick building with a partial corrugated roof were examined and no evidence of bats or barn owls was found. If the former cider press were to be removed or repaired, bat emergence/activity surveys are recommended by Greenscape Environmental (2014).

The report by Greenscape Environmental (2014) states that trees have potential to support bats. They have confirmed this is the case, particularly the lime tree

numbered 23Ti. Trees to be removed should be assessed for potential bat roost habitat as described in The Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2<sup>nd</sup> Edition 2012).

The trees and hedgerows on site are likely to be used for bat foraging and commuting. A condition on lighting is recommended to avoid affecting bat behaviour and a further condition to require bat boxes to enhance biodiversity.

#### Nesting birds

The trees and hedgerows on the site are likely to be used by nesting birds.

- 4.1.10 **Tree Officer – No objections.** There are a number of trees on this site. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The application site is situated on the northern edge of the village of West Felton. The site is currently used as agricultural land.

The AIA has been prepared in accordance with BS 5837 (2012) and includes an assessment and categorisation of the tree based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.

The AIA has identified 40 trees and the proposed development would require the removal of 10 of these. The trees for removal are either in poor condition or of low public amenity value. The bulk of the trees on the site are situated in the south east corner, this area is to be retained undeveloped and will form part of the open space element of the site.

In this case it is considered that, with view to their current condition, the loss of trees could be justified providing sufficient mitigation was provide in the form of new tree planting on the site. The indicative layout shows an acceptable level of tree retention and adequate space for the new trees to be planted and to develop to maturity without impacting on the reasonable enjoyment of the proposed properties. Any amendments to the final site layout would be expected to maintain the levels of open space, tree planting and separation between the trees and the properties.

No objection is raised to the proposed application subject to the above recommendations regarding the final site layout and to a requirement to provide an updated AIA with the reserved matters. It is recommended that a condition is applied.

- 4.1.11 **Severn Trent Water – No objection** subject to a condition requiring submission of drainage plans for the disposal of surface water and foul sewage to the Local Planning Authority prior to commencement of development.

- 4.1.12 **Drainage** – The drainage details, plan and calculations could be conditioned and

submitted for approval at the reserved matters stage if outline planning permission is granted.

The SUDs applicability zone area that the site is classified under according to Shropshire Council's Surface Water Management: Interim Guidance for Developers is infiltration therefore the use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Flood water should not be affecting other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

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

A contoured plan of the finished road level will be required to ensure that the proposed gullies are located correctly. Confirmation is required 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.

The layout of the proposed foul sewage system should be submitted for approval, along with details of any agreements with the local water authority. Due to the scale of the development the foul drainage should connect to a mains system and the use of septic tanks or package treatment plants are not deemed acceptable.

The applicant should consider employing measures to reduce surface water and consent is required from the service provider to connect into the foul main sewer.

## 4.2 **Public Comments**

4.2.1 24 letters of representation have been received raising the following concerns:

- Site is outside the development boundary
- Contrary to the wishes of the village to be open countryside
- Will extend beyond the current village
- Village has already grown enough
- No need for more housing
- Cumulative impact of the three sites proposed
- Loss of countryside
- No jobs in the area
- The reduced number of houses will mean that they are very big and will not be affordable

- Would result in increased commuting and carbon emissions
- Increase pressure on the junctions onto the A5
- Increase traffic through the village
- Twyford Lane is too narrow to be used to serve any development and also passes the school
- A bus stop is needed on the road
- Village school is over subscribed
- Area identified as open space is close to Twyford Lane which is frequently used by large agricultural vehicles and as such raises safety issues
- Potential loss of, or adverse impact on, Cider House, grade II listed Doveston Archway and avenue of trees which include TPO'd trees
- Land is of excellent agricultural value – grade 3
- Impact on wildlife, noting bats, barn owls
- Loss of trees
- Connection to existing foul sewer will disrupt access to properties
- Existing storm drain regularly floods, is not maintained and inadequate for any additional use
- Existing foul drainage on a reed bed system and would not cope

## **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' therefore, the fact (and degree)

that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev. It is not until adoption that full weight can be given to the SAMDev.
- 6.1.4 In the intervening period between submission and adoption sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development 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 NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 It is acknowledged that the site is outside the development boundary previously 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, these policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.6 The Parish Council and local residents have commented that the site is contrary to their SAMDev allocation as open countryside. This is also acknowledged, however at this time the SAMDev still holds limited weight as although it now been submitted for examination by the planning inspectorate there remains outstanding objections to the SAMDev and the designation of hubs, clusters and open countryside. On this basis it would be difficult to attribute any significant weight to the designation of West Felton as open countryside until objections to that designation have been resolved. Officers are sympathetic with the local community and the work which has been done to get to the position of wanting to be open countryside and the work that the community plan to do in the future.
- 6.1.7 Policy CS6, amongst a range of considerations, requires proposals likely to



generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.1.8 Given the above, whether the site is appropriate for development rests on whether it is considered sustainable. The presumption is in favour of sustainable development as tested against the NPPF as a whole. The three dimensions of sustainable development; economic, social and environmental all need to be considered jointly and simultaneously in reaching a judgement about sustainability (NPPF paragraph 8).

## 6.2 **Is the site sustainable?**

6.2.1 The objections from West Felton Parish Council and local residents consider that the site is not sustainable on the grounds that it is distant from supermarkets, employment opportunities and other types of services and facilities and the associated increase in vehicle movements and emissions. Objectors consider that this would be contrary to National policies and adopted core strategy policies in relation to impact on climate change. Objectors consider that West Felton is a dormitory settlement for other employment centres and that the level of house building within the last 25 years has led to the settlement reaching its optimum size. In their opinion the capacity of the existing services and infrastructure have been met and the village does not need any more housing to help with its sustainability. Furthermore concerns are raised about the potential for further housing development pressure in the village.

6.2.2 Whether a site is sustainable is not judged purely on the distance from services, facilities or employment. The Council's adopted Core Strategy sets out the principle that new housing development will be supported in designated Hubs and Clusters and as such to say that a site is not sustainable because it is located within a small village or community with limited facilities would be contrary to this part of the Core Strategy and the approach taken in SAMDev of allocating housing in some rural settlements. Furthermore, the NPPF at paragraph 55 acknowledges that development in rural areas can support services and urges that it should be located where it can maintain and enhance the vitality of rural communities. The distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance. Alongside issues of impact on highway safety, ecology and development of agricultural land.

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. The agent, within the planning statement suggests that the site is a natural extension to a sustainable village and that increase in footfall will reinforce the sustainability of existing amenities. The statement suggests that the development will meet the economic dimension as it is well located, will contribute to the economy of the rural area and

will bring new housing; meet the social dimension in providing new housing to meet needs and support community services and facilities; and meet the environmental dimension by not having a major adverse effect on ecology or historic environment.

- 6.2.4 It is acknowledged that the NPPF advises that local authorities should seek to approve applications for sustainable development and work with applicants to find solutions. However, the presumption in favour of sustainable development is also not a free for all. The cumulative impact of additional new housing is also a material consideration. Recent planning inspectors' decisions have taken into account the adverse impact of increasing the number of dwellings in an settlement, outside of the plan making process, as a material consideration. Substantial increases in residences could result in harm because of the need to allow time for proportionate increases in infrastructure and for the community to adapt, and the possible adverse impact on community cohesion. Developments such as this can be required to contribute to improvements in local infrastructure so far as they are needed to mitigate the effects of the specific development and it is acknowledged that CIL payments can address this. However the benefit of plan led development is that it can be brought forward with any necessary supporting infrastructure.
- 6.2.5 While West Felton may have some capacity to accommodate new housing the capacity is not limitless. The 2011 census for West Felton recorded 600 dwellings, including the area of West Felton on the opposite side of the A5. The recently approved scheme at Tedsmore Road approved 35 houses, which would equate to an increase of 5.83% and there are other consents which have been completed since 2011. The initially submitted application proposed a further 32 houses and therefore an increase on the 2011 census figure of 11.16%. Officers considered that an increase of 32 houses outside of the plan led system would result in an adverse impact. However, following notifying the agent of the recommendation to refuse the application, with this issue being one of the main concerns, the agent has submitted an amended plan which reduces the number of houses to 12. This reduction in the scale of the development will reduce the overall impact of the new housing outside of the plan led system and at the new proposed scale is not consider to be a significant or demonstrable harm. A re-consultation on this amendment was sent to the Parish Council and local objectors and all comments received have been summarised in this report. No further comments have been received from the Parish Council since the deferral of this item from the August committee.
- 6.2.6 It is also acknowledged that the application at Tedsmore Road, which has been approved, will increase housing numbers as detailed above. On their own any one of the three applications, Tedsmore Road (13/01221/OUT), The Cross (14/00133/OUT) or this application at Twyford Lane (14/00734/OUT), would increase housing numbers but not to an extent which officers consider would tip the balance of the material harm to the village. The amended scheme reducing the number of houses has also now reduced the potential cumulative impact of recommending consent for this development and the application at Tedsmore Road, which has been permitted.

### 6.3 **Economic considerations?**

- 6.3.1 As previously noted the agent considers that the development of the site would meet the economic dimension of sustainable development in contributing to the rural economy and providing new housing to support existing local services. It is accepted as the government has made clear that house building plays an important role in promoting economic growth to which significant weight must be given that weight should be given to the benefits of boosting housing supply and the economic gains from housing.
- 6.3.2 Given the concerns raised by the Parish Council and local residents about the reliance on the private car and as such the increases in traffic and CO2 emissions officers have considered the opportunities for non car based travel and can confirm that buses from Oswestry stop in West Felton adjacent to the Punchbowl Inn from 7:05 at least once an hour up to 18:35 and from Shrewsbury from 8:11 to 19:41. The journey from West Felton to Shrewsbury takes approximately 32 minutes and the journey from West Felton to Oswestry takes approximately 26 minutes and also stops outside Oswestry College. This provision is very good in comparison to large parts of the rural areas of Shropshire and officers consider that weight can be given to the opportunities for bus travel from and to West Felton. The residents of West Felton do not have to rely on the private car as many other areas of rural Shropshire do.
- 6.3.3 To require all development to be close to employment and all services and facilities would restrict the areas in which development could be provided to Shrewsbury and possibly Oswestry, though objectors have questioned whether Oswestry has sufficient employment. This restrictive approach would not be sustainable in itself and it would not promote rural rebalance or help with the sustainability of the remainder of Shropshire. The principles set in the Shropshire Core Strategy allow for development in Hubs and Clusters, some of which are much smaller areas with less services and facilities than West Felton and with no public transport links. As advised on the previous application at Tedsmore Road, and as noted by the agent, officers consider that West Felton is a village which could support additional housing and which with new development could enhance the existing services and facilities it has.
- 6.3.4 Although, as advised above, it is accepted that the capacity for new housing in West Felton is not limitless and the local community already consider that it has reached its limit in their request to be considered as countryside within the SAMDev, the reduced scale of development now put forward by the agent is considered to not result in significant development in the village.
- 6.4 **Social considerations?**
- 6.4.1 The agent considers that the social dimension is met as the site is on the edge of the village with good links to facilities which the development will support. The development will provide additional housing including affordable housing. The reduced number of housing would reduce the affordable housing contribution and given the indicative house sizes this would likely to be proposed as a financial contribution in lieu of the 10%. However, as an outline planning application the level of affordable housing to be provided would have to comply with the requirements set out in the SPD at the time of the reserved matters application. This may increase or decrease but as an outline a S106 would require the affordable housing to comply with the SPD. The provision of housing is itself a

material consideration and is a clear benefit which should be given significant weight in the determination of the application. The acceptance by the developer to provide affordable housing should also be taken into consideration. In addition to the affordable housing the proposal includes an area of open space, which can be considered a benefit of the scheme.

- 6.4.2 Concern has been raised by the Parish Council and local residents about the capacity of the village school. This concern is noted and if there is inadequate infrastructure to serve the development it could be a harm weighing against the development. However, the amended reduced scale of the development would have a limited impact on school places. The Council Education Officer advised that for a development of 35 houses the predicted new school place requirement would be 5/6 places. As such the amended scheme, which reduces the housing to 12 would have a proportionally lower requirement. As required by policy CS9, the development of this site would be required to contribute to infrastructure through the payment of the Community Infrastructure Levy (CIL). For West Felton the rate of CIL payment is £80 per sqm which could be used to contribute towards the enhancement of the existing school alongside other infrastructure projects in the local and wider area.
- 6.4.3 Currently the Oswestry and Surrounding Area Place Plan does not list improvements to West Felton School to increase pupil places as a priority, although the Learning and Skills Team is currently updating its priorities for the Place Plans. Any additional funding required 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).
- 6.4.4 Given the scale of the amended development officers do not consider that the potential impact on the school places could be considered to be a harm and furthermore will be balanced out by the benefits gained from the CIL contribution. As such little weight can be given to this potential harm as there is no evidence that the CIL contribution would not overcome the harm. The provision of market and affordable housing and CIL contributions are social benefits which can be afforded positive weight in the determination of the application.
- 6.5 **Environmental considerations?**
- 6.5.1 Concerns have been raised about the development of this site which is on agricultural land; outside the existing village boundary, beyond existing housing; will impact on the amenities of the village as a whole and specifically on the amenities of the residents adjacent to the site; will be detrimental to highway safety, both locally and in the wider area due to increase in traffic at the junctions with the A5; and significantly impact on ecology through the loss of feeding ground for bird species on the at risk register, the habitat of owls.

- 6.5.2 It is acknowledged that the development will be on agricultural land which is currently on the edge of the village and the Parish Council have, as with the application off Tedsmore Road, objected on the grounds of the loss of agricultural land quoting paragraph 112 of the NPPF. They have commented that the land may be grade 2 or 1 but the evidence which they have since submitted, which they received from Natural England, relates to a survey of some of the land around West Felton by MAFF in the 1980's. The information is acknowledged by the Natural England advisor who sent it to the Parish Council that it may not be accurately representative of the soil classification today. Furthermore at the time of this assessment part of this application site was not in agricultural use (as the curtilage of a dwelling) and the other part was not assessed. As such it is not clear what grade of agricultural land the application site lies within. It should also be taken into account that the land is currently in use for grazing of horses and not for productive agricultural use.
- 6.5.4 The current map provided on the Natural England website shows the land to be grade 3 but does not confirm whether it is 3a or 3b and without an up to date assessment it is not possible to confirm whether it is 3a or 3b. Although the Parish Council consider that an up to date survey should be undertaken the NPPF does not prevent development of agricultural land, or require a sequential approach to the development of agricultural land. It seeks to protect the "best and most versatile" land from significant development.
- 6.5.5 As with the application at Tedsmore Road there are three issues here, firstly recent planning inspectors decisions have established that the need for housing is considered to be demonstrating the need to develop on agricultural land and as such there is no requirement for each developer to demonstrate a need specific to a site. The fact that the Council has been under delivering on housing land supply demonstrates that development is required and the authority has accepted that some of this development will have to be on agricultural land. Secondly the scale of the development is not significant when considered against the overall need for housing or the amount of agricultural land available within Shropshire. It may seem significant, alongside the other applications in West Felton, in terms of the agricultural land around the village. However at 2 and half hectares it is not considered to be significant when considered against the above matters and the advice from Natural England which the Parish Council refers to. Within that advice it notes that Natural England should be consulted on all developments over 20 hectares. Even taking the other three sites into account the total development around West Felton would be around 6 hectares and approximately 72 houses. Thirdly, and finally, the NPPF suggests development of lower quality land should be preferred. The NPPF does not require development to only be on lower grade land but seeks to develop lower grade as a preference. In Shropshire the areas of lower grade identified on the Natural England map as grade 4 and 5 are predominately river valleys and high ground. There are no areas identified as 4 or 5 around Oswestry and, although it is accepted that the map does not define between grade 3a and 3b, the application site is not considered to be any higher quality than the majority of Shropshire.
- 6.5.6 On balance, although officers acknowledge that the loss of this parcel of agricultural land is a harm resulting from the development, the loss of land is not significant and it is not currently in productive, economically beneficial agricultural

use and therefore it is advised that some but limited weight should be given to this in the overall planning balance and it would not on its own outweigh the presumption in favour of sustainable development. The loss of the agricultural land itself does not make the development unsustainable as the NPPF requires the assessment of whether a development is sustainable or not to consider the whole of the NPPF and balance the harm against the benefits.

- 6.5.7 In considering the location of the site the Parish Council and local residents are concerned about extending the development beyond the village boundaries. The agent's opinion is that the site is a natural extension to the village and it is acknowledged that the application site is close to services and facilities in the village. However, this application would extend the built area of the village beyond its existing boundaries and beyond the existing main built up area of the village, with the exception of one dwelling and its outbuildings (Rowley). Officers consider that the development of this site for a small estate would alter the character of the area and would, as any development extending the edge of a settlement, result in harm. However, the reduced development scale would be more in keeping with the adjacent development at Dovaston Court and as such the harm would be reduced.
- 6.5.8 There would be some harm in developing this site and that is acknowledged but officers do not consider that the harm would outweigh the benefits gained from new house building in terms of providing housing and affordable housing, both of which are national requirements, providing a contribution towards infrastructure in the form of a CIL contribution and providing open space. Developing beyond the existing village edge is an adverse impact in the overall planning balance but not one which officers would advise is significant.
- 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. Section 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 6.6.2 Within the planning statement there is an indicative density referred to as circa 32 dwellings, designed to be sympathetic to the character of existing dwellings, however the recently submitted plan shows a indicative layout of 12 houses. This was submitted by the agent in response to the concerns raised by officers about the development of a housing estate beyond the existing settlement boundaries. The amended plan shows 12 properties spaciouly laid out in sizable gardens all accessed off a single estate road and an area of open space around the existing protected trees and the stone archway.
- 6.6.3 However, the current application is for outline planning permission with all matters of layout, scale and appearance reserved for later approval. A further application will be required for the approval of reserved matters which would then detail the layout, scale, appearance and landscaping. At that time the development proposed would have to be considered to be acceptable in context with the

existing village. However, officers consider that the indicative layout would be acceptable in principle, subject to approval of the final details.

## 6.7 **Impact on heritage**

- 6.7.1 The heritage statement submitted with the application considers the impact on the grade II listed Cider Press which is “a small later 18<sup>th</sup> century purpose-built structure built within the grounds of the now demolished house called ‘The Nursery’, home of John Dovaston. Built to house an apple crusher and cider press and for storage”. This structure is considered to be a heritage asset and as such the impact on the structure needs to be understood to establish whether the development will cause harm to the heritage asset.
- 6.7.2 The report notes that previous dwelling was abandoned in the 1960’s and fell into disrepair eventually being demolished in the 20<sup>th</sup> century and the adjacent housing estate (Dovaston Court) erected. The cider press is the only intact building surviving from The Nursery. It is built of red sandstone with arched stone headers, a number of existing openings but a replacement roof and the loss of the first floor. However, the remains of the press and the stone crushing wheel remain, though possibly not in their original position.
- 6.7.3 The applicant’s consultant considers that there is scope to restore the buildings close to its original form, reinstate the loft and stairs and reposition the wheel. The planning statement suggest that the building could either be sold with one of the plots as domestic storage space or be gifted to the parish council. However the agent notes that this would result in a maintenance responsibility for the parish council. At this outline stage it is not confirmed what the intention is for the building.
- 6.7.4 The Council Conservation Officer has confirmed the listed status of this structure, and also of the stone archway on the edge of the site. It is considered that the Cider Press will need to be carefully considered as part of the reserved matters to ensure that the importance of this building and its history is fully understood in the long term in order for the scheme to meet the national policy requirements. It is accepted that the development of this site has the potential to ensure that this listed building is retained and brought back into active use and that this is a material planning benefit. However, there is also the potential that the importance of the building could be lost amongst a modern residential development and therefore the benefit would be reduced. The amended plan showing the reduced layout shows this listed building within the curtilage of one of the dwellings, to the side of the dwelling and visible from the new estate road. In principle providing the building is still a prominent part of the finished development officers do not consider that the harm of developing around the listed building would be significantly harmful to the setting of the building.
- 6.7.5 The stone archway on the edge of the site is also grade II listed and is noted by local residents as important to the character of the area and the understanding of the link with John Dovaston. This structure is adjacent to the proposed open space and as such it will be retained within its current situation and the agent has advised that this structure is within the curtilage of the neighbouring properties. Overall it is considered that the development of the site for housing has the potential for contributing to conserving the heritage assets in accordance with

policy CS17 and the NPPF but also has the potential for harm although it is acknowledged this would be less than substantial harm (NPPF paragraph 132) this harm would also need to be considered in the overall planning balance.

## 6.8 **Impact on residential amenity**

6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. As an outline application with all matters reserved for later approval it is not possible to fully consider the impact on the amenities of neighbouring residents.

6.8.2 The indicative layout plan does show that the land closest to the housing on Orchard Drive is to be used as open space and therefore only the properties on Dovaston Court have the potential to be affected. However, these properties have large gardens themselves and the site is of a sufficient size to enable a layout to be developed which would provide appropriate separation distances between the dwellings and facing windows to ensure that there is not an unacceptable loss of light or privacy. Although it is acknowledged that the development will result in a change of use from agricultural to residential this use is not considered to result in noise or any other pollution that would be significantly harmful as to adversely affect the amenities of existing residents. As noted above the development will change the outlook of the existing properties but this is not a material planning consideration. Officers consider that the development of the site could be achieved without substantial adverse impact on the amenities of the existing properties.

## 6.9 **Highways, access, parking and rights of way**

6.9.1 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. The development originally proposed at this site was for circa 32 dwellings and therefore does not, on its own, meet the trigger to require a transport assessment, however the concerns of the local community regarding the cumulative impact of the three sites proposed for new housing in West Felton is noted and so too are the concerns about the potential impact on the junctions onto the A5. The application has been submitted with a highways and drainage report and the Council Highway Officer and the Highways Agency have both been consulted. It is a matter for the local planning Authority to make a judgement as to whether a development would generate, on its own or cumulatively with other developments, significant amounts of traffic and therefore require a transport assessment as advised in the planning practice guidance. The case officer has sought the advice of Highways Officers and the Highways Agency on this matter and this issue is discussed below.

6.9.2 A single vehicular access is proposed off Holyhead Road with visibility splays of 2.4m by 250m to the left and 220m to the right. The submitted highways and drainage report notes that the access can be provided onto Holyhead Road and that the visibility is well in excess of the minimum required and will compensate for



the approaching vehicle speeds observed. The site is within the 30mph speed limit and the applicant's highway consultant has noted that the road is approximately 6.3m wide with a footpath of 1.6m and a grassed verge opposite. Twyford Road, which currently serves as access to the site, is approximately 3.3m wide, however the application proposes closing off the existing accesses for vehicles and only retaining pedestrian access onto Twyford Lane.

- 6.9.3 The Council Highway Officer has confirmed that the single centralised access is acceptable and that satisfactory visibility is available, although given the proximity to the 30mph speed limit extent either an extension to the 30mph or a 40mph buffer zone would be preferred. The Highway Officer has also commented that it is not clear to what extent the wall would be affected by the provision of the access and visibility.
- 6.9.4 The development will result in an increase in traffic movements, however, the village is served by a bus service as detailed above, and any rural housing development will result in an increase in traffic movements. Although the concerns of the local community are noted, the traffic resulting from this development, even in combination with the other proposed developments in the village, would not result in a unacceptable or severe impact on highway safety or result in traffic movement levels that would warrant refusal of the scheme on its own. The increase in traffic is a harm although one which can only be given limited weight in the overall planning balance as the impact is not severe and the number of dwellings proposed has been significantly reduced.
- 6.9.5 At the time of writing the committee report the Highways Agency have placed a holding objection on the application advising that they have not yet had the opportunity to consider the information submitted by the applicant regarding the cumulative impact of this and the other applications in the village on the junction at the A5 Queen's Head. As such the recommendation to members is that delegated powers be granted to approve the development once this matter is resolved. If the matter can not be resolved the application can be refused under delegated powers. However, the recommendation is not to ignore the Highways Agency but to await their updated comments prior to making a decision.
- 6.9.6 Concern has also been raised locally about the width of the footway in the immediate area and this was noted by the Council Highway Officer in his initial response. The existing footway is on the same side of the development and along the frontage of the development is considered to be an appropriate width and continues beyond the application site to outside the village signs. However, it is noted that there are sections of the existing footway further towards the village shop which are narrow and which could not be widened without harming a locally important wall and trees. The Highway Officer has noted that the width is 0.65 metres at its narrowest point and for the whole of this reduced section is under 1 metre in width. This is well below acknowledged standards and forces pedestrian users to walk in the highway which raises pedestrian safety concerns which would be increased by the development of this site.
- 6.9.7 In response to this the applicant has suggested either the widening of the existing footway or the creation of a new section of footway within the open space south of Dovaston Court. The preferred option would be for a new footway which could be

provided within Council owned land within the locally important wall and without adversely affecting the trees. This would need to be subject to separate design detailing and consultation, however this would be a solution to the issue raised locally and by the Highway Officer and the latest response from the Highway Officer has confirmed that this is an overall pedestrian safety benefit.

6.9.8 As such it is considered that pedestrian safety is no longer something which can be considered to be a harm resulting from the development. In principle the provision of this alternative footway would improve pedestrian access to the village. In addition the reduction in the scale of the development needs to be taken into account in that a development of 12 houses would result in less pressure and potential for risk of pedestrian safety issues than a development of 35 houses. In conclusion officers acknowledge that there is an existing issue with the width of the footway on the highway but consider that there is a possible solution to the issue which would make it unreasonable to refuse the application on this matter.

#### 6.10 **Ecology and trees**

6.10.1 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 has been undertaken and submitted with the application and this has been considered by the Council's Ecologist and Tree Officer.

6.10.2 The ecology survey submitted suggests retaining the hedges and trees except where they need to be removed to provide access; notes that part of the site is a historic orchard but now only contains 3 trees which are in poor condition and is mainly grassland and used for grazing of horses; that there is one pond within 480m of the site but with barriers between and therefore not considered to be linked to the site; that the mature trees around the site have the potential to support commuting bats, possibly roosts and nesting birds. Overall the report concludes that the site can be developed without loss of habitat or significant value and without the loss of favourable conservation status of any protected species and recommends protecting trees, providing new trees, ensuring lighting is appropriate and nesting boxes.

6.10.3 However concerns have been raised by the Parish Council and residents about the impact on ecology especially Lapwing, bats and owls. The Council Ecologist has confirmed that the development of the site has the potential to affect nesting birds and bats but not great crested newts and as such has recommended conditions and informatives. The Council Ecologist has also advised that trees to be removed should be assessed for potential bat roosts and the results and any necessary mitigation submitted prior to determining the application. However, at this outline stage it is not clear whether any trees are to be removed and as such it is considered that it would not be reasonable to require this information. This is a matter which would be more appropriately done prior to submission of a reserved matters consent when it is clearer which trees are likely to be affected by the development.

6.10.4 The Council Tree Officer has advised that the submitted arboriculture assessment

is appropriate and that the tree removal proposal is justified on the grounds of condition. A condition is recommended to require submission of further details with the reserved matters application should outline permission be granted which would update the assessment of existing trees, proposed protection methods and new planting to mitigate the loss of existing trees.

6.10.5 It is officers opinion, taking into account all of the concerns raised and the professional advice from the Council Ecologist and Tree Officer that the site can be developed for housing without significant harm to protected species, their habitats or important trees. The development will alter the habitat from its existing condition but will also provide some opportunities for enhancements and as such complies with the requirements of policy CS17 and also the relevant sections of the NPPF.

## 6.11 **Drainage**

6.11.1 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 highways and drainage report advises that the foul drainage from the development is proposed to be connected to the existing mains sewerage system and that there are a number of different connection options, either pump fed or gravity fed depending on which existing pipework is use for the connection. This would be a matter for the sewerage provider in dealing with the developers right to a connection. As no objection has been raised by the sewerage provider there is no evidence that a connection could not be made. The surface water from the development is suggested to be dealt with by soakaways or connection to the local surface water drain in Twyford Lane subject to attenuation.

6.11.2 Local representations have commented that connection to existing foul sewer will disrupt access to properties; that the existing storm drain regularly floods, is not maintained and inadequate for any additional use and; existing foul drainage on a reed bed system and would not cope. Although these concerns are noted the Council Drainage Engineer has confirmed that the drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is granted. The scheme for drainage of the site for both foul drainage and surface water drainage would need to ensure that there is no greater adverse impact on the existing system. Surface water is not permitted to exceed existing greenfield run off rates and the foul drainage is dealt with by the sewerage provider.

6.11.3 The applicant's report has also considered the potential for flood risk and has concluded that this land will have no risk of flooding or pose any risk to areas outside of the site. As such there is no reason to consider, and no evidence to show, that the site could not be developed with an appropriate drainage system and would following development not result in any greater risk of flooding either to the application site or the wider area. As such the development of the site is compliant with the requirements of CS18.

## 7.0 **CONCLUSION**

7.1 The site is located outside the current development boundary for West Felton as

shown in the Oswestry Borough Local Plan and is therefore classed as a departure from the development plan. Although the Council has recently submitted the SAMDev Final Plan and therefore has identified a 5 year housing land supply limited weight can be attributed to the SAMDev as there are outstanding unresolved objections. Furthermore limited weight can be given to the saved Oswestry Borough Local Plan due to its age and greater weight given to the NPPF and the presumption in favour of sustainable development.

- 7.2 It is accepted that the site is on the edge of West Felton which is a sustainable settlement with a range of services and facilities and benefits from transport links. Furthermore the development will provide additional housing supply in accordance with national planning policy priorities and economic benefits to the village and surrounding area. The development will also provide 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.
- 7.3 The amended layout reducing the number of dwellings, and the proposed financial contribution towards resolving the existing issue with the width of the footpath has overcome the concerns previously raised by officers regarding development beyond the natural boundary of the village, the cumulative impact of the current applications for new housing in the village and pedestrian safety. Although there are harms identified from developing agricultural land beyond the village and the potential impact on protected species and trees these harms are either not significant or could be overcome with appropriate details and survey work. As such it is officers recommendation that the harm does not outweigh the benefits of new housing and that, in considering the development against the NPPF as a whole, the proposal will be sustainable development and in accordance with the requirements of the NPPF.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against

non-determination for application for which costs can also be awarded.

## 8.2 **Human Rights**

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

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

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

## 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10. **BACKGROUND**

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS4 - Community Hubs and Community Clusters  
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

## 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
Local Member Cllr Steve Charmley
Appendices APPENDIX 1 - Conditions

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

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (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 12 months 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 the deposited plan submitted with this application.

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

5. An Arboricultural Assessment, prepared in accordance with BS 5837: 2012 must be submitted with the first of the reserved matters. The layout of the proposed development would need to make provision to retain any trees identified as significant or potentially significant in the terms of public amenity or provide substantial justification and mitigation where their removal is proposed.

Reason: To ensure the protection of existing landscape and the provision of landscape enhancements.

6. 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 means of access for disabled people

The 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 REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

7. 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.

8. A total of 5 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species, which shall be erected on the site prior to first occupation of the dwellings hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

9. A total 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 dwellings hereby approved.

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





Committee and Date

North Planning Committee

23 September 2014

Item

**6**

Public

## Development Management Report

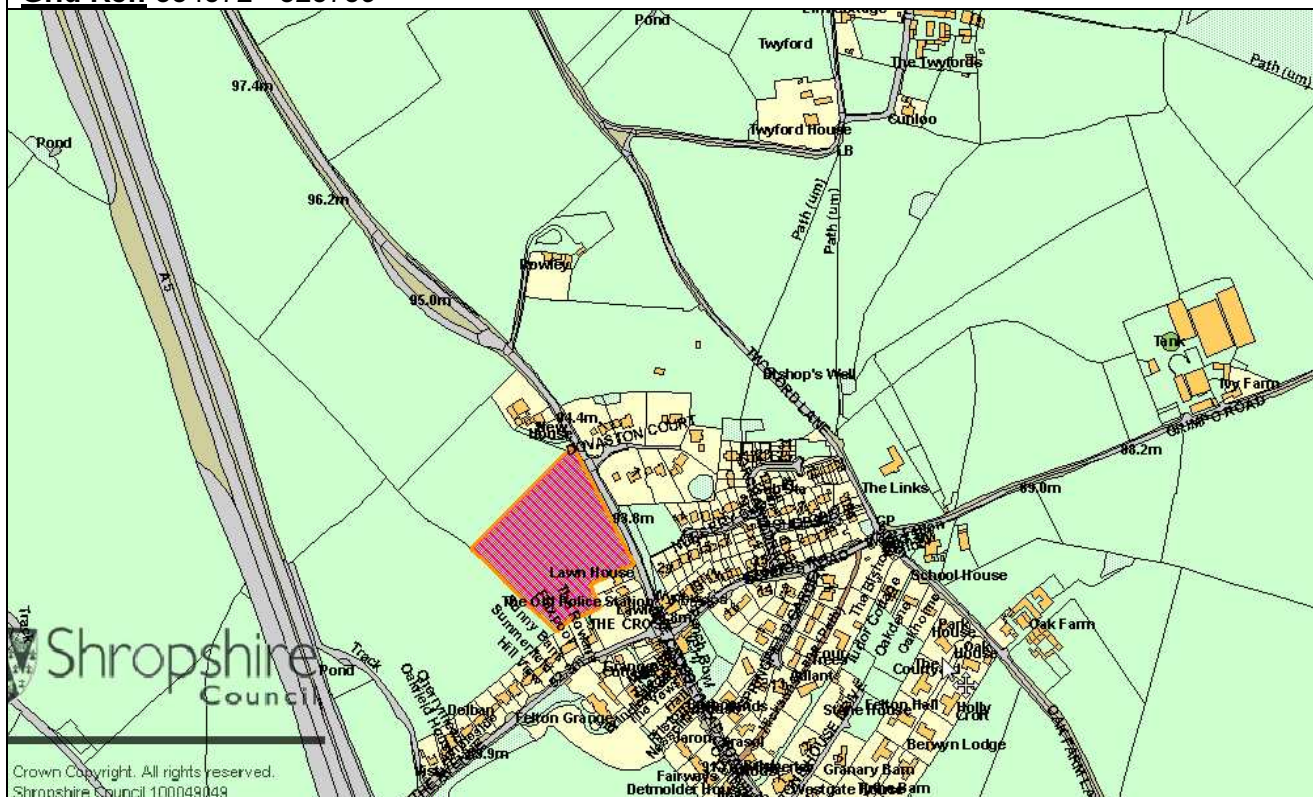
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/00133/OUT	<b>Parish:</b> West Felton
<b>Proposal:</b> Outline application for mixed residential use; formation of new vehicular access and estate roads and creation of public open space	
<b>Site Address:</b> Development Land At The Cross West Felton Shropshire	
<b>Applicant:</b> Galliers Homes Limited	
<b>Case Officer:</b> Karen Townend	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 334572 - 325759



**Recommendation: That planning permission be granted subject to the applicants entering into a S106 agreement to secure affordable housing at the rate relevant at the time of the submission of reserved matters and subject to the conditions as listed below.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks outline planning permission for residential development on the land off Holyhead Road, West Felton, opposite Dovaston Court and between New House and Lawn House. All matters of layout, scale, appearance, access and landscaping are reserved for later approval and as such the application seeks consent for the principle of developing the site for housing. The application form suggests 25 dwellings in a mix of 2, 3 and 4 bed properties, a new estate road and public open space. Of the 25 houses 2 are indicated as being affordable dwellings. An indicative layout has been submitted to show how 25 dwellings could be built on the site but is not for consideration at this time.
- 1.2 In support of the proposal the application has been submitted with a design and access statement, highways assessment, drainage and flood risk assessment and ecological report.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is 1.53 hectares in area and is currently in agricultural use. It is located on the edge of the existing village between the built up village and a single detached house and outbuildings. Opposite the site is the Dovaston Court development, which is a group of detached houses off a single cul-de-sac, and the open space between Nursery Close and Holyhead Road. Nursery Close is a cul-de-sac off Orchard Drive and is detached and semi detached houses in smaller plots than those on Dovaston Court.
- 2.2 The field is set at a lower ground level than the adjacent road and is enclosed with hedging. There is a grassed verge between the hedge and the road but no footpath on this side of the road.
- 2.3 West Felton is a village which was previously identified in the Oswestry Borough Local Plan as a Larger Settlement where new development would be concentrated. It currently has a school, shop, Chapel, hall and public house. The housing is a mix of the original village centred around The Cross and the small area on the opposite side of the new A5 and more recent developments. The housing does not follow any set form, design or appearance, however it is in the majority two storey.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Councillor Charmley has requested that the application be considered by the North Planning Committee to discuss the sustainability of the site and the concerns over traffic, infrastructure, school places, carbon emissions and loss of agricultural land and ecological habitat. Furthermore the Parish Council has objected to the proposed development which is contrary to the officer recommendation.

#### 4.0 COMMUNITY REPRESENTATIONS

##### 4.1 Consultee Comments

##### 4.1.1 West Felton Parish Council – Following consultation on the amended plan and additional information commented:

WFPC has not yet had time to see the amended plans but WFPC still **strongly OBJECTS** to this amended plan for the following reasons:

- a. This application which WFPC has *repeatedly objected* to for many reasons represents 25 houses more than WFPC's SAMDev target of ZERO new houses in this village - which 89% of respondents to the updated West Felton Parish Plan state they wish to remain as *Open Countryside* with ZERO new market housing.
- b. The three new large housing estates in the village are: 35 at Tedsmore, 25 at The Cross and 12 on Twyford Lane so this *total of 72 houses* would create a significant adverse cumulative effect or "*Housing Shock*".
- c. This development would represent an undesirable extension of the village *beyond the village boundary*.
- d. *Any reduction in the width of Holyhead Road* or any introduction of other traffic calming measures on this road such as a chicane with lights or signs showing priority right of way would create problems at the best of times and *chaos* during the several times each year when traffic is diverted off the A5 through the village.
- e. WFPC fully agrees with SC's four reasons for REFUSAL namely: Visual harm to the character of a rural village by extending the built up area beyond its existing boundaries; Loss of Agricultural land; Harm to pedestrian safety; Cumulatively, with the 35 houses already granted off Tedsmore Road it would result in a significant increase in the number of dwellings with consent outside of a plan-led process with a detrimental effect on community cohesion.
- f. The amended plan only tries to address the harm to pedestrian safety and with a deeply flawed dangerous plan at that.
- g. Cllr Steve Charmley has agreed to see that if SC Officers seek to *grant* this plan it *must* go to committee.

Previous comments received:

**STRONGLY OBJECTS** to this plan because it is unsustainable for these reasons:

exacerbating existing traffic problems, insufficient infrastructure in the village, no places in the village school, insufficient professional jobs in the village creating extra travelling and increased carbon footprint also leading to a dormitory village scenario, adverse environmental effects upon this feeding ground for many wild species including endangered birds, loss of prime agricultural land.

Additional reasons for WFPC'S STRONG OBJECTION are as follows: the volume impact of all these houses being built all at the same time would have an adverse effect upon the existing village community and village life, it would also be contrary to the expressed wishes of the vast majority of the local inhabitants, and it negates our SAMDev status of Open Countryside.

West Felton Parish Council strongly objects to this proposal for speculative

development on the grounds that this development would form yet another test case, where if permission were granted this development would cause demonstrable harm to the village as it would be contrary to the policies and principles of sustainable development as documented in the National Planning Policy Framework (NPPF), adopted Core strategy and SAMDev.

Over the last 25 years 270 houses have been built in the parish, a 75% increase from 1988 house numbers, 214 of these have been built in West Felton Village almost trebling its size. In 2005 parishioners were asked about the future direction housing should take within the parish as part of the consultations for the current Parish Plan. 73% of respondents stated they wanted to see no more development in the village for the next local plan period as the village should be given some 'breathing space'.

With this in view West Felton Parish council expressed the overwhelming feelings from the Parish to Shropshire Council that West Felton should become Open Countryside to the period to 2026. This has now been carried forward through at least three rounds of public consultation. A poll was carried out in March 2013 asking residents if they still wished West Felton to be carried forward as Open Countryside or to become a Hub or Cluster, out of 402 responses returned, 384 (95.5%) responses expressed the view to maintain Open Countryside. This is conclusive evidence of the wishes of villagers of this resilient community, who through localism and engagement in the parish planning process should be listened to and their wishes acted upon.

We believe that the National Planning Policy Framework does not change the statutory status of the development plan in Shropshire as the starting point for decision making. Proposed development that conflicts should be refused unless other material considerations indicate otherwise. The adopted core strategy is in full conformity with the NPPF, therefore the NPPF does not indicate otherwise, furthermore the Core Strategy is of recent adoption following all the necessary legal and policy steps – an up to date local plan.

Page 28/29 of the Core Strategy States that: *“ In rural areas, new development of a scale and location appropriate to the size, role and function of each settlement will have delivered significant community benefit, helping places to be more sustainable”*

Policy CS2 states *“ Develop the role of Shrewsbury as a sub regional centre, and Shropshire’s market Towns and key centres as more sustainable and self sufficient settlements, providing the main focus for new housing, employment and infrastructure development and the preferred location for a range of services and facilities to serve the wider needs of their respective hinterlands”*

Para 49 of the NPPF states that *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites”*.

The Shropshire Site Allocations and Management of Development (SAMDev) Plan complements the core strategy by identifying the sites that will meet the agreed

core strategy vision and housing requirements – the SAMDev plan is at an advanced stage, having undergone three stages of public consultation, and most importantly exists in the context of a recently adopted Core Strategy and a positive approach towards delivery.

Para 216 of the NPPF states that: *“Decision takers may also give weight to relevant policies in emerging plans according to: The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)”*

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given), and the degree of consistency of the relevant policies in the emerging plan to the policies in the framework the greater weight may be given.

The Planning Minister, Nick Boles, has recently confirmed that emerging plans may be afforded some weight (Hansard 17<sup>th</sup> July 2013), stating that, “We will make it clear that once a plan has reached the point that, first it has become specific and secondly, it has gone through a fairly substantial level of public consultation it will be come something of real materiality – to use a lawyers phrase – as a consideration in decision making”

It is Shropshire Council view that the SAMDev plan has reached this point being settlement and site specific and having undergone very substantial public consultation, namely three months of Issues and Options consultations in spring 2012 and eight weeks of revised Preferred Options consultation in July / August 2013

In view of the above, West Felton Parish Council considers that there is a very clear case for refusal of this application even before sustainability factors are considered.

#### Sustainability

Para 14 of the NPPF states: *“The Policies in Paragraphs 18-219 of the NPPF taken as a whole constitute the Governments view of what sustainable Development in England means for the planning system”*.

Presumption in favour of Sustainable Development or is the proposal “sustainable”? Sustainable means as defined by the UK Sustainable Development Strategy *Securing the Future* sets out five guiding principles of sustainable development.

- Living within the planets environmental limits;
- Ensuring a strong, healthy and just society;
- Achieving a sustainable economy;
- Promoting good governance;
- and using sound science responsibly

Para 14 of the NPPF states that *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-*

*taking”*

For decision taking this means: Where the development plan is absent, silent or relevant policies are out of date, granting permission unless: - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

West Felton Parish Council feel that the adverse impacts of this scheme far outweigh the benefits (of which we struggle to find any for the community) and that demonstrable harm to the village will be caused if permission is granted.

They Include:

1. Promoting long distance commuting to work (dormitory villages) West Felton is not well placed for large scale housing development as there are few employment opportunities, (if any in the village) and few services / shops within the village, therefore the village will act as a dormitory village promoting car travel and increasing carbon dioxide emissions - this cannot be ignored as since sustainability is the golden thread it must be given significant weight. Dormitory villages are not sustainable and do not promote a sense of community spirit and were specifically excluded as an option for village development right at the start of the Core Strategy consultations.

2. Loss of the best and most versatile agricultural land - Para 112 states: *“Local Planning Authorities should take into account the economic and other benefits of the best and most versatile Agricultural land. Where significant development of agricultural land is demonstrated to be necessary local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.* The site forms part of the open countryside and is situated on some of the best quality agricultural land in the locality, (thought to be Grade 2) as demonstrated by the site been flat, level, with deep soil, fertile, very free draining and relatively stone free. It is able to be cultivated or grazed for 12 months of the year. There is also no evidence that land of this quality is essential and *demonstrated to be necessary* to be used for development, as other sites of much lower quality have already been put forward and accepted in the Oswestry Area through the SAMDev process and will meet the projected housing growth to 2026

3. Capacity of School - West Felton School is over capacity – any further development in the village will increase out commuting to take / collect children from school promoting car travel and increasing carbon dioxide emissions - this cannot be ignored as since sustainability is the golden thread it must be given significant weight.

4. Congestion at A5 Junctions Weirbrook / Queenshead - Queenshead junction over the years has had a proven track record as an accident black spot with many fatalities since its construction. This development is at the North of the village and as such the use of the Queenshead Junction will be much increased by some 50 + additional cars. At peak times there are significant queues to get onto the A5 which lead to drivers taking chances and on some occasions causing accidents. This development will increase the problems of congestion at this junction.

5. Effect on the amenity and wellbeing of residents through the connection with the Countryside. - Throughout the Parish plan consultations, a major factor that has dominated public engagement sessions is resident's connection with the surrounding countryside. Building a large estate in this location will cause demonstrable harm to the village amenity and the wellbeing of nearby residents. We strongly feel that a massing of residential properties in this location will create Urban Sprawl and remove the intrinsic beauty of the connection with the countryside that can be viewed as you travel north out of the village. Para 109 states that: "*The planning system should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscape, geological conservation interests and soils.*"

6. Effect on Wildlife - Whilst it is accepted that this site is Agricultural land, local evidence suggests it is a valuable feeding ground for Lapwing (which have also nested previously) and has been for at least 30 years. Large flocks of Fieldfare, Redwing and Starlings are seen on a daily basis visiting the site as the farming methods employed have directly led to a good source of food. Barn Owls are also seen regularly during the evenings hunting along hedgerows around the site. We therefore consider this site to be valuable for the maintenance of species that have been shown to be in serious decline on a national basis.

West Felton Parish Council is concerned that we now have developers seeking piecemeal, green field sites, such as this application site which are not related to Shropshire's development plan which has established through much public consultation sustainable sites to meet the needs of Shropshire to 2026. This application is not based on any evidence of housing need for the village nor has it been consulted upon at a pre application stage in clear contravention of Para 66 of the NPPF '*Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of views of the community*'

The current situation relating to the 5 year housing land supply probably wont increase the numbers of houses built but will give developers an opportunity to ignore identified sites in preference to more developer led, unplanned but profitable Greenfield sites in open countryside – this is what is now proposed for West Felton.

Wages are generally low, and employment opportunities limited in the former Oswestry Borough area. We believe that this proposal will attract people from outside Shropshire who will then commute considerable distances to their place of employment creating a dormitory village. This is not good planning in the 21<sup>st</sup> century when sustainability must be a material consideration, SAMdev has real 'materiality', to grant permission would harm the public perception of the planning system, which is harm to planning itself and peoples perception of a just society. We request that this application is refused so that the important planning principles involved can be tested at appeal if necessary.

**WFPC Additional Objection to Planning Application 14/00133/OUT**

This Parish Council has already objected strongly to Shropshire Council Planning application 14/00133/OUT. This additional notification is to evidence the reasons for those objections with reference to the National Planning Policy Framework (NPPF) and other relevant Planning related guidance.

Traffic - It is noted that the Highways Agency are not able to comment upon Planning applications of less than 50 houses. This means that the potential safety implications of cumulative applications for more than 50 houses can be hidden. Recently Planning application 13/01221/OUT has been approved for 35 houses and 4 commercial units. The additional 25 houses subject of this application means a potential addition of 60 houses and 4 commercial units.

We therefore request that Highways Agency are informed of the combination of these 2 applications, in the sure knowledge that more potential applications of this type, from the same or other applicants are waiting in the wings. This is covered in NPPF para 32, bps 2 and 3. The additional weight of traffic, particularly on the dangerous Queens Head/A5 junction is drawn to the attention of planners and the Highways Agency. How many small applications will it take to have a proper assessment of traffic infrastructure needs?

There is also particular concern at the immediate environment of access from this site on and off Holyhead Road. The lack of proper pavement on the western side of Holyhead Road in this vicinity means that pedestrians using the site will be forced either to cross the road more frequently, merely to find access to a full pavement but with an intention to cross back to the western side of the road to access the current local village centre shop premises, or such future shop premises as may exist in that location.

Agricultural Land Grade - This Council is aware, from information from a national soil laboratory, that the agricultural land grade of the site is at least grade 3a and probably grade 1. Each of these grades is defined with Planning Policy Statement (PPS) 7 as being "The best and most versatile land." This is considered in NPPF paras 17, bp 7, 109,110 and 112. Such land is offered protection from development, in that the need to develop agricultural land should first be demonstrated and, if needed for development, then land of poorer quality should be used in preference to that of higher quality. This Council demands that the applicant, at their cost have the land surveyed to determine its proper agricultural land classification and that the determination of this application awaits the results of the relevant survey.

This will serve to educate not just on this application, but also on potential other, cumulative applications in a similar location, such as those adjacent to this site. We owe it to our future generations to preserve our best quality agricultural land. On page 2 of NPPF is quoted "Resolution 42/187 of the United Nations General Assembly, (which) defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs."

School - We are aware that West Felton CoE Primary School has recently had new extensions to cover the needs of the existing school role. CIL funds of £75,000 have been earmarked by SC's education authority from application



13/01221/OUT to cover the additional school influx likely from that development. These additional 25 houses will put even more pressure on the school. This is covered by para 72 of NPPF.

CO2 emissions - NPPF devotes many paragraphs to the need to use Planning to reduce the nation's carbon footprint; notably NPPF paragraph 7, bp 3 and in paragraphs 34, 37, 93 and 95. The village of West Felton is already a dormitory village, with people travelling long, unnecessary distances for work, secondary schools, shopping and most leisure. The creation of dormitory villages is against this NPPF guidance. The environmental role in development, with the economic role and social roles is equal are mutually dependant; para 8 NPPF.

Democratically expressed local wishes - West Felton's 2005 Parish Plan is still extant and, up to date. Despite that a new parish Plan is being worked on. In the first Parish Plan 75% of people expressed their wish for no further large-scale development in the parish. The recent Parish Plan conducted a poll, which showed that 95.5% of the survey respondents (45% of Parish adults) were opined against further large-scale development. It is accepted that the lack of Shropshire Council's ability to meet its 5 year housing land supply means, according to NPPF para 49 that, "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

However, NPPF para 17, bp 1 defines the need for, "...empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area." West Felton's plan is up to date. Paragraph 69 of NPPF requires local authorities to, "...involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning." Bearing in mind the amount of work already undertaken by West Felton's Parish Plan group, the determination of this application, against the clear majority wishes of residents, is a 'slap in the face' for this process and can only make it more difficult to encourage people to continue this vital work.

Biodiversity - The site is one locally renowned for wild birds which fill the old, well-established and therefore good habitat hedgerows on this edge of village site. This is covered by para 109 of NPPF bp 3. Para 110 says, "Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework." Development here would go against this principle. This Council requests a wildlife survey of birds in the vicinity of this site to determine is worth to biodiversity and the need to protect species such as Lapwing, which are regularly seen in the vicinity, as guided by NPPF para 117 bp 3.

Edge of Village - Core Strategy 17 at para 7.8 refers to promoting and maintaining links between urban areas and the adjoining countryside. This application, if granted will have the reverse effect, severing the existing, edge of village link between the urban area and surrounding countryside.

Pre application engagement and front loading - This Council wishes to point out that there has been no community engagement about this application, as is

advised in NPPF paras 188-190. This has already caused considerable resentment in the village and does not bode well for local views about the application.

### **WFPC further objection**

The Planning Practice Guidance was published on 6<sup>th</sup> March 2014, giving greater clarity to a range of material planning considerations. West Felton Parish Council ask that in light of this new guidance that further assessments are now carried out for the two yet to be determined applications above, with particular reference to the impact of cumulative developments on a settlement.

#### Planning Practice Guidance 2014

This guidance gives additional information to inform para 32 of the NPPF, Under Transport Assessments ( Para 13 ) Reference 42-013-20140306 bullet 6 and 7 it makes reference to specific situations where Transport assessments are needed which are very important to all the applications in West Felton because of the affect on the junctions with the A5.

#### Bullet point 6

Relates to the need for a TA where the cumulative impacts from multiple developments are situated in a particular area.

#### Bullet point 7

Relates to whether there are particular types of impacts around which to focus the TA or statement such as assessing the traffic at peak times.

Although the DOT have signed off the application at The Cross, in light of this new guidance, as the housing numbers at the Cross and Tedsmore Road exceed 50 dwellings, (not to mention Twyford Lane) cumulative impacts now need to be taken into consideration at the A5 Junctions, before a decision is reached.

We also believe that due to the presence of protected bird species on both Twyford Lane and The Cross application sites, there is a requirement under Habitats and Wild Bird Directives to ensure a proper survey is carried out.

We also reiterate that full Environmental and sustainability surveys are carried out in respect of:

- The Best and Most Versatile agricultural land
- Climate Change
- Carbon reduction

We are aware that clearly the site for 13/01221/OUT had previously been identified in the SHLAA as appropriate for the full process of Environmental Impact Assessments by Shropshire Council under their adopted Planning and Local Plan procedures. The site has been through the stage 1 process and had been identified as ready for the stage 2 process. Obviously the stage 2 process did not happen.

Also it is now clear that Shropshire Council during the relevant stage 1 assessment referred to the parcel of land since subject to application 13/01221/OUT as “The Best and Most Versatile Agricultural Land” and was also

aware that the 'Twyford Lane' application is on land of a similar quality.

- 4.1.2 **Learning and Skills Officer** – The school is more than full and any additional pupils from housing will exacerbate the overcrowding problem. If we were to provide a new classroom, which forecasts suggest we will need to, then we could be looking in the region of a £300k cost, particularly in the light of the difficulties of the site. In which case, it may be fairer on the proposers, but yet still feasible from an education viewpoint, to adapt/extend the current building in other ways. In order to generate funding for this, I have used our calculation formula that tells us how many school pupils we are likely to get from each development and multiplied that by the government's per place figure. This is the regular way we work out a precise cost in these matters. For the two proposed developments above, the figures produced in this way are:

Twyford Lane (5-6 pupils): £67,213

The Cross (4/5 pupils): £52,510

If these sums put the CIL premium from each development in difficulty, is there an S106 route?

- 4.1.3 **Conservation Officer** – **Does not consider that the development will have an adverse impact on the setting of the heritage assets in the vicinity** and therefore does not wish to comment any further on the application.
- 4.1.4 **Affordable Housing Officer** – 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.
- 4.1.5 **Highways Agency** – The supporting documentation with this application states that there will be 25-30 trips in the peak hour and approximately 175 movements per day. DfT circular 02/2013 states that "a development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe". The impact of this development and the recent Tedsmore Road development, individually and cumulatively, is not considered severe.

In addition, the A5 Queens Head and Weir Brook junctions are not considered to be operating at capacity.

It should also be noted that Amey are undertaking detailed design for a safety improvement scheme at Queens Head junction. This is in response to a small number of previous incidents predominantly involving drivers turning right into Holyhead Road. Construction is currently due to take place in the summer.

As the impact of the development is not considered to be severe and the safety of Queens Head is to be improved further by a scheme currently in the development,

the Highways Agency offers no objection to this planning application.

In response to the consultation regarding the narrowing of the road through the Village have responded that the proposal is on the local road not the trunk road and therefore is a matter for Shropshire Council.

- 4.1.6 **Highways Officer** – Whilst the highways agency have issued a holding objection to application 14/00734/OUT they have confirmed that they have no objection to this application and potential housing numbers indicated. Moreover, with regard to the potential narrowing of the carriageway which has been promoted as part of this application they have indicated that this is a matter for Shropshire Council.

Turning now to the application submission, the highway authority again confirm that the site access proposals are acceptable and meet the required guidance and appropriate standards.

The revised application proposals promote a footway along the site road frontage and extending southwards across the 3 residential properties known as 'Lawn House', 'The Old Police Station' and 'Lawley'. The impact of the footway scheme affects the width of the carriageway across these frontages and the bellmouth of The Avenue junction where it is proposed to affect changes to the junction bellmouth radius on the northern side and including a pedestrian crossing point and improved visibility when exiting from this junction onto Holyhead Road.

The principle issue of concern raised by local residents, the Parish Council and Local Member, relate to the reduction of the carriageway of Holyhead Road to 5.5 metres. The concern being that a width of 5.5 metres is inadequate and would have an adverse impact upon the movement of traffic through the section of road narrowing.

In considering the concerns regarding road width, it is important to understand the local context, the function of the road space, the volume of traffic and type of vehicle likely to traffic the route. Along a bus route for instance a road width of 6.0 is desired. A width of 5.5 metres does however allow 2 large vehicles to pass one another at slower speeds. In assessing the suitability or otherwise of a reduction in carriageway to 5.5 metres in this particular case there is a need to consider the likely traffic volume and type and number of bus services trafficking the route. Bus services are limited along this route and traffic volumes are relatively low having regard to its function, which is to principally serve the village of West Felton and not as a through road. In addition the road alignment is a relevant factor as in this case it is a straight road alignment where good forward visibility is available. It is questionable therefore that a reduction of the carriageway to 5.5 metres would have a 'severe' impact.

In the local context it is noted that there is a painted build out area adjacent to the Village Hall, which in effect reduces the carriageway width to some 5.1 metres. In addition, on-road parking tends to occur along the properties 1-4 Holyhead Road either in connection with those properties or as customers parking to then go to the shop. This has the effect of reducing the carriageway below 5.5 metres at times.

The highway authority recognise that there is a balance to be struck between highway mitigation measures required to make a development acceptable and the impact of those mitigation measures upon the existing highway infrastructure. In short do the benefits outweigh the impacts. In this regard the highway authority consider, on balance, that there is merit in the proposals. There is the potential as part of the scheme to reduce traffic speeds through the Holyhead Road/The Avenue/School Road junction and therefore provide a benefit to both highway and pedestrian safety.

The issue has been raised that Holyhead Road is sometimes used as a diversion route when the A5 Trunk road is closed. Information is awaited from the Highways Agency regarding how often this occurs, although it is interesting to note that they make no adverse comment upon the narrowing of Holyhead Road within their consultation response and instead revert to Shropshire Council on this matter. The highway authority's view is that an objection on this particular issue on highway safety grounds would not be sustainable.

In the event therefore that Members are minded to grant consent the highway authority would recommend that in addition to the standard access condition, a further Grampian style condition be imposed to require full engineering details of the alterations.

#### Access

Whilst the application seeks permission for residential development of the site, all matters are reserved for subsequent approval. Nevertheless the application submission provides an indicative layout in order to demonstrate that a satisfactory access to the land can be achieved in accordance with acknowledged highway standards and to the appropriate criteria based upon the site being located within a 30 mph speed limit. Moreover, although the indicative plan indicates the potential provision of 2.4 x 43 metres visibility splays in both directions, appropriate to 30 mph traffic speeds, in reality splays well in excess of 43 metres would be available from a centrally positioned access point. The highway authority conclude therefore that a satisfactory means of access to the site can be achieved.

#### Traffic

As with the previous housing application on land adjacent to Tedsmore Lane, concern has again been raised regarding the impact of additional traffic on the highway network including the cumulative impact upon the Trunk Road junctions on to the A5. The latter is a matter solely for the highway agency and I note their consultation response dated 4 April.

Insofar as Shropshire Council as the local highway authority is concerned in relation to the local highway network, it is considered that the traffic likely to be generated by the development of the site can be accommodated without an adverse capacity or safety impact. This acknowledges the cumulative impact of the permitted site at Tedsmore Lane and further development being promoted in respect of current application 14/00734/OUT. The highway authority advise that any objection based upon highway safety or traffic impact would not be sustainable.

Accessibility and Sustainability

From a transport perspective, West Felton can be considered a sustainable location in terms of access to a school, church, local shop and recreational facilities. All these facilities are within reasonable walking distance of the proposed development site.

Public transport service 70 operates on a half hourly basis between Shrewsbury and Oswestry, stopping at the Punch Bowl PH within West Felton.

Based upon the above the highway authority do not fundamentally question the sustainable credentials of this site in terms of the availability of local services within reasonable walking distances and public transport provision to travel to Oswestry and Shrewsbury.

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

The site has the potential to support nesting birds. The hedgerow boundaries to the north and west of the site are to be retained. The hedge to the east of the site, the frontage, is to be replaced. In order to enhance the site for biodiversity a landscape plan should be submitted. New hedgerow planting should be of species rich, native, local species variety and artificial nests should be provided.

The site has the potential to support foraging and commuting bats and as such bat boxes should be provided.

The pond at 180m west of the site was assessed as being dry in 2011 and 2014. No further GCN survey work is required to support this application.

#### 4.1.8 **Shropshire Wildlife Trust** – Shropshire Wildlife Trust has a number of concerns relating to this development. However given the limited ecological value of the majority of the site we are not lodging an outright objection.

The ecological survey report accompanying the application is somewhat questionable and the Planning Authority should carefully consider whether it is adequate to fully inform the planning decision. Limitations of the report include:

- It was not undertaken at the most appropriate time of year and appears to have involved little survey effort.
- Desk study using limited NBN data, which requires written permission prior to use for commercial purposes. A more thorough search would have revealed an historical record of an Annex 2 bat species (Lesser Horseshoe Bat) in the immediate vicinity.
- There was no habitat suitability index assessment undertaken on the ephemeral pond for great crested newts.

We have also been alerted to:

- Lapwings, fieldfares, redwings, and starlings present on the field.
- A pair of barn owls regularly seen feeding along the hedgerows.
- Bat Roosts in adjacent properties.
- Potential impacts on mature oaks if access footpath to village requires

upgrading – this does not appear to have been covered by the survey.

Should the application be granted permission we recommend that the following conditions are required:

- Hedgerows are retained (replacement of boundary hedge along the Holyhead Road frontage should be prior to the removal of the existing hedge) .
- Public Open Space provides biodiversity enhancements and is subject to an ecological management plan.
- Features for bird nesting / bat roosting are built into the properties.

4.1.9 **Drainage – The drainage details, plan and calculations could be conditioned** and submitted for approval at the reserved matters stage if outline planning permission is granted.

The Highways and Drainage Report outlines some of the sustainable drainage systems (SuDS) to be explored for use on the site. Full details, plan and calculations of the proposed SuDS should be submitted for approval. This should illustrate how the development will comply with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures to reduce surface water.

As stated in the Highway and Drainage Report, soakaways will be investigated in the first instance, which should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. If non permeable surfacing is used on the driveways 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

Confirmation is required 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.

Consent is required from the service provider to connect into the foul main sewer. If the service provider is Welsh Water, Section 104 Agreement has to be in place before any physical work on the drainage system can start on site.

4.1.10 **Severn Trent** – No objection subject to a condition to require details of the drainage plans for surface and foul water to be submitted for approval.

## 4.2 **Public Comments**

4.2.1 54 letters of representation have been received raising the following concerns:

- Site is outside the development boundary

- Will extend beyond the current village
- Loss of countryside
- Layout suggests further development beyond the application site
- Proposed density out of keeping with nearby developments
- No need for more housing in the village
- No jobs in the area
- Would result in increased commuting and carbon emissions
- Increase pressure on the junctions onto the A5
- Increase traffic through the village
- Village is used as a diversion when there is an accident on the A5
- The road from the village hall to the Cross is regularly congested with parked cars
- Current traffic speeds
- The road narrowing proposed is dangerous and will not make pedestrian access any safer
- The new footway will be on privately owned land
- Footpath to shop and school is only 600mm wide in parts
- Village school is over subscribed and no medical facilities
- Adverse impact on neighbouring properties
- Loss of enjoyment of gardens
- Loss of privacy and views
- Land is of excellent agricultural value – grade 3a
- Impact on wildlife, noting barn owls and Lapwings
- Loss of historic hazel hedge and any replacement would take decades to mature yet may be removed or altered by future residents
- Pressure on sewerage system, water and electricity
- Risk of flooding

4.2.2 An objection has also been received from CPRE Oswestry stating similar issues to those above.

4.2.3 One letter of support has been received on the following grounds:

- The village is well located, not too far from a market town and on a bus line
- There is a school
- The village has space

## 5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Social considerations
- Environmental 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' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev. It is not until adoption that full weight can be given to the SAMDev.
- 6.1.4 In the intervening period between submission and adoption sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development 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 NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 It is acknowledged that the site is outside the development boundary previously 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, these policies are at risk of being

considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.

- 6.1.6 The Parish Council and local residents have commented that the site is contrary to their SAMDev allocation as open countryside. This is also acknowledged, however at this time the SAMDev still holds little weight as has not yet been submitted for examination by the planning inspectorate. Once submitted, the weight which can be accorded may increase but it may then be reduced as regards the policies or elements of the plan which have attracted objections and which need to be resolved at examination. On this basis it would be difficult to attribute any significant weight to the designation of West Felton as open countryside until objections to that designation have been resolved. Officers are sympathetic with the local community and the work which has been done to get to the position of wanting to be open countryside and the work that the community plan to do in the future.
- 6.1.7 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.8 Given the above, whether the site is appropriate for development rests on whether it is considered sustainable. The presumption is in favour of sustainable development as tested against the NPPF as a whole. The three dimensions of sustainable development; economic, social and environmental all need to be considered jointly and simultaneously in reaching a judgement about sustainability (NPPF paragraph 8).
- 6.2 **Is the site sustainable?**
- 6.2.1 The objections from West Felton Parish Council and local residents consider that the site is not sustainable on the grounds that it is distant from supermarkets, employment opportunities and other types of services and facilities and the associated increase in vehicle movements and emissions. Objectors consider that this would be contrary to National policies and adopted core strategy policies in relation to impact on climate change. Objectors consider that West Felton is a dormitory settlement for other employment centres and that the level of house building within the last 25 years has led to the settlement reaching its optimum size. In their opinion the capacity of the existing services and infrastructure have been met and the village does not need any more housing to help with its sustainability. Furthermore concerns are raised about the potential for further housing development pressure in the village.
- 6.2.2 Whether a site is sustainable is not judged purely on the distance from services,

facilities or employment. The Council's adopted Core Strategy sets out the principle that new housing development will be supported in designated Hubs and Clusters and as such to say that a site is not sustainable because it is located within a small village or community with limited facilities would be contrary to this part of the Core Strategy and the approach taken in SAMDev of allocating housing in some rural settlements. Furthermore, the NPPF at paragraph 55 acknowledges that development in rural areas can support services and urges that it should be located where it can maintain and enhance the vitality of rural communities. The distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance. Alongside issues of impact on highway safety, ecology and development of agricultural land.

- 6.2.3 The agent has submitted a statement in response to the concerns raised by the Parish Council, and local objectors, noting the presumption in favour of development within the NPPF and that limited weight can be placed on the SAMDev. They have also noted that there is no definition within either the Core Strategy or the SAMDev as to the level of services and facilities, population or any other criteria to determine whether a settlement is sustainable or not and that the SAMDev has been formulated on the basis of the views expressed by Parish Councils rather than an assessment of sustainability. The agent has also noted within the submitted Design and Access Statement that, although West Felton Parish Council have indicated that they wish to be open countryside and not have any further development, West Felton is one of the larger villages in the Oswestry area and has a range of local services and facilities.
- 6.2.4 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.
- 6.2.5 However, this is also not a free for all and the cumulative impact of additional new housing is also a material consideration. Recent planning inspectors' decisions have taken into account the adverse impact of increasing the number of dwellings in a settlement, outside of the plan making process, as a material consideration. Substantial increases in residences could result in harm because of the need to allow time for proportionate increases in infrastructure and for the community to adapt, and the possible adverse impact on community cohesion. Developments such as this can be required to contribute to improvements in local infrastructure so far as they are needed to mitigate the effects of the specific development and it is acknowledged that CIL payments can address this. However the benefit of plan led development is that it can be brought forward with any necessary supporting infrastructure.
- 6.2.6 While West Felton may have some capacity to accommodate new housing the capacity is not limitless. The 2011 census for West Felton recorded 600 dwellings, including the area of West Felton on the opposite side of the A5. The recently approved scheme at Tedsmore Road approved 35 houses, which would equate to an increase of 5.83% and there are other consents which have been completed since 2011. The current proposal would add a further 25 houses and therefore an increase on the 2011 census figure of 10%. The agent is seeking to argue that this is not a significant increase in the number of houses, however officers consider that this increase outside of the plan led process is an adverse

impact of the development which is a material consideration to be weighed against the development in the overall planning balance albeit not a matter which on its own outweigh the need to provide additional housing.

- 6.2.7 In response to notifying the agent of the above concern the agent has commented that the development of the site, although within the control of a house builder, would be market led. The agent considers that it is unlikely that the 25 houses would be built all at once and that it is more likely that there would be a slower provision of new housing at approximately 6 dwellings per year. This may provide members with some assurance that the impact on the community cohesion is not likely to be severe. Although this is not a matter which would be reasonable to control by condition the identified harm resulting from this development may not be as severe as it could be and would need to be balanced against the benefits.
- 6.2.8 It is also acknowledged that the application at Tedsmore Road, which has now been approved, will increase housing numbers as detailed above. On their own any one of the three applications, Tedsmore Road (13/01221/OUT), Twyford Lane (14/00734/OUT) or this application at The Cross (14/00133/OUT), would increase housing numbers but not to an extent which officers consider would tip the balance of the material harm to the village. The amended scheme at Twyford Lane, reducing the number of houses, has also now reduced the potential cumulative impact of recommending consent for both of the current proposals and the application at Tedsmore Road, which has been permitted.
- 6.3 **Economic considerations?**
- 6.3.1 Within the design and access statement the agent has noted that, as the developer has an option on the site, that early commencement of the development can be assured. The agent also notes that the new housing will support the village shop and that the village is served by Arriva Bus 70 which connects the village to Oswestry and Shrewsbury and other surrounding villages regularly through the day. It is accepted as the government has made clear that house building plays an important role in promoting economic growth to which significant weight must be given and as such weight should be given to the benefits of boosting housing supply and the economic gains from housing.
- 6.3.2 Given the concerns raised by the Parish Council and local residents about the reliance on the private car and as such the increases in traffic and CO2 emissions officers have considered the opportunities for non car based travel and can confirm that buses from Oswestry stop in West Felton adjacent to the Punchbowl Inn from 7:05 at least once an hour up to 18:35 and from Shrewsbury from 8:11 to 19:41. The journey from West Felton to Shrewsbury takes approximately 32 minutes and the journey from West Felton to Oswestry takes approximately 26 minutes and also stops outside Oswestry College. This provision is very good in comparison to large parts of the rural areas of Shropshire and officers consider that weight can be given to the opportunities for bus travel from and to West Felton. The residents of West Felton do not have to rely on the private car as many other areas of rural Shropshire do.
- 6.3.3 To require all development to be close to employment and all services and facilities would restrict the areas in which development could be provided to Shrewsbury and possibly Oswestry, though objectors have questioned whether

Oswestry has sufficient employment. This restrictive approach would not be sustainable in itself and it would not promote rural rebalance or help with the sustainability of the remainder of Shropshire. The principles set in the Shropshire Core Strategy allow for development in Hubs and Clusters, some of which are much smaller areas with less services and facilities than West Felton and with no public transport links. As advised on the previous application at Tedsmore Road, officers consider that West Felton is a village which could support additional housing and which with new development could enhance the existing services and facilities it has.

6.3.4 Although, as advised above, it is accepted that the capacity for new housing in West Felton is not limitless and the local community already consider that it has reached its limit in their request to be considered as countryside within the SAMDev, the scale of development proposed is not considered to be substantial, either on its own or cumulatively with the other proposals, and is not considered to not result in significant development in the village.

#### 6.4 **Social considerations?**

6.4.1 The development will provide additional housing including affordable housing. Of the 25 houses indicated, two would be affordable units and there would also be a requirement to pay a financial contribution to provide the 10% affordable housing as required by the current supplementary planning document. However, as an outline planning application the level of affordable housing to be provided would have to comply with the requirements set out in the SPD at the time of the reserved matters application. This may increase or decrease but as an outline the S106 would require the affordable housing to comply with the SPD. The provision of housing is itself a material consideration and is a clear benefit which should be given significant weight in the determination of the application. The acceptance by the developer to provide affordable housing should also be taken into consideration. In addition to the affordable housing the proposal includes an area of open space, which can be provided with a local area for play (LAP).

6.4.2 Concern has been raised by the Parish Council and local residents about the capacity of the village school. This concern is noted and if there is inadequate infrastructure to serve the development it could be a harm weighing against the development. However, the development proposed would provide a mix of house sizes and types and may also be occupied by families whose children are either already at West Felton School or do not wish to move from the school they are attending. The Council Education Officer advised that for a development of 35 houses the predicted new school place requirement would be 4/5 places. As required by policy CS9, the development of this site would be required to contribute to infrastructure through the payment of the Community Infrastructure Levy (CIL). The agent has estimated that for 25 houses the floor space would be around 2531sqm and therefore a CIL payment of £80 per sqm would be £202,480 which could be used to contribute towards the enhancement of the existing school alongside other infrastructure projects in the local and wider area.

6.4.3 Currently the Oswestry and Surrounding Area Place Plan does not list improvements to West Felton School to increase pupil places as a priority, although the Learning and Skills Team is currently updating its priorities for the Place Plans. Any additional funding required 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).

6.4.4 The potential impact on the school places could be a harm which would weigh against the development, but may be balanced out by the benefits gained from the CIL contribution. As such little weight can be given to this potential harm as there is no evidence that the CIL contribution would not overcome the harm. The provision of market and affordable housing and CIL contributions are social benefits which can be afforded positive weight in the determination of the application.

## 6.5 Environmental considerations?

6.5.1 Concerns have been raised about the development of this site which is on agricultural land; outside the existing village boundary, beyond existing housing; will impact on the amenities of the village as a whole and specifically on the amenities of the residents adjacent to the site; will be detrimental to highway safety, both locally and in the wider area due to increase in traffic at the junctions with the A5; and significantly impact on ecology through the loss of feeding ground for bird species on the at risk register, the habitat of owls.

6.5.2 It is acknowledged that the development will be on agricultural land which is currently on the edge of the village however the agent has commented that, in his opinion, this would not prevent views of the countryside from the village, the development will extend the village but it will still be surrounded by open countryside and the agent considers that it would still retain strong visual links with the countryside.

6.5.3 The Parish Council have, as with the application off Tedsmore Road, objected on the grounds of the loss of agricultural land quoting paragraph 112 of the NPPF and noting that this application site is very good land which is flat, free draining and has been seen to be used for crops and grazing all year round, including during times of high rainwater. They have commented that the land may be grade 2 or 1 but the evidence which they have since submitted, which they received from Natural England, relates to a survey of some of the land around West Felton by MAFF in the 1980's. The information is acknowledged by the Natural England advisor who sent it to the Parish Council that it may not be accurately representative of the soil classification today. Furthermore the application site was not specifically assessed at that time. As such it is not clear what grade of agricultural land the application site lies within.

6.5.4 The current map provided on the Natural England website shows the land to be grade 3 but does not confirm whether it is 3a or 3b and without an up to date assessment it is not possible to confirm whether it is 3a or 3b. Although the Parish Council consider that an up to date survey should be undertaken the NPPF

does not prevent development of agricultural land, or require a sequential approach to the development of agricultural land. It seeks to protect the “best and most versatile” land from significant development.

- 6.5.5 As with the application at Tedsmore Road there are three issues here, firstly planning inspectors decisions has established that the need for housing is considered to be demonstrating the need to develop on agricultural land and as such there is no requirement for each developer to demonstrate a need specific to a site. The fact that the Council has been under delivering on housing land supply demonstrates that development is required and the authority has accepted that some of this development will have to be on agricultural land. Secondly the scale of the development is not significant when considered against the overall need for housing or the amount of agricultural land available within Shropshire. It may seem significant, alongside the other applications in West Felton, in terms of the agricultural land around the village. However at 2 and half hectares it is not considered to be significant when considered against the above matters and the advice from Natural England which the Parish Council refers to. Within that advice it notes that Natural England should be consulted on all developments over 20 hectares. Even taking the other three sites into account the total development around West Felton would be around 6 hectares and approximately 92 houses. Thirdly, and finally, the NPPF suggests development of lower quality land should be preferred. The NPPF does not require development to only be on lower grade land but seeks to develop lower grade as a preference. In Shropshire the areas of lower grade identified on the Natural England map as grade 4 and 5 are predominately river valleys and high ground. There are no areas identified as 4 or 5 around Oswestry and, although it is accepted that the map does not define between grade 3a and 3b, the application site is not considered to be any higher quality than the majority of Shropshire.
- 6.5.6 On balance, although officers acknowledge that the loss of this parcel of agricultural land is a harm resulting from the development, the loss of land is not significant and therefore it is advised that some, but limited weight should be given to this in the overall planning balance and it would not on its own outweigh the presumption in favour of sustainable development. The loss of the agricultural land itself does not make the development unsustainable as the NPPF requires the assessment of whether a development is sustainable or not to consider the whole of the NPPF and balance the harm against the benefits.
- 6.5.7 In considering the location of the site the Parish Council and local residents are concerned about extending the development beyond the village boundaries. The agent’s opinion is noted above and it is acknowledged that the application site is close to services and facilities in the village and would still be bounded by agricultural land. However, this application would extend the built area of the village on this side of the main road, with the exception of one dwelling and its outbuildings (New House). Furthermore, the dwellings on this side of Holyhead Road and the minor road leading from The Cross are road frontage dwellings, and although the overall village does have a mix of road frontage and small estates the immediate area around the application site is road frontage properties with open countryside beyond. Officers consider that the development of this site for a small estate would alter the character of the area and would, as any development extending the edge of a settlement, result in harm.

- 6.5.8 However, this harm has to be quantified in the overall planning balance. Any housing development on the edge of a village will result in harm, but there also needs to be acknowledgement that there is not sufficient land within settlements to provide for the housing supply required in Shropshire. There will be a need for some developments on the edge of settlements to support overall growth. What needs to be considered is whether the harm is significant and demonstrable. The agent notes that the site is not classified as visually, historically or environmentally important in that it is not a designated site. Furthermore, it is on the edge of the existing built development and would be read with the backdrop of the existing village. Although the immediate surrounding built form is of roadside development this is not a character of the wider village and the proposed development will harmonize with the village over time.
- 6.5.9 There would be some harm in developing this site and that is acknowledged but officers do not consider that the harm would outweigh the benefits gained from new house building in terms of providing housing and affordable housing, both of which are national requirements, providing a contribution towards infrastructure in the form of a CIL contribution and providing open space. Officers advise that developing beyond the existing village edge is an adverse impact in the overall planning balance but not one which officers would consider as significant.
- 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. Section 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 6.6.2 Within the design and access statement the agent has commented on the indicative layout and principles of the future development of the site. It is suggested that the development would reflect the general character of West Felton and provide a range of house types, sizes and appearances including bungalows. Laid out in an informal layout to reflect the nature of the settlement with short cul-de-sacs the density is at 16.4 dwellings per hectare. It is suggested that two storey development would be along Holyhead Road and the bungalows would back onto the existing bungalows on The Avenue. Each property would have defensible private amenity space and there would be a separate area of open space of 0.24 hectares which is in line with the requirements of the Interim Planning Guidance.
- 6.6.3 However, the current application is for outline planning permission with all matters of layout, scale and appearance reserved for later approval. Although the principles suggested by the agent would be appropriate for the site the indicative layout is for indicative purposes only and has not been submitted for consideration or approval. Officers have some concern with the position of the terrace houses along the road frontage but this is not a matter for consideration at this time. A further application will be required for the approval of reserved matters which would then detail the layout, scale, appearance and landscaping. At that time the



development proposed would have to be considered to be acceptable in context with the existing village and the indicative layout now provided would not set any precedent for what could be developed on the site.

## 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 an outline application with all matters reserved for later approval it is not possible to fully consider the impact on the amenities of neighbouring residents. Objections have raised concern about the loss of privacy, amenity and the loss of views. This latter point is not a material planning consideration, private views are not protected in planning, whether the development has an adverse impact on the character of the area is considered elsewhere in the report but a private view of an open field is not protected.

6.7.2 The indicative layout plan does show that the site could be developed providing separation distances of over the suggested minimum of 21 metres between facing elevations of existing and proposed properties or providing blank gables to existing elevations with windows or proposed elevations with windows facing towards existing blank gables. Although it is acknowledged that the development will result in a change of use from agricultural to residential this use is not considered to result in noise or any other pollution that would be significantly harmful as to adversely affect the amenities of existing residents. As noted above the development will change the outlook of the existing properties but this is not a material planning consideration. Officers consider that the development of the site could be achieved without substantial adverse impact on the amenities of the existing properties and would not result in overlooking or loss of light.

## 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. The development proposed at this site is for 25 dwellings and therefore does not meet the trigger to require a transport assessment, however the concerns of the local community regarding the cumulative impact of the three sites proposed for new housing in West Felton is noted and so too are the concerns about the potential impact on the junctions onto the A5. The application has been submitted with a highways and drainage report and the Council Highway Officer and the Highways Agency have both been consulted.

6.8.2 A single vehicular access is proposed off Holyhead Road with visibility splays of 2.4m by 43m in both directions and internal estate roads of between 4.5m and 5.5m with 1.8m footpaths. The submitted highways and drainage report notes that the access can be provided onto Holyhead Road with sufficient visibility in line with the requirements for a 30mph area. Within the response to the local objections the agent has advised that it is their opinion that the traffic conditions in the village are not significant and there has not been any major traffic congestion

or serious accidents in the recent past. It is the agents opinion that the traffic problems referred to are more perceived than actual and it is unlikely that 25 dwellings would make a significant difference to the highway situation.

- 6.8.3 The Council Highway Officer has confirmed that the indicative layout for a single point of access would provide a satisfactory access to the site in accordance with national standards for a site within a 30mph speed limit and that visibility splays well in excess of the 43 metres required would be available.
- 6.8.4 Furthermore the Highways Agency have not raised any objection noting the cumulative impact of the proposed development and the application at Tedsmore Road; the potential traffic movement levels and the capacity of the A5 junctions. It is the advice of the Highway Agency that the impact of this development and the recent Tedsmore Road development, individually and cumulatively, is not considered severe.
- 6.8.5 The development will result in an increase in traffic movements, however, the village is served by a bus service as detailed above, and any rural housing development will result in an increase in traffic movements. Although the concerns of the local community are noted, the traffic resulting from this development, even in combination with the other proposed developments in the village, would not result in a unacceptable or severe impact on highway safety or result in traffic movement levels that would warrant refusal of the scheme on its own. The increase in traffic is a harm although one which can only be given limited weight in the overall planning balance as the impact is not severe.
- 6.9.6 Concern has also been raised locally about the width of the footway in the immediate area and this was also noted by the Council Highway Officer in his initial response. The existing footway is on the opposite side to the development and is currently narrow with limitations to widening it without harming a locally important wall and trees. The Highway Officer has noted that the width is 0.65 metres at its narrowest point and for the whole of this reduced section is under 1 metre in width. This is well below acknowledged standards and forces pedestrian users to walk in the highway which raises pedestrian safety concerns which would be increased by the development of this site.
- 6.9.7 In response to this concern the agent has submitted a plan proposing a new footway along the edge of the application site, passed the three existing houses and to the junction of The Avenue. The plan proposes the reduction of the width of the public highway from the edge of the application site along the front of the adjacent properties and moving the give way lines of The Avenue into the main road. This would reduce the width of the highway from 6.2m to 5.5m.
- 6.9.8 Concerns have been raised locally about the reduced width, the safety of the footways following reduction of the road and that the footway needs land that is within the ownership of the adjacent properties. With regard to this final matter officers had requested evidence from the property owners but none was provided. As such a land registry search was undertaken and the title deeds returned on two of the properties showed that the land proposed for the footway is not within the ownership of the properties and as such would be highway verge. The third property is not registered with the land registry.

6.9.9 With regard to the safety of the width of the road and the footway the Council Highway Officer has commented in detail at 4.1.6 of this report and in conclusion considers that the reduced width will still allow two large vehicles to pass at slow speeds, that the traffic volumes on the road are low and that the road alignment is such that there is good forward visibility. Furthermore the benefits of the proposed reduced width in providing a footway outweighs the harm and the Highway Officer advises that the reduction in width would not have a severe impact. The Highways Agency have advised that this is not a matter for them as the works are to the local highway. As such it is officers advice that the proposed reduction in road width to provide pedestrian improvements would not be sufficient grounds to refuse the application.

## 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 has been undertaken and submitted with the application and this has been considered by the Council's Ecologist and Tree Officer.

6.9.2 The ecology survey submitted considered potential species and habitats within 2km through record research and field surveys. The research identified bats within 3km, otter within 2km and great crested newts within 3 miles. The field surveys note the condition and species of the field boundary hedges; the oak tree in the adjacent field, which the author considers may be a summer roost for bats, and redwings were noted amongst more common species garden birds. The survey found no evidence of badgers, herpetiles or barn owls but did note birds overwintering. The report does not recommend any further survey work or licences or any mitigation beyond retaining the hedges.

6.9.3 However concerns have been raised by the Parish Council and residents about the impact on ecology especially Lapwing, Fieldfare, Redwing, Starlings and Barn Owls. The site is currently bounded by established hedges on all sides and as such has the potential to support nesting birds and as an agricultural field may attract birds feeding after sowing or ploughing. The indicative layout suggests that the hedge fronting Holyhead Road will be replanted and this has raised concerns locally. The design and access statement advises that the existing boundary hedgerows will be retained and strengthened but that the roadside hedge might need to be replaced to provide adequate visibility. The agent has since confirmed that this hedge will be removed and replanted behind the visibility splays.

6.9.4 Shropshire Wildlife Trust have also raised concerns about the ecology report and its detail but, as noted above, have not objected to the development and have suggested matters which could be conditioned to mitigate against any impact. The Council Ecologist has considered all of the information submitted and confirmed that the site has the potential to support nesting birds within the hedgerows which surround the site. The retention of the hedges along the north and west of the site is positive. The hedge to the east of the site, the frontage, is to be replaced, however the Council Ecologist has not objected to this and has recommended that it can be dealt with through the submission of landscaping

details. In order to enhance the site for biodiversity a landscape plan should be submitted. New hedgerow planting should be of species rich, native, local species variety and artificial nests should be provided.

- 6.9.4 Bat boxes are also recommended as the site has the potential to be used by foraging and commuting bats. The pond 180m west of the site was assessed as being dry in 2011 and 2014 and as such the Council Ecologist has confirmed that no further surveys are required in relation to Great Crested Newts.
- 6.9.5 The agent has also responded to the concerns raised regarding ecology and confirmed that the ecological assessment submitted with the application confirms that there is no adverse impact on wildlife. The site is currently a field which is ploughed and as such there is no ecological value within the site, the hedgerows around the site are to be retained except along the edge of Holyhead Road and this will be replanted behind the visibility splays. Furthermore the development of the site will provide additional planting within the site and the amenity area.
- 6.9.6 It is officers opinion, taking into account all of the concerns raised and the professional advice from the Council Ecologist and Shropshire Wildlife Trust, that the site can be developed for housing without significant harm to protected species or their habitats. The development will alter the habitat from its existing condition but will also provide some opportunities for enhancements and as such complies with the requirements of policy CS17 and also the relevant sections of the NPPF.
- 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 highways and drainage report advises that the foul drainage from the development is proposed to be connected to the existing mains sewerage system, the surface water from buildings to be discharged via soakaways in gardens and the road drainage discharged, via attenuation, into the existing highway drainage system in Holyhead Road.
- 6.10.2 The Council Drainage Engineer has confirmed that the drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is granted. No objections have been received which raise any contrary opinions.
- 6.10.3 Local representations have noted that the land is free draining but objections have also been received raising concerns about flooding and sewerage capacity. The applicant's report has considered the potential for flood risk and has concluded that this land will have no risk of flooding or pose any risk to areas outside of the site. Furthermore, there have been no objections received from the sewerage provider to the principle of connecting to the existing mains drainage system for disposal of foul waste. As such there is no reason to consider, and no evidence to show, that the site could not be developed with an appropriate drainage system and would following development not result in any greater risk of flooding either to the application site or the wider area. As such the development of the site is compliant with the requirements of CS18.

## **7.0 CONCLUSION**

7.1 The site is located outside the current development boundary for West Felton as shown in the Oswestry Borough Local Plan and is therefore classed as a departure from the development plan. Although the Council has recently submitted the SAMDev Final Plan and therefore has identified a 5 year housing land supply limited weight can be attributed to the SAMDev as there are outstanding unresolved objections. Furthermore limited weight can be given to the saved Oswestry Borough Local Plan due to its age and greater weight given to the NPPF and the presumption in favour of sustainable development.

7.2 It is accepted that the site is on the edge of West Felton which is a sustainable settlement with a range of services and facilities and benefits from transport links. Furthermore the development will provide additional housing supply in accordance with national planning policy priorities and economic benefits to the village and surrounding area. The development will also provide 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.

7.3 The additional information regarding build rates and the proposed roadside footway from the site to The Cross has overcome some of the concerns previously raised by officers regarding development beyond the natural boundary of the village, the cumulative impact of the current applications for new housing in the village and pedestrian safety. Although there are harms identified from developing agricultural land beyond the village and the potential impact on protected species and trees these harms are either not significant or could be overcome with appropriate details and survey work. As such it is officers recommendation that the harm does not outweigh the benefits of new housing and that, in considering the development against the NPPF as a whole, the proposal will be sustainable development and in accordance with the requirements of the NPPF.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

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

## 8.2 **Human Rights**

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

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

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

## 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10. **BACKGROUND**

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS4 - Community Hubs and Community Clusters  
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

## 11. **ADDITIONAL INFORMATION**

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

Cabinet Member (Portfolio Holder)  
Cllr M. Price

Local Member  
Cllr Steve Charmley

Appendices  
APPENDIX 1 - Conditions

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

1. Approval of the details of the siting, design and external appearance of the development, the means of access to the site and the landscaping of the site (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 12 months 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 the deposited plan submitted with this application.

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

5. An Arboricultural Assessment, prepared in accordance with BS 5837: 2012 must be submitted with the first of the reserved matters. The layout of the proposed development would need to make provision to retain any trees identified as significant or potentially significant in the terms of public amenity or provide substantial justification and mitigation where their removal is proposed.

Reason: To ensure the protection of existing landscape and the provision of landscape enhancements.

6. 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 means of access for disabled people

The 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 REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

7. 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.

8. A total of 6 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species, which shall be erected on the site prior to first occupation of the dwellings hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

9. A total of 6 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 dwellings hereby approved.

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

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Committee and Date

North Planning Committee

23 September 2014

Item

7

Public

## Development Management Report

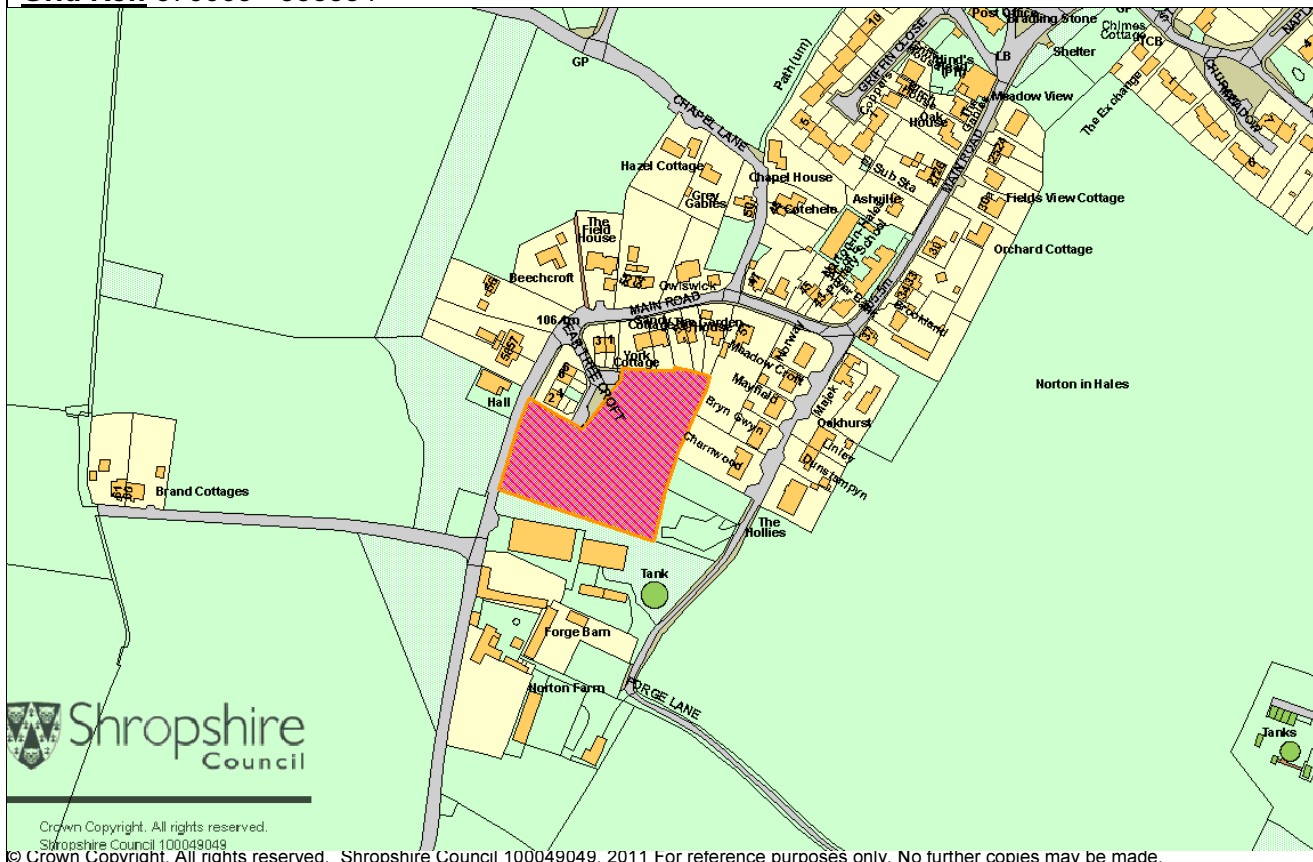
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/00260/FUL	<b>Parish:</b> Norton In Hales
<b>Proposal:</b> Residential Development of 14 detached dwellings	
<b>Site Address:</b> Land North Of Norton Farm Main Road Norton In Hales Shropshire	
<b>Applicant:</b> Mr Glenn James	
<b>Case Officer:</b> Richard Denison	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 370065 - 338384



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**Recommendation:- That planning permission be granted subject to the applicants entering into a S106 agreement to secure affordable housing at the rate relevant at the time of the submission of reserved matters and subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application relates to the erection of 14 detached dwellings (four 3-bedroom and ten 4-bedroom) on land adjoining Norton in Hales. The proposed dwellings will have a mixture of single and double garages with each unit providing a minimum of two car parking spaces each. Twelve of the dwellings will have access from an existing driveway serving six recently constructed dwellings, whilst the remaining two dwellings will be accessed from the existing driveway serving an existing residential barn conversion and Norton Farm. A pedestrian link from the development will be provided onto Forge Lane with structural landscaping being provided throughout the development.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site is located directly to the south of Norton in Hales village and is an open agricultural field. A number of semi-detached and detached properties adjoin the north, east and part of the western boundary. Modern farm buildings historically associated with Norton Farm are located along the southern boundary, although permission was granted in August 2013 for the demolition of these buildings and erection of a large residential dwelling. The Main Road is located along part of the western boundary and is opposite the village hall.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Highways Development Control** - There are 2 access aspects to the development proposal. Plots 3 & 4 are to be served via the existing agricultural farm access which show provision for 2.4 x 43 metres visibility splays.

Plots 1 & 2 and 5 to 14 inclusive are shown to be accessed via the existing development access road known as Pear Tree Croft. This existing access road has not been adopted by Shropshire Council and is not subject to a Section 38 adoption agreement due to issues surrounding the visibility splays provided at the

junction with the Main Road. Whilst in principle the highway authority do not fundamentally object to Pear Tree Croft serving the proposed extension and 12 further properties, it is strongly recommended that this must be based upon the visibility splay at the junction being secured prior to any development taking place.

The highway authority does raise concern regarding the lack of and/or inadequacy of the footway provision between the site and in the direction of the School and public house. The development as proposed would be likely to generate pedestrian movement, including more vulnerable users, between the site and village facilities as well as local interaction within the village.

The lack of and/or deficiency of the footways would inevitable result in pedestrians from the development walking within the highway carriageway. This of course is not unusual for a rural village and nor is there carriageway space to fundamentally improve footway provision which would improve the situation albeit change the character of the village.

The lack of footway provision between the site and body of the village is a deficiency of the site which does raise pedestrian safety concerns. However, the development proposal does provide a new pedestrian link between the site and Forge Lane and whilst this lane does not provide a off carriageway footway it is a quite lane in terms of likely traffic flow and does lead to Main Road where footway provision, although somewhat restricted, is available. It is considered therefore that an objection to this development on pedestrian safety grounds would not be warranted.

In the event that Members resolve to grant consent the highway authority would recommend the following conditions are imposed:-

Prior to the commencement of plots 3 & 4 shown on the approved drawings, visibility splays of 2.4 x 43 metres shall be provided at the southern junction, all growths and obstructions in advance of the visibility splay area shall be lowered to and thereafter maintained at carriageway level. Reason: In the interests of highway safety.

Prior to plots 3 & 4 shown on the approved drawings being first occupied the access driveway, parking and turning areas together with a footway link to the existing footway adjacent to 6 Main Road shall be constructed in accordance with a specification and footway alignment to be first submitted to and approved in writing by the Local Planning Authority. Reason: To provide a satisfactory means of access to the site.

Prior to the commencement of plots 1 & 2 and 6 to 14 inclusive, as shown on the approved details, at the junction of Pear Tree Croft with Main Road visibility splays of 2.4 x 43 metres shall be provided in both directions along Main Road, all growths and obstructions shall thereafter be lowered to and thereafter maintained at the level of the adjoining highway footway. Reason: In the interest of highway safety.

Prior to the commencement of plots 1 & 2 and 6 to 14 inclusive, as shown on the approved details, the internal access road, parking and turning areas and footway

link to Forge Lane shall be constructed and drained in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of highway safety.

- 4.1.2 **Shropshire Council, Planning Ecologist** - If any trees or hedgerows are to be removed to accommodate the development, the following informative should be attached: The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive
- 4.1.3 **Shropshire Council, Drainage Engineer** - The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. SuDS Applicability for the site is Infiltration. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be provided on the upstream side of the proposed soakaways. This is to ensure that 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.

If non permeable surfacing is used on the new road, driveway and parking area and/or the new road slopes toward the highway, the applicant should submit for approval a drainage system. This is to ensure that no surface water runoff from the new road runs onto the highway.

On the Pluvial Flood Map, part of the site along the southern boundary is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and how the flow of the flood water could be routed away from the property and will not cause flooding of any property either within the proposed development or any other in the vicinity. This is to minimise the risk of surface water flooding.

Confirmation is required 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. This is to ensure that any such flows are managed on site.

As part of the SuDS, the applicant should consider employing measures such as the provision of surface water soakaways (Designed in accordance with BRE Digest 365), swales, infiltration basins, attenuation ponds, water butts, rainwater harvesting system, permeable surfacing on any new road, driveway, parking area/ paved area, attenuation, grey water recycling system and green roofs.

Details of the use of SuDS should be indicated on the drainage plan. This is to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

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

- 4.1.4 **Shropshire Council, Tree and Landscape Protection Officer** - Although the applicant ticked yes to trees and hedges on site no details were shown on the attached plans and drawings. Unless any tree issues are brought to my attention I have no objection in principle to the scheme
- 4.1.5 **Shropshire Council, Landscape and Amenity Protection Officer** - There does not appear to be any protected or important amenity trees on site. A landscape plan should cover details of the frontage hedgerow and its treatment, along with other new planting.
- 4.1.6 **Shropshire Council, Historic Environment Team (Conservation)** - A formal response has been received indicating no comments on the application, although it is suggested to condition the materials for the construction of the dwellings and that the eaves and verge details are as per the submitted plans.
- 4.1.7 **Shropshire Council, Affordable Housing Officer** - As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The affordable housing contribution rate changed on the 1<sup>st</sup> September 2013 and is now 15% for this area. As such a proposal for 14 new open market dwelling would be liable to make a contribution equivalent to  $14 \times 0.15$  which gives a contribution of 2.1, we would prefer the 2 units to be provided on site and as the 0.1 is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing provision elsewhere in the area. The pro-forma submitted shows an offsite provision which has not been agreed and the calculation is incorrect, for offsite provision a build cost of £1,155 is to be used for the 2 whole units therefore the total off site cost will be £240,000. ( $2 \times 100\text{sqm} \times £1,155 + 0.1 \times 100\text{sqm} \times £900$ ).

As part of the application process the applicant should be requested to resubmit the Affordable Housing Contribution Pro-forma so that the correct level of their contribution can be calculated and agreed.

- 4.1.8 **Shropshire Council, Historic Environment Team (Conservation)** - Norton-in-Hales has a conservation area. All of the proposed sites are unlikely to affect the setting of the Grade II\* Church, Grade II listed and Scheduled Ancient Monument Churchyard Cross and Grade II Font and Tomb Stone within the Churchyard. The proposal needs to be in accordance with policies CS5 Countryside Green Belt, 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.

Generally the house types are acceptable but they are quite generic in their detailing. There is no design statement which indicates how the layout, siting, density and design has been planned. This would suggest that the dwelling designs are standard and may not necessarily be vernacular to Norton-in-Hales. The density, siting and layout of the dwellings should reflect the grain and form of the village rather than appearing to be applicable to anywhere.

It is noted that a revised site layout has been submitted and this does address one concern regarding the dwellings onto Main Road and that they should address the road. This has been amended to show the three dwellings on that site facing the road. Also the dwelling proposed for Plot 12 should ensure that its elevation facing towards Main Road has interest and adds value to the visual appearance to the development when viewed from Main Road.

4.1.9 **Shropshire Council, Learning & Skills** - Norton in Hales Primary School has a significant proportion of unfilled places and this is forecast to continue for the foreseeable future. Any school children that the proposed developments may yield (which are envisaged to be no more than around 10 in total) are therefore likely to help school numbers to a degree. From a site neighbour viewpoint, none of these proposed developments look like they will cause problems, such as traffic build up around the school. Secondary school numbers (Grove School, Market Drayton) are forecast to reach capacity by the end of the plan period, but any effect from the developments in Norton-in-hales are expected to be minimal. It is not envisage that there will be any particular problems in the education sector if any or all of the development sites in Norton in Hales were to obtain approval.

4.1.10 **Norton in Hales Parish Council** unanimously objects to this planning application on the basis of Road Safety:

The Roads to and from the village are narrow and could not safely take any further traffic, including vehicles or the trucks supplying houses eg oil.

The five entrance / exits to the village are already not safe and they have no passing points.

The Road entrance to the village from Market Drayton is extremely narrow at the Jubilee Hall.

At the entrance to Pear Tree Croft residents already have to reverse out of their drives on a bend, this would be made dangerous with an increase in cars coming from both directions.

In addition the Parish Council has concerns over the sewerage infrastructure and whether the system could cope with extra houses a specific report would need to have been done.

Should Shropshire Council over-rule the Parish Council and agree to the planning application, the Parish Councillors request that the following be adhered to:



1. Sympathetic materials in keeping with the village are used including sandstone lintels (not brick as in the design), sandstone kerbs, and appropriate roof tiles.
2. The very narrow section of road outside the Jubilee Hall to be widened, with suitable traffic calming measures put in place.
3. The current footpath opposite the Jubilee Hall to be continued along to allow for safe access from the village to the converted barns, this footpath link to be created and surfaced to an adoptable standard by Shropshire Council again using materials in keeping with the village eg. Sandstone kerbs. The footpath should be adjoining the road, and then the Sandstone wall be moved further in land with the hedge replanted behind the sandstone walls giving privacy to the new houses. (ie Road / Footpath / Sandstone Wall / Hedge) .
4. No reduction in the number of hedges or trees should happen.
5. A rainfall / ground saturation full inspection to be done together with an ecology report.
6. Agreement to the ownership and maintenance of any new street lights needs to be listed between the land owner and Shropshire Council.
7. Norton in Hales entry to the National Britain in Bloom competition should be taken into consideration when stipulating the building timeframe so as not to ruin their chances.

## 4.2 Public Comments

### 4.2.1 Nineteen letters of objection have been received raising the following concerns:-

- Site not suitable for development.
- Concerns of public safety due to an increase volume of cars on the local roads.
- Access routes to and from the village are narrow and poorly maintained. An increase in the number of cars will only damage roads further and cause more traffic related accidents.
- Not a sustainable development as all journeys will have to be made by car (no public transport within the village).
- Proposed development design is not in keeping with properties in the village.
- Increase pressure on sewage systems within the village.
- More houses will increase risk of flooding.
- Proposed site is outside of the current village Development Area.
- Three of the proposed properties will overlook the gardens of 4 properties nearby.
- Proposed footpath does not improve traffic safety.

### 4.2.2 Eight letters of support have been received raising the following comments:-

- Offers more housing to people wanting to move into the village.
- The development will tidy up the entrance to the village.

## 5.0 THE MAIN ISSUES

Policy & Principle of Development  
 Assessment of Sustainability  
 Design, Scale and Character  
 Impact on Residential Amenity  
 Highways  
 Drainage  
 Affordable Housing  
 Community Infrastructure Levy

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & Principle of Development

- 6.1.1 The site is situated within Norton in Hales and is outside the development boundary on the proposals map of the NSDC adopted Local Plan and is also not coming forward as a hub or cluster settlement within the emerging SAMDev. The site is currently classed as 'Open Countryside' under CS5 and therefore open market residential development of the site would be contrary to current adopted and emerging policy and the application has been advertised as a departure. However, paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

*The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

*The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);*  
 and

*The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- 6.1.2 The emerging 'Site Allocations and Management of Development' Plan (SAMDev) is at the 'pre-submission draft' stage and has recently been submitted for examination. Paragraph 216 of the NPPF indicates that the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. 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 weight can be attached but, pending examination and adoption, this needs to be considered with care alongside the other material considerations.

- 6.1.3 Paragraph 14 of the NPPF states that:

*'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means*

*that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*

*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the]Framework taken as a whole; or*

*Specific policies in [the] Framework indicate development should be restricted.'*

With regards to housing development paragraph 49 of the NPPF states that:

*'Housing applications should be considered in the context of the presumption in favour of sustainable development'.*

and 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.'*

- 6.1.4 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination of the SAMDev.
- 6.1.5 In this period prior to examination sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.6 It is acknowledged that the site is outside the development boundary within the adopted North Shropshire Local Plan and would not normally be supported for development. However, adopted local plan policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.7 The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable

development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.

## 6.2 Assessment of Sustainability

6.2.1 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. 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.

6.2.2 Norton in Hales is a village of approximately 160 dwellings and with a range of services and facilities within the village including a primary school, public house, village hall, church, recreational facilities (including cricket pitch, tennis court, bowling green and sports pavilion) and children's play area. These facilities within the village can be accessed on foot by a footpath along the Main Road, whilst a footpath link is proposed to link into Forge Lane which will provide a safe means of pedestrian access to the primary school. Norton in Hales has strong links with Market Drayton which is only 2.4 miles away along a main country lane and provides a wide range of shops, employment opportunities, recreational and leisure facilities and public transport. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities.

6.2.3 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

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

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

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

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

### Economic Consideration

- 6.2.4 The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers are likely to access and use local services and facilities helping them to remain viable. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable for a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

### Social Considerations

- 6.2.5 The proposal will provide 14 dwellings which will help meet the housing shortage in Shropshire. In addition to boosting the supply of open market housing the proposal will provide affordable housing on site and this matter is discussed later in the report. Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. It is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement. Officers consider that the existing infrastructure is capable of accommodating the new development and there is sufficient capacity in the primary school. An outline application is also proposed along Bearstone Road (application reference 14/00790/OUT) which also proposes 14 dwellings. There are approximately 160 dwellings in Norton in Hales and the cumulative impact of 28 additional dwellings (a 17.5% increase) is not considered to be a disproportionate number that would adversely change the structure and character of the community.

### Environmental Considerations

- 6.2.6 The site is grade 2/3 agricultural land and has no heritage, cultural or ecological designation. The site is located adjoining residential properties which are positioned along the northern and part eastern boundary, whilst a new large dwelling has been approved along the southern boundary and the site cleared in preparation for building works to commence. It is considered that the loss of this piece of agricultural land is not significant and the proposal would not result in any adverse ecological or environmental implications and the proposal would provide some ecological enhancements of the site in relation to additional planting. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and is close to the array of services, facilities and employment opportunities in Market Drayton.

6.2.5 The balance of material consideration remains one of boosting housing supply in locations that are considered to be sustainable even if they fall outside of the defined development boundaries within existing saved and adopted development plan policies. The proposed site is considered to be in accordance with the sustainable objectives that are set out in the National Planning Policy Framework by providing economic, social and environmental benefits. Accordingly, it is considered that the principle of a residential development in this location is acceptable.

### 6.3 Design, Scale 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, ensure sustainable design and construction principles are incorporated within the new development.

6.3.2 Objection has been received from local residents indicating that the proposed design is not in keeping with properties within the village. The proposed development will be positioned between existing residential development to the north, east and south with Main Road running along the western boundary. The proposed field would appear as an infill site enclosed by existing development and would represent a natural expansion of the village. Ten of the proposed units will be accessed off Pear Tree Croft with an internal estate road with pedestrian footpath.

6.3.3 The proposed dwellings will incorporate six different house designs including a mixture of features including symmetrical frontages, front facing gables, open pitched canopies, stone window cills, brick headers, and chimney stack and attached single garages/double garages. The Parish Council have indicated that the materials should be in keeping with the village including sandstone lintels, sandstone kerbs and use of appropriate roof tiles. The dwellings will be constructed with traditional red bricks with plain roof tiles to match the existing older style properties in the village. The dwellings will have stone window cills and brick headers which will be in keeping with Norton Farm House and similar properties along Main Road. The dwellings will not have sandstone corners as there are no immediate adjoining properties with these features to match. It is considering that including an additional feature will make the overall appearance too fussy. The dwellings will be orientated and set back at different positions to give a unique appearance and variety to the development.

6.3.4 Units 1 to 4 will have a roadside frontage facing the Main Road with units 3 and 4 accessed off the existing access serving Norton Farm. These four dwellings will consist of a pair of semi detached properties and two detached dwellings and will each be individual to give variety in the street scene. They will be set back from the roadside with a staggered appearance with a hedgerow frontage, gardens and access driveway separating them from the road.

6.3.5 It is officers opinion that the proposed dwellings will match the design and

appearance of the existing modern six dwellings on either side of Pear Tree Croft and pick up a number of design features from the older style properties within the older centre of the village. The proposed plots provide adequate off street car parking for residents and visitors with reasonable rear private gardens and amenity space. Structural landscaping has been incorporated into the development along the roadside frontage on the approach into the village and within the new estate road.

- 6.3.6 Concerns have been raised regarding the loss of the hedgerow along the Main Road. However, the development will only result in a 17 metre section of hedgerow being removed which will be replanted behind the proposed visibility splays for the existing access serving plots 3 and 4, together with the existing barn conversions at Norton Farm. The proposed repositioning of the hedgerow will increase visibility for emerging vehicles and will improve highway safety for existing and future residents. The repositioning of the hedgerow will also assist in providing improved visibility for pedestrians crossing the road to gain access to the overflow car park associated with the village hall.
- 6.3.7 The proposed layout, design and scale of the dwellings would be acceptable on this edge of town location and would not impact on the character of existing properties or local area.

#### 6.4 **Impact on Residential Amenity**

- 6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Concerns have been raised from local residents regarding overlooking and loss of privacy.
- 6.4.2 The existing dwellings along Pear Tree Croft, Main Road and Forge Lane all have rear gardens which back onto the development site against the rear gardens of the proposed dwellings. Unit 1 will be positioned 9.6 metres away from the gable elevation of 5 and 6 Pear Tree Croft and will prevent any direct loss of privacy. Units 5 and 6 will have rear elevations facing the southern boundary which will adjoin the landscaped garden of the previously approved large dwelling. The rear elevation is approximately 7.5 metres from the boundary and over 22 metres from the corner of the approved dwelling. Unit 7 will be set at an angle and will facing the rear access driveway to this dwelling and a HGV yard. Having regard to the distance and orientation the properties along this southern boundary will not result in any detrimental impact on the future occupiers of this property.
- 6.4.3 Unit 8 is located over 10 metres away from the rear boundary and a further 30 metres from the approved new detached dwelling along Forge Lane. Units 9 and 10 are located at an angle to the eastern boundary of the site and separated from the bungalows along Forge Lane by mature landscaping. These two dwellings will be positioned approximately 40 metres away from the rear elevation of the bungalows. Unit 11 will have a gable elevation facing Sandy and York Cottage and will be in excess of 20 metres away, whilst the rear elevation will face the private rear gardens of 52 and 53 Main Road at right angles.
- 6.4.4 Having regard to the layout of the proposed dwellings they will not result in any

significant overlooking or loss of privacy, whilst the two storey scale and distance away from the site boundaries will prevent any overbearing impact or loss of light. The additional movement of vehicles along Pear Tree Croft and onto the Main Road will not be significant and would not result in any significant increase in noise and disturbance.

## 6.5 Highways

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all. Policy D7 'Parking Standards' of the North Shropshire Local Plan is still a saved policy and indicates that all development should provide an appropriate level of vehicle parking to avoid on street parking and increasing traffic problems.
- 6.5.2 A significant level of objection has been received from local residents and the Parish Council regarding the road entrance into the village being narrow, increase in traffic and highway safety issues for vehicles and pedestrians.
- 6.5.3 The proposed development will utilise two existing accesses. Plots 3 and 4 will be served from the existing agricultural farm access which shows the provision for 2.4 metre x 43 metres visibility splays. Plots 1 and 2 and 5 to 14 inclusive are shown to be accessed from the existing development access road known as Pear Tree Croft. This existing access road has not been adopted by Shropshire Council and is not subject to a Section 38 adoption agreement due to issues surrounding the visibility splays provided at the junction with the Main Road. Whilst in principle the Highway Authority have not objected to Pear Tree Croft serving the proposed extension and 12 further properties, it has been strongly recommended that this must be based upon the visibility splay at the junction being secured prior to any development taking place. This existing access has a width of 4.8 metres and the visibility splays have been included within the site boundary and can be conditioned accordingly.
- 6.5.4 The Highway Authority did raise concern regarding the lack of and inadequacy of the footway provision between the proposed site and in the direction of the primary school and public house. The development would generate pedestrian movement, including more vulnerable users such as parents with pushchairs and young children together with elderly residents, between the site and village facilities as well as local interaction within the village.
- 6.5.5 The lack of and deficiency of the footways would inevitable result in pedestrians from the development walking within the highway carriageway. The Highways Authority have indicated that this is not unusual for a rural village and nor is there enough carriageway space to widen the footway which would help to improve the situation. The lack of a suitable footway between the site and the main body of the village is a deficiency of the site which does raise pedestrian safety concerns. However, amended plans have been submitted which indicates the provision of a new pedestrian link between the centre of the site and Forge Lane. Neighbour



concerns have been raised that this link will be onto a lane without any footway. However, whilst this lane does not provide an off carriageway footway it is a very quiet lane in terms of likely traffic flow (providing access to Forge Barn and Norton Forge Farm) and does lead to Main Road where footway provision is available to the local services. The Highways Authority have indicated that with the new foot path link the development would not result in pedestrian safety and therefore would raise no objection subject to a conditions regarding the proposed visibility splays for each access and link being provided prior to occupation.

6.5.6 Concerns have also been raised by the Parish Council regarding the narrow section of road outside the Jubilee Hall and have recommend that this should be widened, with suitable traffic calming measures put in place. However, the Highways Authority have indicated that the restricted width of this road naturally will help slow traffic speeds and any increase in the width will increase the speed of traffic further within the village. The provision of traffic calming measures will also detract from the character of the village. The majority of traffic will leave the village to the south and head towards Market Drayton direction and the existing width of the road is suitable to accommodate the increase in traffic. Comments have also been received that an agreement will be required for the maintenance of any new street lights. However, should the Council adopt the roads, footpaths and street lighting then this would form part of a S52 Agreement.

6.5.7 The proposed two vehicular accesses will enable the provision of visibility splays which will enable a safe means of access, whilst the road network is capable of accommodating the additional number of vehicles. The proposed footpath link will provide a safe means of pedestrian access to the centre of the village to enable future residents to access the local services safely.

## 6.6 **Drainage**

6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. Concerns have been raised from local residents regarding the pressure of the existing sewerage system and additional dwellings would lead to flooding.

6.6.2 The application indicates that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner. Consent is required from the service provider to connect into the foul main sewer, although Severn Trent Water have an obligation to allow connection and make any necessary improvements to deal with the additional capacity

6.6.3 The application indicates that surface water will be disposed of via a sustainable drainage system which comprises of the use rainwater harvesting and permeable surfaces. An overflow for the rainwater harvesting system, which will also dispose of water from the site at a rate identical to a greenfield run off rate, is also proposed. No formal objection has been received from the Council Drainage Engineer who has indicated that the sustainable drainage system for the site should be either infiltration or attenuation. Infiltration methods are the most

preferable way of disposing of surface water, and should be considered in the first instance. Percolation tests and the sizing of the soakaway should be designed in accordance with BRE Digest 365. Residential developments are now required to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. No issues have been raised regarding the ground conditions being unsuitable for soakaways and therefore it would be acceptable to condition the surface water drainage.

- 6.6.4 Comments have been received from the Council Drainage Engineer who has indicated that the site is classed as brownfield and therefore a 50% betterment to the current surface water flows should be provided in accordance with Shropshire Council requirements. SUDs applicability for the site is Infiltration and the betterment requirement will be assumed to have been achieved if all surface water is disposed of via soakaways. Full details, calculations and location plan of the percolation tests and the proposed soakaways should be submitted for approval and will be conditioned accordingly. This is to ensure that 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.
- 6.6.5 On the Pluvial Flood Map, the site is at risk of surface water flooding and the applicant should provide details on how the surface water runoff will be managed and to ensure that the finished floor level is set above any known flood level. As part of the SuDS, the applicant should consider employing measures such as the provision of water butts, rainwater harvesting system, permeable paving on any new driveway/paved area, attenuation, grey water recycling system and green roofs. This is to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and prevent any potential flooding.
- 6.6.6 Having regard to the large site area and significant area of landscaping the Drainage Engineer has not provided any concerns that the surface water drainage could not be provided. It is therefore recommend that safeguarding conditions are provided regarding the provision of detail percolation test and soakaway design being submitted for approval.
- 6.7 **Affordable Housing**
- 6.7.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index. The existing target rate is 15% which equates to the provision of 2.1 units. This will result in the provision of two on site affordable dwelling and a financial contribution of £9,000. The provision of the contribution would form part of a Section 106 legal agreement.
- 6.8 **Community Infrastructure Levy**
- 6.8.1 Policy CS9 'Infrastructure Contributions' of the Shropshire Core Strategy indicates that development that provides additional dwellings or residential extensions over

100 square metres should help deliver more sustainable communities by making contributions to the local infrastructure. The arrangements for the use of the levy funds are detailed in the Local Development Frame Implementation Plan. The levy rates are set out in the CIL Charging Schedule and in this particular case will relate to £80 per square metre of new residential development. The levy charge would become active when the development commenced if planning permission were to be granted and 15% of the levy would be required 60 days from commencement of the development, 25% at 270 days from commencement and the remaining 60% at 365 days from commencement.

## **7.0 CONCLUSION**

7.1 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore acceptable in principle. It is not considered that there would be any significant adverse impacts of the proposal that would outweigh the benefits. Layout, scale, appearance and landscaping of the scheme are reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in significant or demonstrable harm to the character and appearance of the locality. The proposal would not result in the loss of any significant trees, and have no adverse highway or ecological implications subject to conditions being imposed and landscape details and open space provision will be determined as part of an application for reserved matters. The on site affordable housing provision and any balance of AHC will be secured by a S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10.0 BACKGROUND

### 10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

#### **National Planning Policy Framework:**

6 : Delivering a Wide Choice of High Quality Homes

7 : Requiring Good Design

11 : Conserving and Enhancing the Natural Environment

#### **Shropshire Council Core Strategy (February 2011):**

CS4 : Community Hubs and Community Clusters

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Infrastructure Contributions

CS11 : Type and Affordability of Housing  
 CS17 : Environmental Networks  
 CS18 : Sustainable Water Management  
 Supplementary Planning Document - Type and Affordability of Housing

## 10.2 Relevant Planning History

NS/06/00050/OUT - Affordable housing scheme of 10 semi-detached houses and 2 semi-detached bungalows. Withdrawn 28<sup>th</sup> February 2006.

14/00260/FUL - Full application for the erection of fourteen detached dwellings on Land North of Norton Farm, Main Road, Norton in Hales, Market Drayton, Shropshire. Subject to Committee Consideration.

14/00790/OUT - Outline application for the erection of fourteen dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access) on Land Off Bearstone Road, Norton in Hales, Market Drayton, Shropshire. Subject to Committee Consideration.

14/01121/OUT - Outline application (all matters reserved) for residential development of up to twelve dwellings on Land East of Beswicks Lane, Norton In Hales, Market Drayton, Shropshire. Subject to Appeal for Non Determination.

14/01426/OUT - Outline application for the erection of 16 open market dwellings and 3 affordable dwellings to include access Land South Off Chapel Lane, Norton in Hales, Market Drayton, Shropshire. Current Application.

## 11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 14/00260/FUL

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr John Cadwallader

Appendices  
 APPENDIX 1 - Conditions

### APPENDIX 1

#### Conditions

#### STANDARD CONDITION(S)

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

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

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

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

### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

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

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

4. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- Means of enclosure
- Hard surfacing materials
- 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.

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

5. Prior to the occupation of plots 3 & 4 shown on the approved drawings, visibility splays of 2.4 metres x 43 metres shall be provided at the southern junction, all growths and obstructions in advance of the visibility splay area shall be lowered to and thereafter maintained at carriageway level.

Reason: In the interests of highway safety.

6. Prior to plots 3 & 4 shown on the approved drawings being first occupied the access driveway, parking and turning areas together with a footway link to the existing footway adjacent to 6 Main Road shall be constructed in accordance with a specification and footway alignment to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To provide a satisfactory means of access to the site.

7. Prior to the occupation of plots 1 & 2 and 5 to 14 inclusive, as shown on the approved details, at the junction of Pear Tree Croft with Main Road visibility splays of 2.4 metres x 43 metres shall be provided in both directions along Main Road, all growths and

obstructions shall thereafter be lowered to and thereafter maintained at the level of the adjoining highway footway.

Reason: In the interest of highway safety.

8. Prior to the occupation of plots 1 & 2 and 5 to 14 inclusive, as shown on the approved details, the internal access road, parking and turning areas and footway link to Forge Lane shall be constructed and drained in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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Committee and Date

North Planning Committee

23 September 2014

Item

8

Public

## Development Management Report

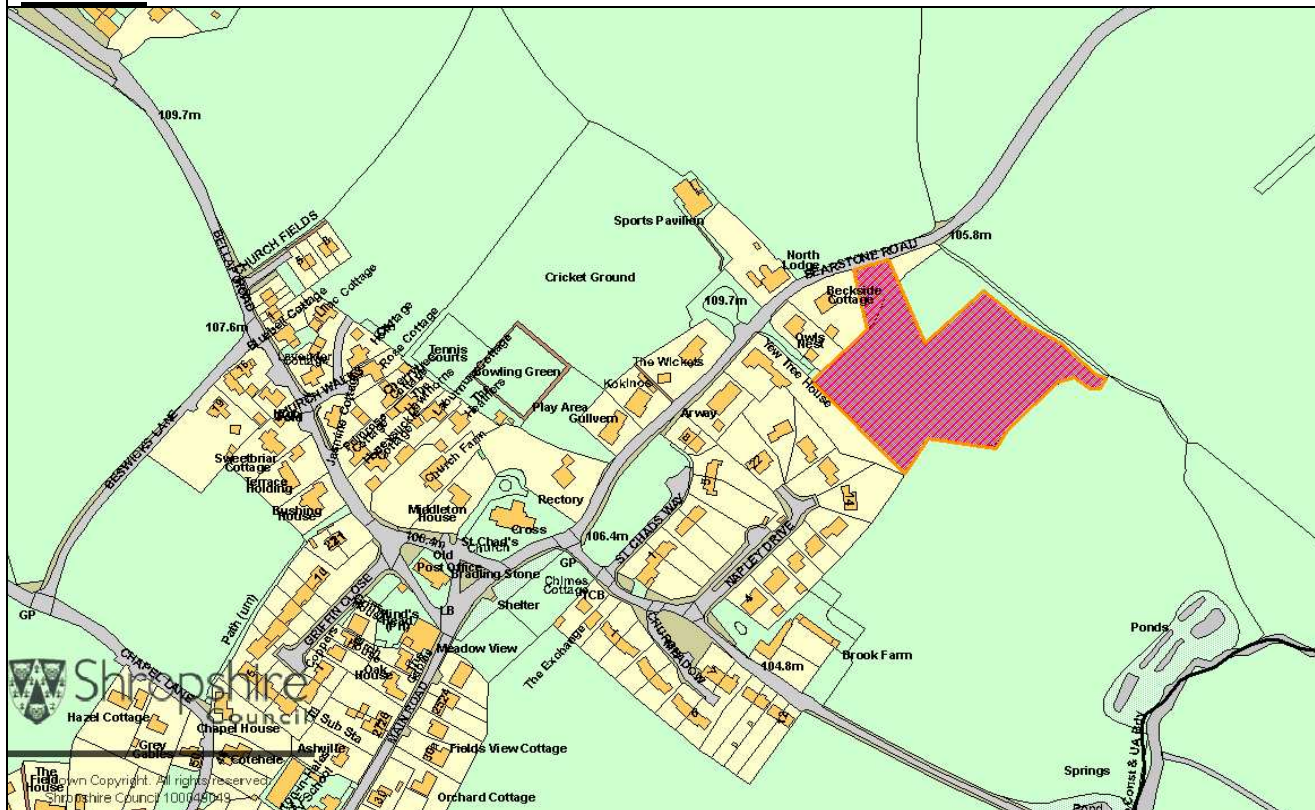
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/00790/OUT	<b>Parish:</b> Norton In Hales
<b>Proposal:</b> Outline application for the erection of fourteen dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access)	
<b>Site Address:</b> Land Off Bearstone Road Norton In Hales Market Drayton Shropshire	
<b>Applicant:</b> JRT Developments Ltd	
<b>Case Officer:</b> Richard Denison	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 370608 - 338758



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**Recommendation:- That planning permission be granted subject to the applicants entering into a S106 agreement to secure affordable housing at the rate relevant at the time of the submission of reserved matters and subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks outline planning permission for a mixed residential development on agricultural land adjacent to Norton in Hales. The proposed application will consider the provision of a new vehicular access with all other matters reserved for later approval (appearance, landscaping, layout and scale). To assist consideration of the application an illustrative site layout has been provided indicating the provision of eight detached dwellings and six semi detached dwelling with associated garages. The new dwellings would be served by a new estate road leading into the site, with direct access off the country lane onto Bearstone Road which leads towards the B5415. The indicative plan indicates the provision of a live/work unit and associated workshop, although this does not form part of this application and would be subject to a separate application.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The proposed site is adjoining the village boundary of Norton in Hales to the north west. Residential properties are located along the south western boundary, whilst Bearstone Road is located along the northern boundary and open countryside is located to the east and south.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

4.1.1 **Shropshire Council, Highways Development Control – No objections.** On the basis of drawing No.AL(0) Rev C, showing edged red the application site area, it is considered that a satisfactory access can be provided to meet visibility standards of 2.4 metres x 43 metres in accordance with acknowledged guidance Manual for Streets.

In terms of footway provision to the site linking to the village, there is an opportunity to provide a section of footway from the site across the frontage of Beckside Cottage. A further section of footway could be provided to the vehicular access

serving Owls Nest which would provide access across to the Recreation Ground. From the frontage of Yew Tree House (opposite the Recreation Ground access) there is a continuous footway leading back into the centre of the village to the Public House and School.

Having regard to the above, whilst noting the concerns raised in representation against this development, the highway authority consider that it would be difficult to substantiate a highway objection. In the event that Members resolve to grant consent the highway authority would ask that the following conditions are imposed:-

“Prior to the commencement of development a scheme showing the means of access, visibility splays, junction and internal road layout together with a footway scheme along Bearstone Road between the site access and Recreational Ground access shall be submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the access, visibility splays and footway scheme have been fully implemented in accordance with the approved details. Reason: In the interests of highway safety.”

- 4.1.2 **Shropshire Council, Housing Enabling Officer** - 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 **Shropshire Council, Planning Ecologist** - An Ecological Survey Report has been carried which has identified two active subsidiary badger setts close to the site boundary and has been indicated that a 20 metre exclusion zone should be provided around the badger setts. The Proposed Site Plan shows a 5 metre wildlife corridor along the north east boundary, but it appears that some properties are proposed within 20 metres of the badger setts. If works are to be carried out within 20 metres of the setts, a Natural England licence will be required. A Method Statement will be required to be adhered to during works on site.

The Ecological Survey has also identified an ephemeral pond within 30 metres of the site boundary which has been given a Habitat Suitability Index (HSI) score of 0.41 and considered to have ‘poor’ potential for supporting great crested newts. Therefore, no further survey work is considered necessary for this pond. There are a group of six mapped ponds between 150 and 230 metres from the site boundary and a stream is likely to form a barrier to newt movement to the east of the site. An Addendum to the Ecological Survey has been submitted which indicated that all the ponds were found to contain fish and were given an assessment of ‘poor’ or ‘below average’ for Great Crested Newt suitability. Therefore, no further survey work is considered necessary.

The trees and hedgerows on site are likely to be used for bat foraging and commuting and a safeguarding condition regarding lighting is recommended. The trees and hedgerows on the site are likely to be used by nesting birds and safeguarding conditions and informatives are proposed.

- 4.1.4 **Shropshire Council, Flood & Water Management Team** - The following drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is to be granted:

The Flood Risk Assessment is acceptable in principle; however, the risk of flooding from groundwater has not been mentioned. On the Groundwater Flooding Map, the site is at risk of moderate to high risk of flooding from groundwater. The groundwater flooding should be investigated and taken into account during the detailed design stage.

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be provided on the upstream side of the proposed soakaways.

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

A contoured plan of the finished road levels should be provided 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 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. This is to ensure that any such flows are managed on site.

As part of the SuDS, the applicant should consider employing measures such as the provision of water butts, rainwater harvesting system, permeable surfacing on any new driveway, parking area/ paved area, attenuation, grey water recycling system and green roofs. Details of the use of SuDS should be indicated on the drainage plan. This is to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner. Consent is required from the service provider to connect into the foul main sewer.

- 4.1.5 **Shropshire Council, Historic Environment Team (Conservation)** - Norton-in-Hales has a conservation area. All of the proposed sites are unlikely to affect the setting of the Grade II\* Church, Grade II listed and Scheduled Ancient Monument Churchyard Cross and Grade II Font and Tomb Stone within the Churchyard. The proposal needs to be in accordance with policies CS5 Countryside Green Belt, 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 site layout would appear to reflect the general grain and form of the village. However, the siting and design of the proposed dwellings should reflect the local vernacular detail in terms of scale, details and materials. The quality and design of any properties on any of these sites should be appropriate to Norton-in-Hales.

- 4.1.6 **Shropshire Council, Historic Environment Team (Archaeology)** - A formal response has been received indicating that no comments are made on this application with respect to archaeological matters.
- 4.1.7 **Shropshire Council, Learning & Skills** - Norton in Hales Primary School has a significant proportion of unfilled places and this is forecast to continue for the foreseeable future. Any school children that the proposed developments may yield (which are envisaged to be no more than around 10 in total) are therefore likely to help school numbers to a degree. From a site neighbour viewpoint, none of these proposed developments look like they will cause problems, such as traffic build up around the school. Secondary school numbers (Grove School, Market Drayton) are forecast to reach capacity by the end of the plan period, but any effect from the developments in Norton in Hales are expected to be minimal. It is not envisage that there will be any particular problems in the education sector if any or all of the development sites in Norton in Hales were to obtain approval.
- 4.1.8 **Norton in Hales Parish Council** - The Parish Council unanimously objects to this planning application on the basis of Road Safety:

The access to the site is on an extremely dangerous position in the road, being on a blind bend, in a dip and on a very narrow single track lane. There would be very limited visibility in or out of the site making it hazardous.

The Roads to and from the village are narrow and could not safely take any further traffic, including vehicles or the trucks supplying additional houses e.g. oil, work unit/work shop suggested in this planning application. The site being built at the North end of the village means vehicles from that site would need to drive all the way through the village's narrow lanes to get to the nearest town i.e. Market Drayton. There is no bus service, as incorrectly stated in the planning application, all access to town would have to be by cars. On the 18<sup>th</sup> March 2014 there was a road collision between a tractor and a car on the narrow lanes approaching the village with more cars this would become more frequent.

The five entrance & exits to the village are already not safe and they have no passing points.

Footpaths - There is no footpath from the site to the village so residents would have to walk on a bend on a narrow highway to access the village. Footpaths within the village are very narrow due to the narrow lanes, these footpaths are not suitable to be parallel to narrow lanes with increased amounts of vehicles.

The site is situated outside the development limit for the village where new housing should only be approved if there is a proven need in connection with agriculture or forestry. In this case no proven need has been provided.

To approve the proposed development would be contrary to both local and national planning policy and would set a precedent for other similar development in the area.

83% of parishioners who responded to a survey, in relation to the SAMDev Plan, in April 2012 voted to be classed as Countryside ie to have no development. In May 2012 the Parish Council requested to be classed as Countryside.

In addition the Parish Council has concerns over the sewerage infrastructure and whether the system could cope with extra houses a specific report would need to have been done.

## 4.2 Public Comments

4.2.1 Thirteen letters of objection have been received raising the following concerns:-

- Development is located in open countryside outside of the village.
- Norton in Hales is not being proposed as a community hub or cluster.
- Increase in traffic.
- Highway safety due to narrow access road.
- Norton in Hales lacks key services.
- Proposed application is exploiting the five year land supply shortage.
- Inadequate drainage provision.
- Concerns over live/work unit.

4.2.2 Eight letters of support have been received raising the following concerns:-

- The proposed development will assist in providing dwellings for people wishing to live in their local area where they were bought up in.
- Additional development in the village will assist local facilities.
- The development is not high density.
- The additional dwellings will allow future generations to reside in the village.
- The development will not result in the loss of view, privacy or light.
- The Community Infrastructure Levy payments will assist the community.
- Severn Trent Water have installed a 150mm diameter mains sewer and would be levying a charge on the development to cover any possible future infrastructure works.
- A footpath extending from the centre of the proposal to link with the existing field access between Owls Nest and Yew tree house affords safe pedestrian access to the play area and the centre of the village.
- The proposed increase in traffic is minimal and would not lead to highway safety issues.

## 5.0 THE MAIN ISSUES

- Policy & Principle of Development
- Assessment of Sustainability
- Design, Scale and Character
- Impact on Residential Amenity
- Highways

- Impact on Trees
- Ecology
- Drainage
- Flooding
- Affordable Housing
- Community Infrastructure Levy
- Other Matters

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & Principle of Development

6.1.1 The site is situated within Norton in Hales and is outside the development boundary on the proposals map of the NSDC adopted Local Plan and is also not coming forward as a hub or cluster settlement within the emerging SAMDev. The site is currently classed as 'Open Countryside' under CS5 and therefore open market residential development of the site would be contrary to current adopted and emerging policy and the application has been advertised as a departure. However, paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

6.1.2 The emerging 'Site Allocations and Management of Development' Plan (SAMDev) is at the 'pre-submission draft' stage and has recently been submitted for examination. Paragraph 216 of the NPPF indicates that the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. 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 weight can be attached but, pending examination and adoption, this needs to be considered with care alongside the other material considerations.

6.1.3 Paragraph 14 of the NPPF states that:

*'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*

- *Any adverse impacts of doing so would significantly and demonstrably*

*outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole; or*

- *Specific policies in [the] Framework indicate development should be restricted.'*

With regards to housing development paragraph 49 of the NPPF states that:

*'Housing applications should be considered in the context of the presumption in favour of sustainable development'*.

and 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.'*

- 6.1.4 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination of the SAMDev.
- 6.1.5 In this period prior to examination sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.6 It is acknowledged that the site is outside the development boundary within the adopted North Shropshire Local Plan and would not normally be supported for development. However, adopted local plan policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.7 The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.



## 6.2 Assessment of Sustainability

- 6.2.1 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. 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.
- 6.2.2 Concerns have been raised from local residents that the village lacks key services. Norton in Hales is a village of approximately 160 dwellings and has a range of services and facilities within the village including a primary school, public house, village hall, church, recreational facilities (including cricket pitch, tennis court, bowling green and sports pavilion) and children's play area. These are all considered key services which you would expect to find in rural villages. With a small extension to the existing roadside footpath the proposed site would provide easy access to these facilities within the village and will provide improved access for neighbouring properties. Norton in Hales has strong links with Market Drayton which is only 2.4 miles away along a main country lane and provides a wide range of shops, employment opportunities, recreational and leisure facilities and public transport. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities.
- 6.2.3 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:
- *An economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
  - *A social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
  - *An environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and*

*pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

### Economic Consideration

- 6.2.4 The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers are likely to access and use local services and facilities helping them to remain viable. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable for a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

### Social Considerations

- 6.2.5 The indicative proposal shows 14 dwellings which will help meet the housing shortage in Shropshire. In addition to boosting the supply of open market housing the proposal will provide affordable housing on site at the prevailing rate at the time of the reserved matters application. The current rate of 15% would provide 2 affordable dwellings on site. Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. It is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement. Officers consider that the existing infrastructure is capable of accommodating the new development and that there is sufficient capacity in the primary school. A full application is also proposed on land North of Norton Farm, Main Road (application reference 14/00260/FUL) which also proposes 14 dwellings. There are approximately 160 dwellings in Norton in Hales and the cumulative impact of 28 additional dwellings (a 17.5% increase) is not considered to be a disproportionate number that would adversely change the structure and character of the community.

### Environmental Considerations

- 6.2.6 The site is grade 2/3 agricultural land and has no heritage, cultural or ecological designation. The site is located adjoining residential properties which are positioned along the western boundary, whilst two properties and a large side garden are located along the northern boundary adjacent to Bearstone Road. It is considered that the loss of this piece of agricultural land is not significant and the proposal would not result in any adverse ecological or environmental implications and the proposal would provide some ecological enhancements of the site in relation to additional planting. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and is close to the array of services, facilities and employment opportunities in Market Drayton.

6.2.5 The balance of material consideration remains one of boosting housing supply in locations that are considered to be sustainable even if they fall outside of the defined development boundaries within existing saved and adopted development plan policies. The proposed site is considered to be in accordance with the sustainable objectives that are set out in the National Planning Policy Framework by providing economic, social and environmental benefits. Accordingly, it is considered that the principle of a residential development in this location is acceptable.

### 6.3 **Design, Scale 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, ensure sustainable design and construction principles are incorporated within the new development. Policy D7 'Parking Standards' of the North Shropshire Local Plan is still a saved policy and indicates that all development should provide an appropriate level of vehicle parking to avoid on street parking and increasing traffic problems.

6.3.2 This is an outline application with the proposed layout, scale and appearance being reserved for later approval. The proposed site covers 1 hectare and is considered that there is adequate land available to provide fourteen residential dwellings with some roadside development to match existing properties along Bearstone Road. Adequate space would be provided for a residential scheme for fourteen dwellings and appropriate access, driveways and garden areas. The proposed site could provide adequate boundary landscaping against the open countryside to provide a soft edge to the settlement.

6.3.3 The proposed access, appearance, landscaping, layout and scale of the development would be considered as part of a subsequent reserved matters application.

### 6.4 **Impact on Residential Amenity**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Although this is an outline application with all matters reserved except the access it is considered that the site is significantly large enough to allow adequate separation from any proposed residential development with neighbouring properties. It is considered that residential development on this site can be designed in such a way to prevent any impact on neighbours from causing an overbearing impact, loss of light or resulting in overlooking and loss of privacy. As this is an outline application and does not include the layout for consideration the impact on the traffic numbers would have to be considered as part of the reserved matter application. However, the provision of fourteen dwellings would not result in significant traffic movements which would be detrimental to neighbouring properties.

### 6.5 **Highways**

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all. Policy D7 'Parking Standards' of the North Shropshire Local Plan is still a saved policy and indicates that all development should provide an appropriate level of vehicle parking to avoid on street parking and increasing traffic problems.
- 6.5.2 Concerns have been raised from the Parish Council and local residents regarding the proposed new vehicular access and that it will lead to highway safety concerns. The proposed access forms part of this outline application and will involve the widening of the road along the site frontage and Becksides Cottage to provide a minimum width of 5.5 metres. The access will be located in a central position along the wide side grassed lawn associated to Becksides Cottage and will enable the provision of visibility splays of 2.4 metres by 43 metres which is inline with guidance indicated in the Manual of Streets. The Highways Authority have raised no objection to the proposed new access which will not result in any highway safety issues, whilst the road network is capable of accommodating the additional vehicle movements.
- 6.5.3 Concerns have also been raised that the proposed site does not have a pedestrian link into the village for residents to access the local services. However, this concern has also been raised with the Highway Authority and amended plans have been received indicating the provision of a new public footpath along the new vehicular access and along the frontage of Becksides Cottage and extending on the highway grass verge in front of Owls Nest. This will provide a safe means of pedestrian access to the local recreation facilities which are located on the opposite side of the road and will link into the existing footpath along Bearstone Road. This will allow pedestrians to gain access to the village church, public house, primary school and village hall. The proposed development also includes a new footpath from the centre of the proposed site towards the south west boundary linking into the access driveway between Owls Nest and Yew Tree House and will provide a safe pedestrian access for residents living towards the south area of the site
- 6.5.4 The proposed new vehicular access will not result in any detrimental impact on highway safety, whilst adequate pedestrian links are being proposed which will benefit existing residents and provided the new residents with residents with a safe route to the local facilities within the village.
- 6.6 **Impact on Trees**
- 6.6.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. The proposed site has a number of trees along the east and southern boundary and concerns have been raised that the development may impact on these trees. However, this is an outline application with the layout of the site reserved for later approval. Although the proposed application indicates the provision of fourteen dwellings the exact numbers of the development will be provided as part of the

reserved matters application.

- 6.6.2 The proposed indicative layout has indicated rear gardens backing onto the boundary landscaping and would appear to provide adequate separation to prevent any potential long term damage. The proposed trees are not protected and are not located within Norton in Hales Conservation Area. Having regard that the trees are located along the boundary it is considered that residential development could be positioned on the site without resulting in any impact on the existing trees.

## 6.7 Ecology

- 6.7.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.7.2 The Ecological Report identified two active subsidiary badger setts on the north eastern site boundary and it is stated that a 20 metre exclusion zone will be implemented around the badger setts. However, the proposed site plan shows a 5 metre wildlife corridor along the north east boundary; although it appears that some properties are proposed within 20 metres of the badger setts. If works are to be carried out within 20 metres of the setts, a Natural England licence will be required and a Method Statement will be required during works on site.
- 6.7.3 The Ecological Report also identified a pond within 30 metres of the site boundary, although this was assessed as having a Habitat Suitability Index (HSI) score of 0.41 and considered to have 'poor' potential for supporting Great Crested Newts. It was considered that no further survey was considered necessary for this pond. The report also indicated that there were a group of six mapped ponds between 150 and 230 metres from the site boundary. A stream is likely to form a barrier to newt movement to the east of the site. The Addendum to the report provides HSI figures for these ponds and the Ecological Assessment carried out netting and egg searching in April 2014. All the ponds were found to contain fish and were given an assessment of 'poor' or 'below average' for Great Crested Newt suitability. It is considered that no further survey is considered necessary.
- 6.7.4 The trees and hedgerows on site are likely to be used for bat foraging and commuting, together with nesting birds and therefore safeguarding informatives are proposed.

## 6.8 Drainage

- 6.8.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy

indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.

- 6.8.2 The application indicates that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner. Concerns have been raised regarding the capacity of the existing sewerage system, although Severn Trent Water have an obligation to allow connections and the provision of capacity is a matter for Severn Trent Water to control. The application indicates that surface water runoff from the proposed highway and dwellings will be disposed of via a drainage pond which will feed into a nearby brook via a restricted outlet. The Drainage Engineer has not objected to this in principle and has confirmed that this would be subject to detailed plans. No concerns have been raised regarding the suitability of the local ground conditions and therefore it is recommended that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.

## 6.9 **Flooding**

- 6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures for sustainable water management to reduce flood risk and development sites within flood risk areas should be developed in accordance with national planning guidance contained in Policy 10 'Meeting the Challenge of Climate Change, Flooding and Coastal Change' of the National Planning Policy Framework.

- 6.9.2 A detailed Flood Risk Assessment has been submitted which has indicated that the proposed site is not at a significant risk of flooding. An existing brook along the eastern boundary could be a possible source of risk of flooding. However, the brook falls away from the site at a constant gradient and due to the small catchment area of the brook and surrounding topography of the area, flooding onto the site from the brook is not likely. Due to the topography of the site any flooding of the brook would be to the east and south of the site away from any proposed dwellings. However, to ensure no flooding of the dwellings the developer has indicated that the dwellings will have a minimum finished floor level set at 600mm above the bank level to the brook.

## 6.10 **Affordable Housing**

- 6.10.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index. The existing target rate is 15% which equates to the provision of 2.1 affordable dwellings. This would provide two on site dwellings and the provision of a financial contribution of £9,000. The provision of the contribution would form part of a Section 106 legal agreement. However, as this application is not considering the layout the contribution will need to accord with the requirements of the Supplementary Planning Document on the 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.

## 6.11 Community Infrastructure Levy

6.11.1 Policy CS9 'Infrastructure Contributions' of the Shropshire Core Strategy indicates that development that provides additional dwellings or residential extensions over 100 square metres should help deliver more sustainable communities by making contributions to the local infrastructure. The arrangements for the use of the levy funds are detailed in the Local Development Frame Implementation Plan. The levy rates are set out in the CIL Charing Schedule and in this particular case will relate to £80 per square metre of new residential development. The levy charge would become active when the development commenced.

## 6.12 Other Matters

6.12.1 Local residents have raised concerns regarding the proposed live/work unit indicated on the proposed site plan. The proposed site plan indicates the provision of a work shop building accessed from Bearstone Road, together with a detached dwelling which will be accessed from within the proposed estate road. The proposed work shop and dwelling will create a live/work unit, although is not proposed as part of this application and will be considered as part of a separate application. To date no application has been received.

## 7.0 CONCLUSION

7.1 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore acceptable in principle. It is not considered that there would be any significant adverse impacts of the proposal that would outweigh the benefits. Layout, scale, appearance and landscaping of the scheme are reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in significant or demonstrable harm to the character and appearance of the locality. The proposal would not result in the loss of any significant trees, and have no adverse highway or ecological implications subject to conditions being imposed and landscape details and open space provision will be determined as part of an application for reserved matters. The on site affordable housing provision and any balance of AHC will be secured by a S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10.0 BACKGROUND

### 10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following



policies:-

**National Planning Policy Framework:**

6 : Delivering a Wide Choice of High Quality Homes

7 : Requiring Good Design

8 : Promoting Healthy Communities

10 : Meeting the Challenge of Climate Change, Flooding and Coastal Change

11 : Conserving and Enhancing the Natural Environment

12 : Conserving and Enhancing the Historic Environment

**Shropshire Council Core Strategy (February 2011):**

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

**10.2 Relevant Planning History**

NS/06/00050/OUT - Affordable housing scheme of 10 semi-detached houses and 2 semi-detached bungalows. Withdrawn 28th February 2006.

14/00260/FUL - Full application for the erection of fourteen detached dwellings on Land North of Norton Farm, Main Road, Norton in Hales, Market Drayton, Shropshire. Subject to Committee Consideration.

14/00790/OUT - Outline application for the erection of fourteen dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access) on Land Off Bearstone Road, Norton in Hales, Market Drayton, Shropshire. Subject to Committee Consideration.

14/01121/OUT - Outline application (all matters reserved) for residential development of up to twelve dwellings on Land East of Beswicks Lane, Norton In Hales, Market Drayton, Shropshire. Subject to Appeal for Non Determination.

14/01426/OUT - Outline application for the erection of 16 open market dwellings and 3 affordable dwellings to include access Land South Off Chapel Lane, Norton in Hales, Market Drayton, Shropshire. Current Application.

**11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application reference 14/00790/OUT

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr John Cadwallader

Appendices

APPENDIX 1 - Conditions



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

1. Details of the layout, appearance, scale 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 1(2) of the Town and Country Planning General Procedure Development 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 12 months 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 number of units
- The means of enclosure of the site
- The levels of the site
- The means of access for disabled people
- The drainage of the site
- The finished floor levels

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

5. 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.

6. No site clearance works shall commence until a disturbance licence has been issued from Natural England.

Reason: To ensure the protection of badgers, under the Badgers Act (1992).

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Survey Report by Pearce Environment Ltd dated January 2014 including the Badgers: Method Statement.

Reason: To ensure the protection of badgers.

#### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

8. Prior to the commencement of development a scheme showing the means of access, visibility splays, junction and internal road layout together with a footway scheme along Bearstone Road between the site access and Recreational Ground access shall be submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the access, visibility splays and footway scheme have been fully implemented in accordance with the approved details.

Reason: In the interests of highway safety.



Committee and Date

North Planning Committee

23 September 2014

Item

**9**

Public

## Development Management Report

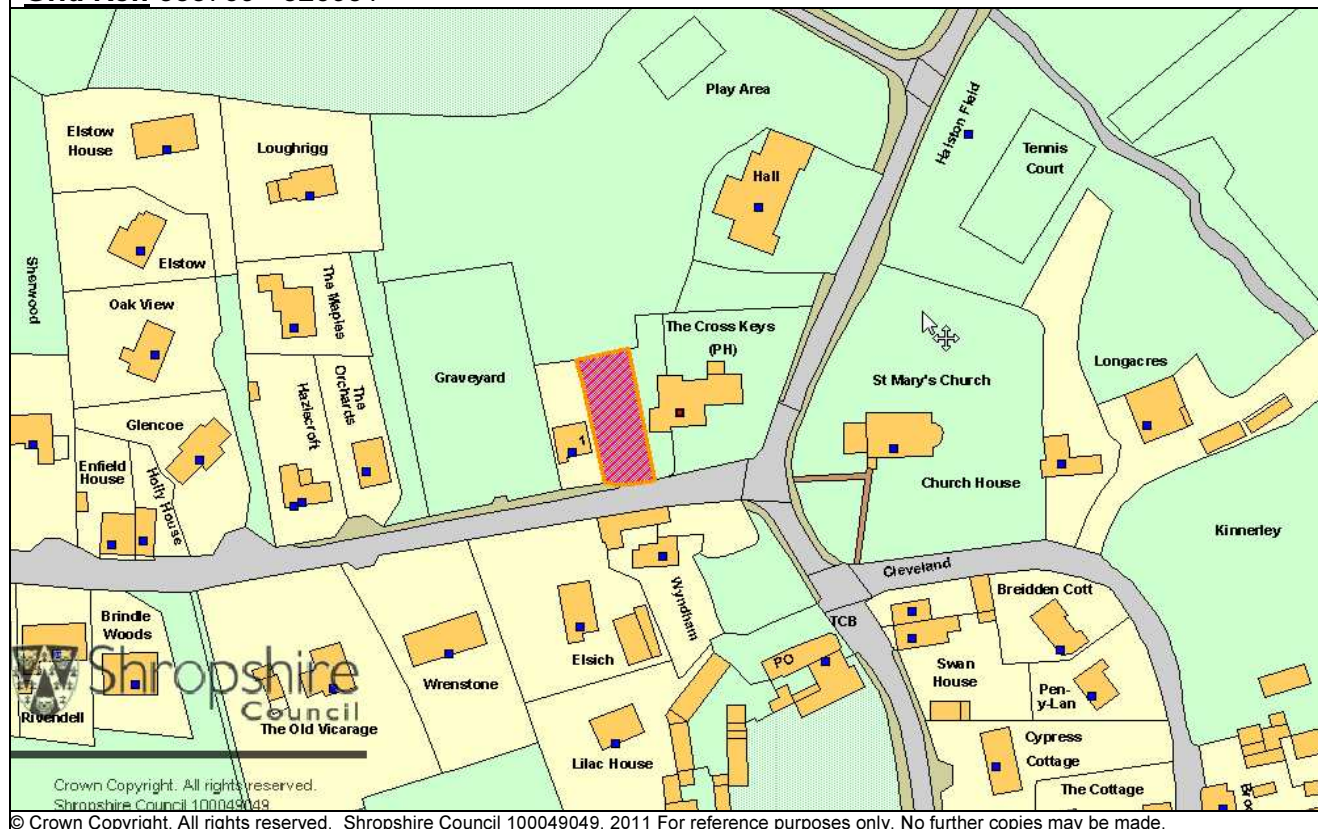
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/02864/FUL	<b>Parish:</b>	Kinnerley
<b>Proposal:</b> Erection of 1No dwelling with detached garage (revised scheme)		
<b>Site Address:</b> Cross Keys Inn Kinnerley Oswestry SY10 8DB		
<b>Applicant:</b> Mr Malcolm Guest		
<b>Case Officer:</b> Joe Crook	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 333769 - 320951



**Recommendation:- Grant Permission subject to the applicants entering into a S106 agreement to provide an affordable housing contribution and subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The proposed development is for the erection of 1 dwelling with a detached garage (revised scheme following submission for 4 dwellings under 13/05139/FUL)

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Cross Keys Inn Public House is located within the Village of Kinnerley. Kinnerley lies to the south of Oswestry and North West of Nesscliffe. The Public House is a Grade II listed detached building of brick and slate construction which is located within a prominent location within the main core of the village, opposite the Church and close to the main shop in Kinnerley. There is a tarmac/gravelled parking area to the front and east side of the building with a grassed area to the west.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Objections have been received from Kinnerley Parish Council and following liaison with the Local Member and the Committee Chair it has been requested that the item be determined by the Northern Planning Committee due to the nature of the issues raised.

### 4.0 Community Representations

- 4.1 - Consultee Comments

- 4.1.1 **Kinnerley Parish Council objects** to this planning application.

Since the Parish Council agreed comments for the previous planning application the Cross Keys Inn has been designated as a Grade II listed public house and registered as an asset of Community Value.

Also, detailed research has shown that Kinnerley was a Saxon village with houses grouped around a village green, and this pattern is reflected in today's village layout, including the green space next to the Cross Keys, which has been used for recreational purposes for many centuries.

The council have agreed that this green space and the historic environment of the Cross Keys and must be protected, and that this proposed development would adversely affect the character of this Grade II listed public house.

This is not sustainable development i.e. one that is without adverse impacts. Sustainable is defined in the foreword of the NPPF document as being 'positive growth- making economic, environmental and social progress for this and future generations'. It talks about sustainable development being a change for the better. Also that 'Planning must be a creative exercise in finding ways to enhance and

improve places in which we live our lives’

The importance and significance of the pub, set in the heart of the village, is paramount and is recognised as a key community amenity. Any development that risks the viability of the pub must be deemed an adverse impact and thus any presumption in favour of development cannot then apply. We believe this development will effectively make the pub unviable. The garden allows external space for public house activities in a rural village setting. A full evaluation as to the viability must be made and is material to this decision.

In total the KPNP envisaged 54 additional houses across the Parish, and a further 18 houses are planned for a windfall brownfield site in Kinnerley village, along with 10 already being built at Maesercroft.

The cumulative effect of all these houses means that Kinnerley Parish has already made more than a fair contribution towards meeting housing demand through the measured considerations given when drawing up the KPNP following extensive public consultation. Accordingly it is felt that there is not a need for any additional houses, including this one next to the Cross Keys.

- 4.1.2 **English Heritage** – The application should be determined in accordance with local specialist conservation advice, and relevant conditions relating to external materials, details and finishes including boundary treatments should be attached.
- 4.1.3 **Conservation** – No objections to the scheme subject to conditions, following amendments to position the garage further back into the site, alter the front first floor window above the entrance, and adjust the eaves/verge dental course etc.
- 4.1.4 **Highways** – No objections to the scheme subject to amendments to include demonstration of the proposed visibility and further removal of vegetation, as well as the inclusion of the 1.5 metre footway to the front of the site.
- 4.1.5 **Drainage** – Drainage details can be conditioned.
- 4.1.6 **Archaeology** – Recommend condition for written scheme of investigation given the archaeological potential of the site.
- 4.1.7 **Affordable Housing** – The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.
- 4.1.8 **Public Protection** – Given the position of the dwelling adjacent to the public house there is potential for noise though it is noted that facades generally facing the public house have no windows into habitable rooms which will reduce any noise disturbance. It is recommended that double glazing is installed to a higher than normal standard of noise attenuation to ensure that disturbance of residents, particularly in night time hours i.e. after 11pm. The applicant also owns the public house and is advised that building residential properties close to the public house may restrict operations in future and could result in application for later licensing hours or music events requiring a TEN to be conditioned or objected against. Also recommend informative in respect of electric vehicle charging.

- 4.1.9 **Trees** - No objection to the proposed development. The tree protection details shown on the submitted Tree Constraints Plan that are relevant to this plot must be in implemented. It is recommended that an appropriately worded condition be attached to any grant of planning permission.
- 4.1.10 **Ecology** – No objections subject to conditions and informatives. Advise that any works to the Public House may mean further surveys are required.

#### 4.2 - Public Comments

- 4.2.1 The CPRE have objected to scheme and made the following comments:  
Kinnerley is a unique Saxon Village with houses grouped around a village green. There are few such early cores surviving. It should not be destroyed by development that will adversely affect the character of the Grade II listed public house. The most important facet of any village is its core, and here the emphasis should be on green spaces which can be enjoyed by visitor and local alike. The site proposed is such a green space. Views outwards through green spaces and views inwards into the green core of the village are of the utmost importance for preservation if the village is to retain its identity. In addition green spaces in this village are the very basis of its origin reflecting the former enclosed green. The design is totally unsuitable for its location in terms of bulk, scale and massing. Not only will this building be alien to this ancient village, whose core is clearly Georgian and Victorian in regard of the external elevations, it will dwarf the house adjacent on the west side, and by virtue of its mock Georgian elevation treatment, as well as its bulk and massing, will create an unfortunate duality with the Cross Keys. Far from enhancing the Cross Keys it will compete in style form and scale, thus devaluing the quality of the Cross Keys as an important visual element. By removing the green sward which is the present beer garden it will not only render the use of the building as a public house unviable, (see explanation below) it will remove the essential green setting to the Cross Keys and thus the general green persona of the core which is fundamental to retain if its identity is to be retained. In addition the plot is long and narrow and is surely unsuitable creating a narrow frontage which is incompatible with the style of building being suggested. The site is not suitable for ANY development as the Cross Keys, now a listed building needs to retain its green setting and curtilage of the listed building undisturbed.

The following NPPF policies apply:

126. Local planning authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to



avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

The proposed development makes no contribution to local character and distinctiveness and would reduce the economic viability of the Cross Keys for the reasons set out below.

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent.

139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

Here the site is known to be part of the Saxon village and may have been associated with the Saxon Minster Church. It is thus vital that it should remain undisturbed in terms of valuable below ground deposits.

With reference to policy 131 above the following is particularly relevant:

Protecting the viability of the Community Asset

The application would destroy the ability of the public house to function, because there needs to be a buffer zone between the actual building and the surrounding properties in terms of noise levels and activity. Houses in such close proximity would veto the use of the external space for the usual public house activity and would make the operation of live music a total impossibility. Loss of the beer garden would render any large scale use in the summer which required a marquee, surely required for weddings, completely out of the question.

The policies set out above are also reflected in the Planning Practice Guidance What is the setting of a heritage asset and how should it be taken into account, which states that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

*17 further objections were received which commented as follows:*

- The beer garden is recognised by Shropshire Council as part of the designated 'Asset of Community Value'.
- The setting, attractiveness and viability of the Cross Keys would be seriously degraded by the proposal.
- The adverse impacts of the scheme would clearly outweigh the benefits given the loss of the beer garden and the impact on the Cross Keys.

- The importance of the asset to the village has been identified and if it is to be successful it will require the retention of the garden area.
- The beer garden is set in the centre of the small attractive village and should not be compromised.
- A single dwelling will have no positive impact on the vigour of the village centre.
- The site is not underused.
- There is no link between the proposal and the retention of the public house as part of the application and the profits will not be required to be reinvested.
- The NPPF makes clear the importance of retaining local community facilities. Development that does not comply with the NPPF cannot be considered to be sustainable and there is no presumption in favour.
- Demonstrable harm is created by removing a necessary part of the community facility.
- The proximity of a dwelling to the public house further puts it at risk due to noise issues etc.
- It is questioned if the design adequately reflects the character of the listed building. The garage position is unfortunate and the design lacks architectural flair given its prominent position. There should be concessions with regard to roof pitch, first floor string course, window lintols and ledges in order to echo the feature of the adjacent building.

#### 4.2.2 Support/General comments:

- Difficult to oppose the significantly reduced scheme and as the proposal is for a single, relatively modest dwelling would have no objections. However, would object if this will initiate more development at the site or would curtail the maintenance in trading or the character of the Cross Keys.
- The community should not buy the pub and the building needs a lot of money spending on it.

## 5.0 THE MAIN ISSUES

Principle of development  
 Sustainable Development  
 Impact on the setting of the listed buildings and the historic core of Kinnerley  
 Design, scale and character  
 Highways  
 Impact on neighbouring amenities  
 Drainage  
 Ecology  
 Public Protection  
 Affordable Housing  
 Other issues

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted

development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states 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*'.

6.1.2 With regards to housing development paragraph 49 of the NPPF states that:

*'Housing applications should be considered in the context of the presumption in favour of sustainable development'*.

and 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.'*

6.1.3 Shropshire Council has an adopted Core Strategy and CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD has been submitted to the Planning Inspectorate and is therefore at examination stage and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);*
- and
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

6.1.4 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.

6.1.5 Kinnerley is part of a Community Cluster within this area, also made up of Maesbrook, Dovaston and Knockin Heath and this has an overall target of 50 dwellings for the plan period. However, Kinnerley has undertaken a Community Led Plan which has been endorsed by Shropshire Council's cabinet and is now adopted for development management purposes. Specific site allocations have been proposed within the Neighbourhood plan and this includes two allocated sites for development in Kinnerley, with a total housing target of 23 dwellings on these sites whilst retaining a development boundary. The Community Led Plan acknowledged the requirement for more housing whilst also identifying that Kinnerley village is by definition a 'Community Hub' given the level of services and facilities available including a shop, pub, school, post office, Parish Hall, play areas and bus route. However it also specified that approximately half of the required housing for the

cluster should be sited here, and that this is represented within the allocated sites for 23 dwellings. It was also specified within the community questionnaire that the housing should not be on a single large site but on a mix of sites within the area. The site proposed for development is within the designated development boundary but was not included as a site for consideration during the assessment of allocations for the Kinnerley Neighbourhood Plan. It is also noted that smaller dwellings in the form of 1-3 bed houses were largely preferred as opposed to 4-5 bed houses.

- 6.1.6 Saved policy H5 of the Oswestry Local Plan is also a relevant local policy in that it supports sustainable housing developments in the larger areas, such as Kinnerley, where a variety of services and facilities are available. This allows suitable windfall sites within development boundaries.
- 6.1.7 The Parish Council have objected to the proposed scheme on the basis that the allocation of housing required for Kinnerley amounted to 54 additional dwellings across the Parish, with an additional 18 house planned for a windfall brownfield site in the village and 10 already being built. Housing was allocated during the drawing up of the Community Led Plan (KPNP) and therefore additional housing sites are not considered to be needed.
- 6.1.8 However, whilst the above is acknowledged, the current policy position with regard to housing development is such that, whilst local policies are no longer out of date given that the Council has identified sufficient land to address the NPPF 5 year housing land supply requirements, full weight cannot be given to the SAMDev given it has not yet been adopted and is at examination stage. Sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. In this regard, applications should be approved unless any adverse impacts would significantly and demonstrably outweigh the benefits of the scheme and the boosting of new housing supply. The consideration of sustainability is still relevant in regard to the determination of the application.
- 6.1.9 The applicant has confirmed that they are willing to enter into a S106 agreement to secure the relevant Affordable Housing Contribution, as required by Policy CS11 and the Housing SPD, and the development will also be liable for a Community Infrastructure levy.

## 6.2 **Sustainable Development**

- 6.2.1 A number of objections, including from the Parish Council, have commented that the development is not sustainable as it will have an adverse impact on its surrounds and will not be an enhancement to the area. It has also been commented that demonstrable harm can be identified by the loss of the community facility and the presumption cannot therefore be in favour. However, the development is evidently located within a sustainable location with regards to its close proximity to an array of services and facilities and this has been acknowledged in some of the responses received with respect to the application. This is also identified within the Kinnerley Parish Plan which references the level of services and facilities present within the centre of Kinnerley would typically

represent that of a Community Hub under policy CS4 of the Shropshire Core Strategy. The location of the development within the development boundary and the main core of Kinnerley means its siting is close to these services and its siting would minimise the requirement for car use and would be easily accessible. Furthermore, officers consider that it would be read within the context of the existing development within the village and would not be an isolated or sporadic form of development.

6.2.2 Whilst objectors have commented that the adverse impacts of the development significantly and demonstrably outweigh the benefits of the proposed single dwelling, Officers are not of the same view. The loss of the garden area represents only a part of the public house and its surrounds, which has sufficient room to accommodate an alternative garden area where required. Furthermore, the overall impact on the character of the area and the listed structures within the immediate vicinity is not considered to be substantial, with the development not representing a cramped or contrived form of development, and this will be discussed further below.

6.2.3 On the basis of the above it is considered that the principle of the development is acceptable in accordance with saved policy H5 of the Oswestry Local Plan, policy CS4 of the Shropshire Core Strategy and the National Planning Policy Framework.

### 6.3 **Impact on the setting of the listed buildings and historic core of Kinnerley**

6.3.1 A number of concerns have been received within the objections to the scheme, most notably from the CPRE, relating to the impact of the development on the Grade II listed Cross Keys and historic core of the settlement of Kinnerley. The Parish Council have objected with reference to the impact on the Grade II listed public house, and the overall impact on the historic core of Kinnerley, a Saxon village with houses grouped around a village green, with this pattern still reflected in the village layout including the green space next to the Cross Keys, which has been used for recreational purposes for many centuries. These comments have been reflected within the comments of the CPRE who have made reference to the Saxon village core and the importance of retaining this facet of the village and retaining existing green spaces such as the beer garden, which have view inwards from the village green and outwards onto this green area. The comments from the CPRE also refer to the guidance within the NPPF seeking to protect and enhance heritage assets, and that Local Authorities should fully take into account the impact of development upon the heritage asset and ensure this is not detrimental. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent.

6.3.2 With regard to the listed buildings, the balance of the consideration has to therefore be on the level of impact of the development on these heritage assets. The impact with regard to the Grade II\* listed St Mary's Church is considered to be minimised now that the scheme proposes a single dwelling on the western side of the Cross Keys, and not adjacent to the church on the eastern side, with minimal impact on the setting of this heritage asset given the location of the development. The Cross Keys itself has been listed since the previous application and evidently the proximity of the proposal means consideration has to be given to the impact of the development on the heritage asset in this regard.

6.3.3 Paragraph 128 of the National Planning Policy Framework states that local

planning authorities should require the applicant to describe the significance of any heritage assets potentially affected and any contribution made to their setting. The level of detail of the submission should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. The applicant has included a heritage assessment within their design and access statement which has accessed the relevant historic environment record and has assessed the level of impact of the development. Whilst it is acknowledged that the submitted information was written prior to the listing of the Cross Keys (which was confirmed following the submission of this application), and in any case there has been appropriate assessment of the impact of the development on the Cross Keys within the Heritage Impact Assessment, which has been considered by both English Heritage and the Conservation department with no objections received in this regard.

6.3.4 Whilst the designation of the Cross Keys as a Grade II listed building is acknowledged, the building is unaffected by the proposed development in terms of its cruck frame and historic fabric, and the position of the dwelling infilling between the Cross Keys and the existing relatively modern detached dwelling to the west, in line with the frontage of both these buildings, means the new property is not overly prominent in its location and will not be of significant detriment to the setting of the Cross Keys. The Cross Keys will be unaffected in its central position within the site and as the visual focal point. The objections to the scheme have commented that the proposal will have a detrimental impact on the setting of the building, and that the impact would be substantial and therefore not in line with the NPPF, but there have been no objections from English Heritage or the Conservation Officer in this regard, with the Conservation Officer confirming in the response that the overall impact is considered to be minor and as such have not objected to the scheme as proposed in principle. As noted below, the overall design and scale are considered to be sensitive to the existing buildings and setting of the site, and designed such that there are no objections from the Conservation Officer following some amendments to the details. As highlighted above, the consideration for the authority has to be whether the development proposed represents substantial harm to the heritage asset and, based on the above, this is not considered to be the case. Evidently there is a need to consider the impact of the development against the wider benefits of sustainable housing development at a time when additional housing supply is crucial within Shropshire, and with no objections to the scheme from English Heritage or the Conservation department it is considered that any harm to the designated asset is minimal. Officers therefore consider that the balance falls in favour of the benefits of the scheme being given greater weight than the limited harm to the heritage asset.

6.3.5 The comments with regard to the open garden area upon which the development is proposed are also acknowledged, and the impact on the overall setting of the historic Saxon core of Kinnerley. However, this is not a designated Conservation Area, and the proposal itself will be outside of the main green space to the core of the village, and its position between two existing buildings means it will not be on an isolated plot of space and will not be overly prominent within the core of Kinnerley. Whilst the comments relating to the loss of the green space surrounding the Cross Keys are noted, this is not considered to be a reason for refusal of the scheme in itself given that the development is not considered to be cramped or contrived or to be too close to the Cross Keys and thus is not considered to be

detrimental to its setting. On balance the scheme is considered is not considered to have an adverse impact on the character or setting of the listed Cross Keys or St Mary's Church, and is not considered to be detrimental to the character of the surrounding area, in accordance with policies CS6 and CS17 of the Shropshire Core Strategy as well as the NPPF.

#### 6.4 **Design, scale and character**

6.4.1 Comments have been made by objectors relating to the design being inappropriate. The comments refer to the garage location being unsuitable, the scale and massing of the dwelling being detrimental to the adjacent Cross Keys as well as the dwelling to the west, creating a duality with the Cross Keys and competing with this building in style, form and scale. Furthermore it has been commented that there is a lack of architectural detailing relating to windows, string course and roof pitch.

6.4.2 With regard to these points it should first be noted that following amendments to ensure a plain verge and dentil corballing detail to eaves, along with the garage being moved back further within the site and a large front first floor window above the entrance, no objections have been received from the Conservation Officer subject to appropriate conditions being attached should permission be granted. The design of the proposed dwelling is considered to have taken into account the comments of the Conservation Officer from the previous refused scheme and adapted the design of the dwelling in accordance with these comments. It is considered that the subtle detailing of the dwelling to include the above referenced corballing, detailed timber fenestration, bay window to the front elevation, plinth, chimney to the side as well as an overhang to the entrance with decorative edging provide architectural detailing and ensure the dwelling is not a bland 'off the peg' design. Subject to appropriate materials, details of which will be conditioned along with joinery and details of heads and cills, the scheme is considered to be of high quality and is considered of an appropriate design.

6.4.3 Reference is made to the scale, style and form of the dwelling creating a duality with the Cross Keys and competing with this building. However, the proposed scheme has been altered since the previous refusal to ensure it does not compete with the Cross Keys. The introduction of a front gable adjacent to the set back entrance section is considered to provide a simple but visually interesting frontage whilst not mimicking the hipped roof of the Cross Keys as was previously proposed on the refused application for four dwellings at the site. Furthermore, the relatively limited width of the frontage allows for the Cross Keys to retain its visual dominance and with the garage between the dwelling and the Cross Keys (set back into the site following amendment) allows for an appropriate distance to be achieved which reduces any duality between the buildings. The layout of the site is largely dictated by the existing built development and the position of the dwelling as proposed is considered appropriately balanced as an infill plot. As such it is considered that the design, scale and character of the proposed dwelling is acceptable and in accordance with policies CS6 and CS17 in this regard.

#### 6.5 **Highways**

6.5.1 Following consultation with the Highways Officer there has been no objection to the scheme in principle. The plans have been amended to include the necessary visibility splays and the red line extended to include this, with the inclusion of the 1.5 metre footway to the front of the site. This will be conditioned to be retained and

maintained.

## 6.6 **Impact on neighbouring amenities**

6.6.1 The dwelling would sit between the public house and the dwelling to the west. Whilst there is evidently some impact on the adjacent dwelling this is considered to be minimal in terms of sunlight given the suns position generally rising and towards its highest point when facing the side of the proposed properties and that existing. The sun will then fall on the opposite side of the properties. In terms of privacy the dwelling will not be further forward than the existing dwelling adjacent to the west and will have windows only facing directly to the rear and front of the site other than for a bathroom, and this will be obscure glazed. As such it is considered that there will be minimal adverse impact on the amenities of surrounding neighbouring properties.

## 6.7 **Drainage**

6.7.1 The Drainage Engineer confirmed that conditions and informatives could be attached with regard to surface water drainage and connecting to the foul water mains drainage.

## 6.8 **Ecology**

6.8.1 Following discussion with the Ecologist it was confirmed that the details submitted do not vary from the previous refusal application in ecological terms (13/05139/FUL), with no works proposed to the public house, and therefore the same conditions and informatives could be attached as previously advised.

## 6.9 **Public Protection**

6.9.1 A number of issues have been raised relating to the impact of noise on the dwelling proposed from the Public House. The Public Protection Officer has commented that the proximity of the dwellings to the public house means there will be some potential noise from the public house which has a license to open until 12:30 Friday and Saturdays. It is therefore recommended that double glazing to a higher standard of noise attenuation than normal is installed, and submission of joinery details will be required by condition. It is also noted that the proximity of the houses may mean future restrictions or issues in terms of licensing hours or music events. Whilst this is acknowledged it is not considered to be a reason for refusal of the scheme and can be adequately controlled through public protection and licensing requirements for public houses.

6.9.2 It is recommended to include an informative regarding charging point installation for low emission vehicles, but this will be included as an informative in this case.

## 6.10 **Affordable Housing**

6.10.1 The affordable housing officer has confirmed that the contribution proforma accompanying the application indicates the correct level of contribution and this would be subject to the associated Section 106 legal agreement.

## 6.11 **Trees**

6.11.1 The Trees Officer has confirmed no objections to the scheme subject to a condition relating to further details being submitted for tree protection, maintenance and cutting of the trees, as well as service line routing within the site.



## 6.12 **Other Issues**

6.12.1 The Cross Keys has been registered as an asset of community value since the previous application. Whilst this is acknowledged, the main impact of this is that the registration of the property as a asset of community values gives the community a fair chance to make a bid to buy it in the event the public house comes up for sale again. However, with regard to the determination of this application this is not considered to be a reason for refusal. The comments relating to the beer garden being lost are noted, but as stated previously there is adequate room for a new beer garden area to be allocated without loss to parking etc given the relatively spacious area within surrounding the site.

6.12.2 It should also be noted that should approval be granted for the scheme, this would change the use of the land and it would be removed from the asset of community value listing, effectively altering the boundary of the public house. However, it would have no impact on the status of the public house itself or the chance for the community to bid for the remainder of the site.

## 7.0 **CONCLUSION**

The proposed development for a single dwelling is considered to be within a sustainable location and given that the scheme is not considered to have a significant impact on the heritage assets in the form of the Grade II listed Cross Keys, and the Grade II \* listed St. Mary's Church it is considered that the impact of the proposal does not demonstrably outweigh the benefits of sustainable housing development in this case. The impact of the scheme on the historic core of Kinnerley is also considered to be minimal and there is not considered to be any detrimental impacts with regard to the amenities of neighbouring properties, protected species or highway safety. As such the scheme is considered to be acceptable in accordance with policies CS4, CS6, CS11 and CS17 of the Shropshire Core Strategy, H5 of the Oswestry Borough Local Plan and the National Planning Policy Framework. 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 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. Background

### Relevant Planning Policies

Central Government Guidance:

NPPF

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters

CS6 - Sustainable Design and Development Principles  
 CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

13/05139/FUL Erection of four dwellings; retention of public house; formation of new vehicular accesses and alterations to existing car parking arrangement; associated landscaping REFUSE 9th May 2014

14/03518/CPL Application for Lawful Development Certificate for the change of use of (A4) drinking establishment to 2No ground floor shops (A1) hours - 8am to 10pm (7 days a week) PCO

**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 Arthur Walpole

Appendices

APPENDIX 1 - Conditions

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

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

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

2. The development shall be carried out strictly in accordance with the deposited and amended 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 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.

The samples required shall include the erection of sample panels of both brickwork and the proposed sandstone walls, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority.

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

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

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

5. Details of the roof construction and rainwater goods, including details of eaves, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the setting of the adjacent Designated Heritage Asset

6. Details of the materials and form of the heads and sills to new openings in the external walls of the building shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the setting of the adjacent Designated Heritage Asset

7. No development approved by this permission shall commence until the applicant, or their agents 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 approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

8. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement has been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

9. No development approved by this permission shall commence until details of the proposed finished floor levels have been submitted to and approved by the local planning authority.

Reason: In the interest of maintaining the amenity and character of the area.

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

10. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:5 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

11. A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan prior to first occupation of the buildings hereby permitted.

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

12. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the buildings hereby permitted as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

13. 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.

14. The access and parking layout shall be satisfactorily laid out and completed in accordance with the amended plan 1049 09 Rev B prior to the dwellings being occupied.

Reason: In the interests of highway safety.

15. Details of the construction of the 1.5 metre deep pedestrian footway to the front of the site shall be submitted and agreed to the Local Authority prior to the occupation of the dwelling hereby approved. The footway shall be provided prior to the occupation of the dwelling and shall be retained and maintained in accordance with the submitted approved details.

Reason: In the interests of highway safety.

16. Prior to the occupation of any buildings on site details of all walls, fences and hedges shall have been submitted to and approved by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

Reason: To provide adequate privacy and an acceptable external appearance.

17. The first floor window in the west facing side elevation shall be glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

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Committee and Date

North Planning Committee

23 September 2014

Item

**10**

Public

## Development Management Report

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/02498/FUL	<b>Parish:</b> Wem Urban
<b>Proposal:</b> Erection of 2 no. one bedroom retirement bungalows	
<b>Site Address:</b> Land Adjacent To 10 Sungrove Wem Shropshire	
<b>Applicant:</b> Mr Trevor Mennell	
<b>Case Officer:</b> Joe Crook	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 350961 - 328359



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

## REPORT

### 1.0 THE PROPOSAL

1.1 The proposed development is for the erection of 2 no. one bedroom retirement bungalows.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a rectangular strip of land within the town of Wem in a modern residential area to the south west of the town centre. The site lies to the north east of the garden of 10 Sungrove, and to the south west of a Severn Trent Water Pumping Station. The River Roden runs immediately to the north west of the site.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Following the objections being raised by the Parish Council, the Local Member confirmed that these were material considerations and requested that the application be determined by the Northern Planning Committee. This was agreed by the Northern Planning Committee Chair and Principal Planner.

### 4.0 Community Representations

#### - Consultee Comments

Wem Town Council - The Town Council resolved to strongly object to this application to build upon this extremely small section of the riverbank of the River Roden.

This site is a narrow margin of land between a road and the river and any building could cause the bank to slip (which has happened nearby). The size of the site is totally inadequate for development and much too close to the river.

If the application is recommended for approval the Town Council would request it be referred to Shropshire Council's Northern Area Planning Committee for consideration and a site visit be undertaken.

SC Drainage – As the Environment Agency have confirmed that the site is in flood zone 1, no objections are made and no Flood Risk Assessment is required. Details should be provided to ensure surfacing within the site does not lead to run off on to the adjacent highway, and this will be conditioned.

Environment Agency – Following correspondence with the Environment Agency it was confirmed that the site was within Flood Zone 1 due to the site levels being above the 1 in 100 year plus climate change flood level and the 1 in 1000 year flood level, and therefore there are no objections forthcoming with regard to development on this land. Conditions were recommended ensuring finished floor

levels are 600 mm above the 1 in 100 year flood level plus climate change, and to ensure no further building, structures etc are built within the site other than that approved. It was confirmed that the submitted topographical survey identified that the access road levels were also within flood zone 1 with a low probability of flooding, along with the site itself.

Further clarification was sought from the EA regarding the issues relating to the impact of any development on the adjacent River Roden and what controls are in place with regard to these. They confirmed that the applicant will be required to submit a Flood Defence Consent (FDC) application for our approval for any works proposed within 8m of the top of bank of the River Roden ('Main River'). The application will need to be submitted and approved prior to any works commencing on site, to ensure that there would be no significant adverse impacts on the watercourse as a result of the proposed development. The FDC application will need to provide details (including detailed plans and cross sections with dimensions) of any temporary and permanent works proposed, including a method statement for undertaking the works.

They also commented that the riparian landowner has a responsibility to undertake any maintenance works that may be required to the watercourse, such as providing bank protection if erosion occurs. They commented that it is in the landowner's interest to provide a suitable easement adjacent to the watercourse, to allow for vehicular access and would advise setting the development further back from the river edge for access in this regard. However, no objections were raised and it was advised that confirmation is sought from structural engineers that the development can be undertaken appropriately.

SC Affordable Housing – Awaiting Proforma.

SC Highways – Accesses would be onto an unclassified road therefore highways standing advice should be used.

SC Ecology – No objections subject to conditions and informatives following the receipt of an ecology report and survey.

- Public Comments

Local Member, Councillor Pauline Dee - I have had representation from the neighbouring property to the site. 10 Sun Grove regarding the above application. It has been commented that the river bank is already falling away and no. 10 Sun Grove has lost a chunk of its garden. If this application is recommended to be approved I would ask that there be a site visit and that it goes to the Northern Planning Committee.

## 5.0 THE MAIN ISSUES

Principle of development  
 Design, scale and character  
 Drainage, flooding and proximity to River Roden  
 Impact on neighbouring amenities  
 Ecology  
 Highways

## Other issues

## 6.0 OFFICER APPRAISAL

## 6.1 Principle of development

6.1.1 The site is located within the Wem development boundary as allocated under saved policy H5 of the North Shropshire Local Plan and this allows for new infill dwellings and small groups of dwellings on suitable sites. Other material considerations in this regard include the SAMDev, which is currently under examination by the Planning Inspectorate and allocates Wem as a Market Town under policy CS3, and the provision of balanced housing and employment development. However, the National Planning Policy Framework and its presumption in favour of sustainable development applies in any event and housing applications should be considered in this context. In this case the site is within the context of the existing built environment, would not be in an isolated position and is within walking distance of an array of services and facilities within Wem which includes a supermarket, shops, schools, doctors restaurants and pubs as well as bus services to a number of areas within Shropshire. The development is therefore considered to be appropriate and sustainable and as such is acceptable in principle.

6.1.2 A section 106 legal agreement will make up part of the application to ensure the requisite affordable housing contribution is made in accordance with policy CS11.

6.1.3 It is acknowledged that there was a refusal of a similar scheme in 2004, though it is noted that the Environment Agency objected to the scheme on the basis of flooding which is not the case here as detailed below.

## 6.2 Design, scale and character

6.2.1 The proposed development will see two semi-detached bungalows constructed along the front of the site adjacent to the highway. The dwellings will be small in scale and of simple, modern appearance constructed of brick and plain clay tiles, which is considered to be appropriate within the simple residential character of the surrounding area. It is noted that there are a number of bungalows within the housing estate and within close proximity to the site. The layout is somewhat dictated by the shape of the site and whilst it is acknowledged to be small, the site can fit parking for both properties as well as small amenity areas to the rear. As such it is considered that the scheme is in keeping with the character of the area and is acceptable in its design and scale, in accordance with policy CS6 of the Shropshire Core Strategy and H5 of the North Shropshire Local Plan.

## 6.3 Drainage, flooding and proximity to River Roden

6.3.1 Evidently one of the main issues with regard to the development relates to its proximity to the river Roden, and the potential for flooding issues and adverse impact on the river itself. Indeed the Local Member has raised this issue in requesting the application for a committee determination. However, following consultation and further information being provided for the Environment Agency there has been no objection to the scheme as the site levels have been assessed and are above the 1 in 100 year plus climate change flood level as well as the 1 in 1000 year flood level. The Environment Agency were asked to re-confirm that they had no objection to the scheme, which was received and they also confirmed that

the applicant will be required to submit a Flood Defence Consent (FDC) application for our approval for any works proposed within 8m of the top of bank of the River Roden ('Main River'). The application will need to be submitted and approved prior to any works commencing on site, to ensure that there would be no significant adverse impacts on the watercourse as a result of the proposed development. The FDC application will need to provide details (including detailed plans and cross sections with dimensions) of any temporary and permanent works proposed, including a method statement for undertaking the works.

6.3.2 In light of the above, and with no objection from the drainage department due to confirmation that the site would be located within flood zone 1, it is not considered that the scheme is unacceptable in this regard. Whilst it is acknowledged that the site is small and would accommodate two dwellings immediately adjacent to the river, the applicant has approached a structural engineering firm who have confirmed that there is no issue with a traditional foundation construction at the site, and in any case should this become an issue small concrete bored piles would be used all in accordance with the Building Regulations. It is also noted that the EA confirmed that it is the landowners responsibility to ensure that any maintenance works are undertaken including bank protection if erosion occurs, and this will need to be in accordance with all appropriate EA consents. Relevant conditions requested by the Environment Agency with regard to ensuring appropriate site levels and no further development within the site area. Furthermore, a condition relating to the site drainage will be attached to ensure water does not run onto the adjacent highway which will be at a slightly lower level.

6.4 Impact on neighbouring amenities

6.4.1 Given the single storey nature of the buildings it is not considered that the scheme will have a detrimental impact on the amenities of neighbouring properties in terms of an overbearing impact, and with no first floor windows creating any overlooking. The sunlight of the neighbouring properties will also be unaffected in this regard. As such the scheme accords with policy CS6 of the Shropshire Core Strategy.

6.5 Ecology

6.5.1 An ecology report and survey has been submitted by the applicant and this has been considered acceptable by the Planning Ecologist. The survey and report saw no evidence of protected species including water voles and otters identified at the site. Furthermore a Reasonable Avoidance Measures Method Statement was included which will be adhered to as part of the development and would be secured through a planning condition. As such the scheme is considered to be acceptable in ecology terms and can proceed with the relevant recommended conditions and informatives attached accordingly.

6.6 Highways

6.6.1 The Highways Officer has confirmed that the accesses are onto an unclassified highway and therefore the standing advice should be utilised. In this case the accesses are not considered to create an adverse impact in terms of highway safety given the residential nature of the area and the slow speeds associated with this. Furthermore it is not considered that there will be restricted visibility from the access points based on the highway and access layout, with splays of 40 metres achieved from each access point. As such the development is not considered unacceptable in highways terms.

## 6.7 Other issues

- 6.7.1 The affordable housing proforma has not been received at the time of writing but has been requested. Once this has been received it will be referred to the Affordable Housing Officer for confirmation it has the correct contribution amount, and the committee will be informed that this has been finalised through the committee updates sheet. The proforma will need to confirm the affordable housing contribution which will be secured through a S106 agreement.

## 7.0 CONCLUSION

The proposed development is considered to be acceptable in its design, scale and materials with no adverse impact on the amenities of neighbouring properties. There is not considered to be a detrimental impact with regard to flooding or the adjacent River Roden, and the scheme is not considered to adversely affect protected species or highway safety. As such the proposal is considered to be acceptable in accordance with saved policy H5 of the North Shropshire Local Plan, policies CS6 and CS11 of the Shropshire Core Strategy and the National Planning Policy Framework. 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 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. Background

### Relevant Planning Policies

Central Government Guidance:

NPPF

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages

### RELEVANT PLANNING HISTORY:

NS/04/01120/FUL Erection of 2 semi-detached 1 bed bungalows and creation of vehicular access REFUSE 25th November 2004

## 11. Additional Information

[View details online:](#)

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Pauline Dee

Cllr Chris Mellings

Appendices

APPENDIX 1 - Conditions



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

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

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

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

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

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

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

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

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

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

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

5. Finished floor levels shall be set no lower than 76.68m AOD.

Reason: To protect the proposed dwellings from flood risk for the lifetime of the development.

6. Work shall be carried out strictly in accordance with the Reasonable Avoidance Measures provided by Pearce Environment Ltd (September 2014) and as shown in Figure 1 of the submitted report.

Reason: To protect features of recognised nature conservation importance.

7. 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.

8. The access, parking and turning shall be satisfactorily laid out and completed in accordance with the approved block plan prior to the dwelling being occupied.

Reason: In the interests of highway safety.

9. No construction work shall commence outside of the following hours:  
Monday to Friday 07:30 - 18:00  
Saturday 08:00 - 13:00.

No works shall take place on Sundays and bank holidays.

Reason: To protect the health and wellbeing of residents in the area.

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

10. There shall be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of bank of the River Roden other than the proposals shown on the submitted drawing titled 'General Arrangement Plans - Dwelling Floor Plans / Site Plan' received on 13th June 2014.

Reason: To maintain access to the watercourse for maintenance or improvements.

11. 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
  - hard surfacing
  - container for the storage of oil
  - fences, gates or walls

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.



Committee and Date  
 North Planning Committee  
 23 September 2014

Item  
11  
 Public

## Development Management Report

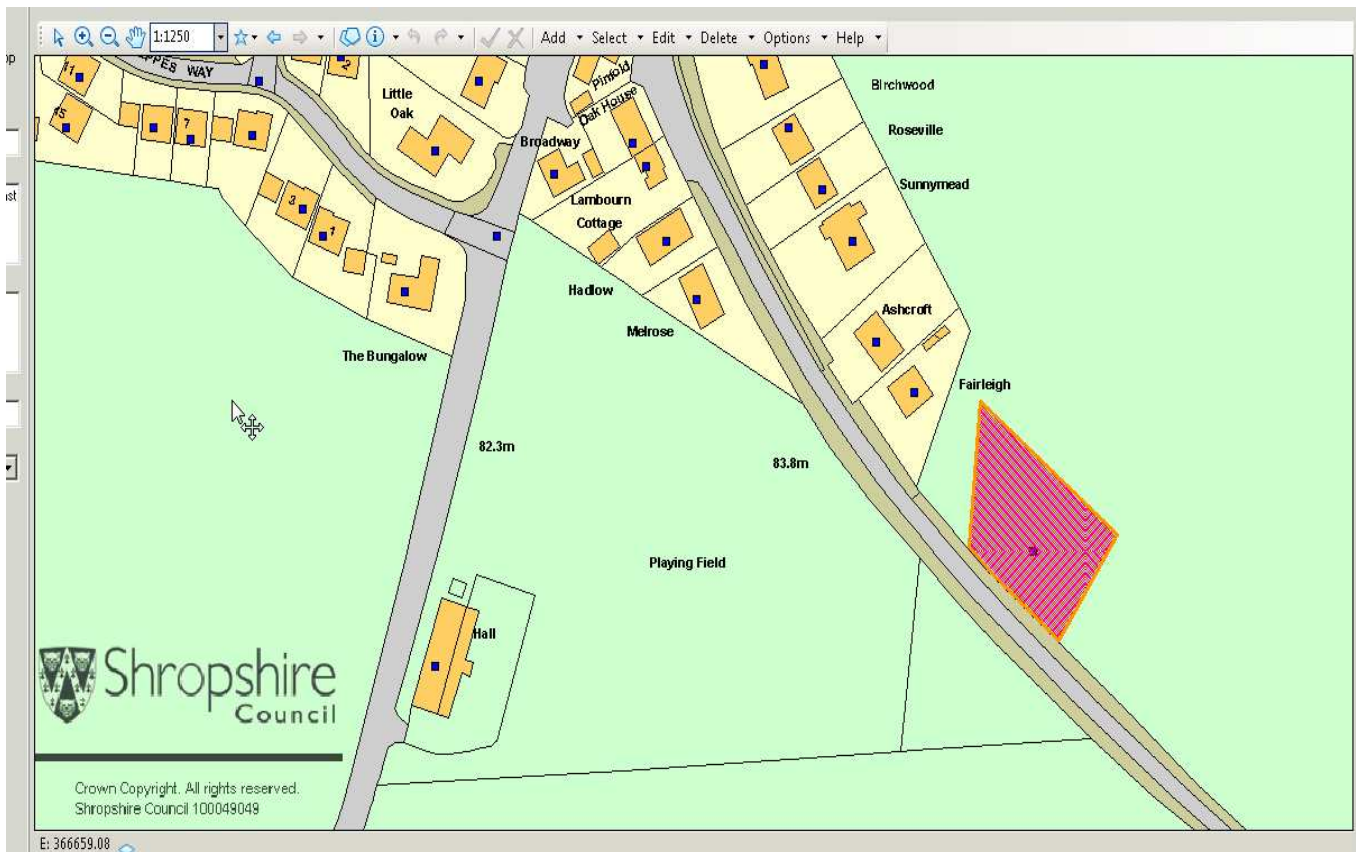
Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/03006/OUT	<b>Parish:</b> Childs Ercall
<b>Proposal:</b> Outline application for the erection of 2 detached dwellings; to include means of access	
<b>Site Address:</b> Proposed Residential Development Land South East Of Childs Ercall Shropshire	
<b>Applicant:</b> Mr & Mrs P Clifton	
<b>Case Officer:</b> Sue Collins	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

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

### Recommended Reason for Approval



## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for the erection of two detached dwellings with garages and amenity space on the outskirts of Childs Ercall. As part of the application the means of access is to be considered, with appearance, landscaping, layout and scale to be dealt with as reserved matters.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The area of land is currently agricultural grass land and located in close proximity to the South East of Childs Ercall. The boundary to the nearest dwelling is between 6 metres at its narrowest and 26.5 metres at its widest. This is due to the angle of the boundary with Fairlegh and the boundary of the land in the ownership of the applicant. The field has a combination of hedgerows and fences forming its boundaries with trees interspersed within the landscape. The land gently rises in a north easterly direction.
- 2.2 The site is surrounded on all three sides by agricultural land with the highway to the south west. Beyond the highway is the playing field and beyond the strip of agricultural land there are residential properties which are linear to the highway and lead into the village. These are a combination of two and single storey properties with the ones nearest to the site being single storey.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:
- (i) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
  - (ii) the Area Manager or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee

In this case the application has been objected to by the Parish Council on the basis that the proposal is outside the development boundary for Childs Ercall. However Officers consider that the proposal meets the criteria for sustainability as set out in the NPPF and therefore the application is recommended for approval. In view of the contrary views, the Principal Planning Officer discussed the application with the chair and vice chair of the planning committee who agreed that the application should be presented to the North Planning Committee for determination.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

- 4.1.1 **Affordable Housing Officer:** 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 although the design and access statement shows the correct contribution for each property at this time, the amount payable will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application and so may change.

4.1.2 **Drainage:** No objection however additional drainage information will be required if outline planning permission is granted.

4.1.3 **Highways:** No objection

4.1.4 **Childs Ercall Parish Council:** Childs Ercall Parish Council supports the objection of the owner of the neighbouring property, 'Fairleigh'.

The application site is outside the village building line and is positioned on Greenfield agricultural land.

It has been pointed out that the applicants have alternative property together with a building plot with planning consent in the village and therefore additional properties are not essentially required to enable family members to remain resident in the village. The Parish Council also has concerns regarding an area of land that will be left between the proposed properties and 'Fairleigh'.

The proposed properties are two storey houses which are positioned next to six bungalows and will be totally out of keeping with the adjacent properties.

Under the terms of SAMDEV, Childs Ercall, as a hub, now has the required number of planning consents for the 5 year supply.

Additionally, my council would request that this application should not be determined by the planning officer but should be considered by the planning committee where objectors will have the opportunity to put forward the objections.

## 4.2 **Public Comments**

4.2.1 One letter of representation has been received. The areas of concern relate to:

- The site is outside the development infill boundary for Childs Ercall
- The applicant has access to other sites within the village which could be utilised.
- The proposed development is neither infill or on brownfield land therefore this is contrary to Government advice.
- Hillcrest Road is too busy with traffic to be able to cope with more.
- The existing farmhouse is up for sale and this could have provided appropriate accommodation for the applicant.
- Contrary to the statement submitted with the application, the construction of two storey dwellings would be taller than the existing dwellings.
- The hedge along the southern boundary of Fairleigh has not been examined from within the grounds and therefore cannot be commented on.
- What will be the future use of the strip of land between the boundary of Fairleigh and the boundary of the application site.
- Insufficient justification has been provided to demonstrate the reason for building in this location.
- Other development in the village has provided accommodation for younger people to move into the locality. No more is required.

## 5.0 THE MAIN ISSUES

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- 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 Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

6.1.3 Paragraph 216 of the NPPF indicates that the weight that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation. The Council's opinion is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where weight can be attached but, pending examination and adoption, this needs to be considered with care alongside the other material considerations.

6.1.4 Paragraph 14 of the NPPF states that:

*‘At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the]Framework taken as a whole; or*
- *Specific policies in [the] Framework indicate development should be restricted.’*

With regards to housing development paragraph 49 of the NPPF states that:

*‘Housing applications should be considered in the context of the presumption in favour of sustainable development’.*

and 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.’*

- 6.1.5 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination of the SAMDev.
- 6.1.6 In this period prior to examination sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.7 It is appreciated that the site lies outside the development boundary for Childs Ercall and therefore would not normally be supported for development. However, adopted local plan policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.
- 6.1.8 The principle issue for consideration therefore is whether the development is

sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.

6.1.9 In order to fully comply with the requirements of the SPD on the Type and Affordability and policy CS11 of the Shropshire Core Strategy the applicants will be required to enter into a S106 to ensure that the appropriate affordable housing contribution is paid.

## 6.2 **Is the Development Sustainable.**

6.2.1 The sustainability of a site is not judged purely on its location, or on whether it is deliverable. Paragraph 6 of the NPPF advises that paragraphs 18 to 219 constitute sustainable development.

6.2.2 Paragraph 55 of the NPPF promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. The example given is where there are groups of smaller settlements and a development in one of these may support the services in others nearby. However dwellings in isolated locations should be avoided. With regard to the issue of deliverability and availability, the proposed dwellings are to be constructed by the applicants for family members. Therefore it is more likely that these will be deliverable and available unlike a proposal which is dependent on the land being sold for development. Therefore this is a positive in its favour.

6.2.3 A number of appeal decisions have been received where the issue of sustainability is dealt with. This has provided conflicting views as to what is or is not considered sustainable development. It is also noted that a number of small settlements are being promoted within SAMDev for development which would have few if any local services or facilities.

6.2.4 Childs Ercall is shown on Ordnance Survey maps as a defined settlement with the application site located close to existing dwellings. The land is currently agricultural ground with no agricultural buildings. There are some trees and hedgerows around the site which provide some screening from the adjacent properties. Although not viewed from the garden of Fairleigh, the hedge that separates the property from the agricultural land is maintained but relatively low level. The proposal is considered to be located on land designated as open countryside, however the proposal is not considered to be a form of development that is deemed to be isolated or sporadic as the proposal is sited adjacent to the named settlement. The proposal is one that could be reasonably considered to meet the requirements of the NPPF when read as whole as this proposal would not lead to an isolated form of development in the open countryside and would help to enhance and maintain the vitality of the rural communities and services within the area.

## 6.3 **Economic Consideration**

6.3.1 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.

- 6.3.2 It is acknowledged that there are economic benefits of new house building in providing housing in close proximity to the village and that it is located relatively close to other settlements where potential employment opportunities exist. Whilst it may be necessary to drive to some of these locations this does not necessarily preclude them from consideration as most rural settlements in Shropshire require access to other areas by vehicle.
- 6.3.3 As detailed in Paragraph 55 of the NPPF the benefit to nearby services can also be taken into consideration and as further development would contribute to the vitality and viability of these facilities in the area this aspect also has to be considered. This would include not only Childs Ercall but also other villages and towns in the area such as Hinstock, Hodnet, and Market Drayton.
- 6.3.4 Taking the above into consideration it is noted that the potential benefits to the economy of the area and nearby settlements should be given weight. It is considered by Officers that these outweigh the disbenefits in terms of economic consideration.

#### 6.4 **Social Considerations**

- 6.4.1 The development of the site would increase the population of the village and will therefore provide opportunities for the support of local facilities and general community. In addition to the above the Affordable Housing Contribution would also assist in the provision of much needed affordable dwellings. Whilst the contribution towards affordable housing would be relatively small towards the overall cost of such a dwelling it does nonetheless make contribution. As with the economic benefits this is an accepted benefit of house building and the Council has a county wide need for more housing and affordable housing as required by policy CS11. It would also provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9 which would provide improvements to the local community as a whole.

#### 6.5 **Environmental Considerations**

- 6.5.1 The site is currently used for agricultural purposes with dwellings to the north west of the site. As such the close proximity of residential development to other dwellings would lessen its potential impact on the environment. Although it would be increasing the number of buildings, these would be appropriately designed to minimise their visual impact and to be in keeping with the surrounding area. The design of the proposed dwellings would be required to reflect the character, scale and appearance of the nearby development. However as this is a reserved matter this is not an issue that needs to be resolved at this stage. There would also be potential to improve the ecology of the area through the use of appropriate landscaping and providing nesting boxes etc to encourage different species into the area.

#### 6.6 **Summary**

- 6.6.1 The Parish Council and local resident have raised questions regarding the development of this site over others in the ownership of the applicants. Whilst they may have other land available it is a requirement that the proposal is

considered on its own merits against the adopted National and Local Policies.

6.6.1 In view of the above it is the opinion of officers that whilst the development may have a visual impact on the landscape there would be social and economic benefits to the area. This would be through the provision of two new family dwellings and as such utilise existing facilities and services in the local community. In addition through the proposed landscaping and planting that would be carried out as a result of the development, it may be possible to improve the ecology and biodiversity of the area. Overall it is considered that on balance the proposed development would be considered sustainable as required in the NPPF.

## 6.7 **Design, Scale and Character**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

6.7.2 Concerns have been raised regarding the scale and design of the proposed development by the Parish Council and a local resident.

6.7.3 The appearance, layout and scale of the development are all matters that are to be dealt with at reserved matters stage and as such are not to be considered as part of this application. However the indicative block plan demonstrates that it will be possible to develop the site with two dwellings and provide appropriate amenity space for the occupiers. It also demonstrates that it would be possible to develop the site with dwellings positioned approximately 40 metres from the side elevation of Fairleigh. This space will allow the appearance of openness to be retained as a garage would not be of significant size to impact on the visual landscape of the area. It is noted that the indicative plan shows possibly two storey buildings but this is not necessarily what would be applied for as consideration would need to be given to the character of development nearby. In this case they are single storey dwellings with two storey also along the road. This does give some scope for alternatives to be considered such as dormer bungalows. There may also be the option of the ground levels being lowered to also allow for slightly higher buildings to be constructed but again without having an unacceptable impact on the character of the area.

## 6.8 **Impact on Residential Amenity**

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

6.8.2 The proposed dwellings will be located away from the nearby dwelling by a strip of agricultural land. This land is not within the ownership of the applicant. Whilst questions have been asked as to the future use of this land, no application has been received for this site so therefore its use at present will remain agricultural.

Should this be changed in use, it will require planning permission which would be assessed against adopted policies in force at that time. proposed boundary between the dwelling and The Bungalow to the west is in excess of 30 metres and as such it would not cause any loss of privacy. In addition this distance would also not cause there to be a loss of sunlight to the property.

- 6.8.4 Concerns have been expressed that the proposed development will have a detrimental impact on the residential amenities of the neighbouring property. The indicative layout plan shows a distance of approximately 40 metres between the side wall of the dwelling and the side wall of Fairleigh. This is in excess of the 21 metres minimum distance generally required between habitable room windows in order to prevent any loss of privacy. As no designs of the dwellings have been submitted the full impact cannot be assessed. However, given the distances available it would be possible to design a dwelling and position it on the land without having an unacceptable impact on the existing dwelling. The means of enclosing the site would also be dealt with as a reserved matter and it would be possible to ensure that the boundary nearest Fairleigh is appropriate to provide additional screening.
- 6.8.5 Overall in view of the above it is considered by officers that the proposed dwellings can be appropriately designed and sited so as to not have an unacceptable impact on the residential amenities of nearby dwellings.
- 6.9 **Highways**
- 6.9.1 A local resident has raised concerns that the existing road network is incapable of supporting any additional traffic.
- 6.9.2 The site adjoins an unclassified road on the outskirts of the village. The land is located near a slight bend in the highway, however the plans submitted with the application have indicated the position of the proposed access to serve both properties. This demonstrates that visibility splays of 2.4 metres by 43.0 metres in both directions along the can be provided which is acceptable. The creation of an access would also provide an informal passing place which may help to alleviate some problems of traffic passing. .
- 6.9.3 The new residential access apron should be constructed in accordance with the Council's specification and any gates hung to open into the site and set back a minimum of 5 metres from the adjoining carriageway edge. On-site parking of a minimum of two spaces should be demonstrated and turning facilities within the site would be advantageous.
- 6.9.4 Overall it is considered that the proposed access is acceptable with the standing advice for dealing with access. Appropriate conditions will be recommended for inclusion to ensure the access is constructed appropriately.
- 6.10 **Drainage**
- 6.10.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.10.2 Insufficient information has been provided with the application to demonstrate that the development will be appropriately drained. However it is recommended by the

Drainage Engineer that appropriate conditions can be included on any outline planning permission that may be granted to ensure that these details are submitted as part of the reserved matters application.

- 6.10.3 It has not been stated within the response that the area is liable to flooding and on this basis a condition is recommended which together with informatives would ensure that the appropriate information is provided should outline approval be granted. In view of the above it is considered by Officers that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

## **7.0 CONCLUSION**

- 7.1 Although the site is in an area of open countryside, the proposal would meet the requirements of the NPPF as being a sustainable development. The proposed access is considered to be acceptable and will not be a danger to other road users. Overall the proposed development is considered to be acceptable and in accordance with the requirements of the NPPF, policies CS5, CS6, CS17 and CS18 of the Shropshire Core Strategy and the SPD on the Type and Affordability of Housing.

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.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

## 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 Andrew Davies

Appendices

APPENDIX 1 - Conditions

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

1. Details of the appearance, layout, scale 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 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of twelve months 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 access for disabled people  
 The drainage of the site  
 The finished floor levels

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

5. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

6. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

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

7. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 80 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

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

8. Visibility Splays shall be provided in accordance with the following:
  - (a) a point 2.4 metres measured back from the centre-line of the proposed highway carriageway from the nearer edge of the highway carriageway;
  - (b) a point 43 metres long measured along the nearest edge of the highway carriageway from the intersection with the main highway carriageway;
  - (c) a straight line joining the above points.

These splays shall thereafter be permanently kept free of all obstacles or obstructions at the level of the adjoining highway carriageway / at a height not exceeding 0.9 metres above the level of the adjoining carriageway.

Reason: In the interest of highway safety.

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

9. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety

**Informatives**

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
2. Under the Highways Act 1980 - Section 184(11) you are required to submit an application to form a crossing within the highway over a footway, grass verge or other highway margin. Please note that there will be a charge for the application. Applications forms can be obtained through the web site [www.shropshire.gov.uk/hwmaint.nsf](http://www.shropshire.gov.uk/hwmaint.nsf). If you wish further advice please contact the Shropshire Council's Highway Development Control Team.
3. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby



approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

4. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. A fee is payable per request.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

5. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access runs onto the highway.

As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new access, driveway, parking area/ paved area
- ' Attenuation
- ' Greywater recycling system
- ' Green roofs

Details of the use of SuDS should be indicated on the drainage plan.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

-



Committee and Date

North Planning Committee

23 September 2014

Item

12

Public

## Development Management Report

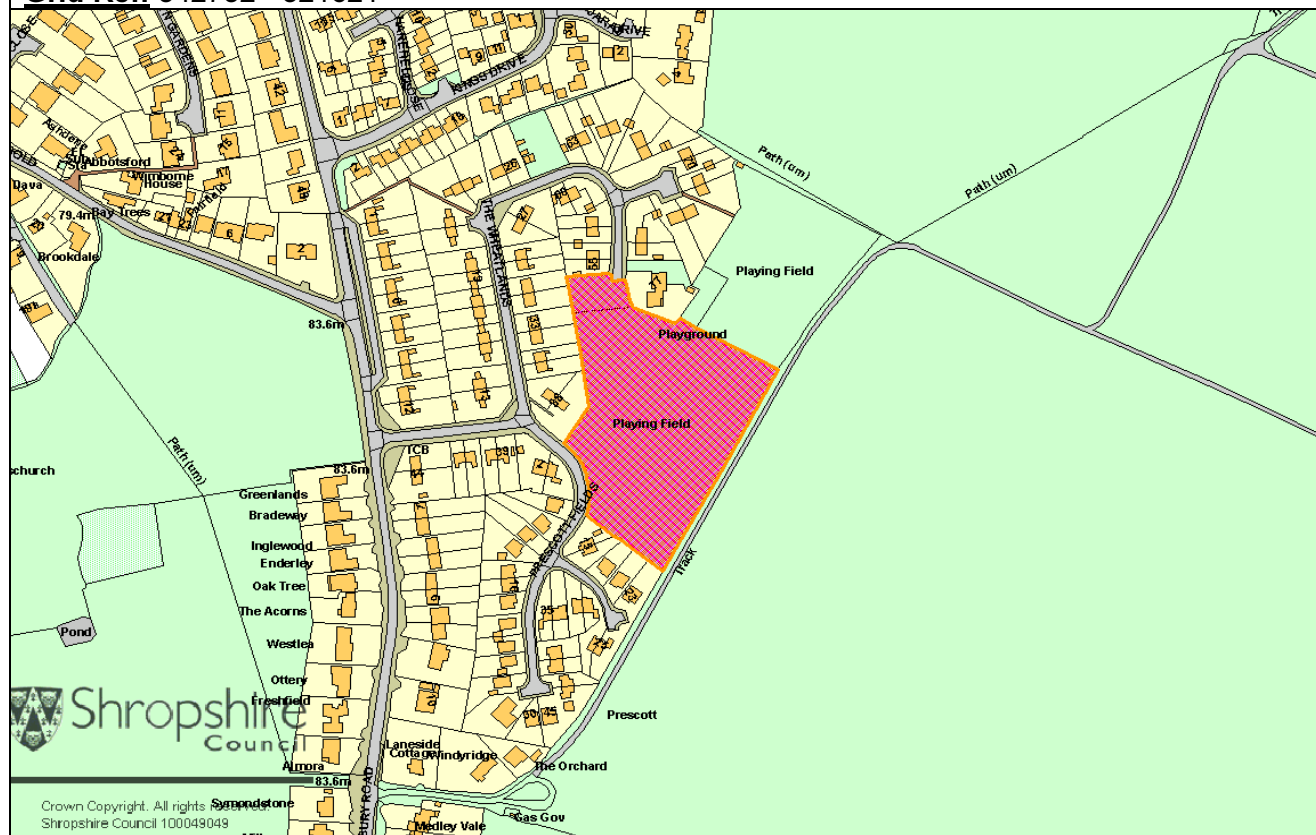
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/02718/VAR	<b>Parish:</b>	Baschurch
<b>Proposal:</b> Variation of Conditions 6 and 7 of planning permission 12/02314/OUT Conditions relate to protected species (Great Crested Newts) which no longer appear to be present at the site		
<b>Site Address:</b> Land At The Wheatlands Baschurch Shropshire		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> Richard Denison		<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 342732 - 321621



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**Recommendation:- That planning permission be granted subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application relates to the removal of two conditions regarding a Great Crested Newt Mitigation Strategy and provision of a European Protected Species Mitigation Licence in relation to an outline residential development scheme which was approved in February 2013 in Baschurch.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the eastern edge of Baschurch village directly adjacent to residential development to the north, east and south of the site. The site is generally level with open farm land to the east and an existing playing field to the north. Access is gained from a cul-de-sac to the north at the end of The Wheatlands estate, whilst part of the south western boundary runs along part of the Prescott Fields estate road.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This is an application made by the Council in relation to land owned by the Council which not proposing development for a statutory function.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Highways Development Control** - The proposed variation raises no highway implications and the Highway Authority raises no objection to the proposal.
- 4.1.2 **Shropshire Council, Planning Ecologist** - In April and May 2014 Eco Tech (2014) carried out four presence/absence great crested newt (GCN) surveys of a garden pond at the north west of the site. No GCN or other amphibians were found. This pond was found to contain a small GCN population in 2010, which resulted in consent 12/02314/OUT having conditions requiring an EPS licence and following a mitigation scheme.

In 2014 the pond was found to contain a high population of ornamental fish, said by the owner to have been introduced in 2011. Eco Tech (2014) consider it likely that since 2011 many, if not all of the GCN will have dispersed from the pond. They consider that a mitigation licence is no longer required. Condition 7 can therefore be removed from the outline consent.

Reasonable precautions to avoid affecting GCN are recommended in a method statement. Eco Tech (2014) recommend measures to promote favourable conservation status of GCN in the locality. These include creation of two new potential breeding ponds and enhancement of terrestrial habitat around the new ponds.

In order to secure both of these items it is recommend varying condition 6 as follows: “Work shall be carried out strictly in accordance with the Great Crested Newt Survey and Revised Mitigation Strategy by Eco Tech dated June 2014. Reason: To ensure the protection of great crested newts, a European Protected Species.”

4.1.3 **Shropshire Council, Flood and Water Management Team** - The variation is acceptable from a drainage and flood risk perspective.

4.1.4 **Shropshire Council, Historic Environment Team (Archaeology)** - I have no comments to make on this application with respect to archaeological matters.

4.1.5 **Shropshire Council, Affordable Housing Officer** - As the variation does not alter the proposals re housing then our previous comments stand.

4.1.6 **Baschurch Parish Council** supports the application.

## 4.2 Public Comments

4.2.1 No public representations have been received.

## 5.0 THE MAIN ISSUES

- Background & Ecology Issues

## 6.0 OFFICER APPRAISAL

### 6.1 Background & Ecology Issues

6.1.1 Outline planning permission was granted on the 8<sup>th</sup> February 2013 for a residential development on land between Prescott Fields and The Wheatlands in Bashurch (application reference 12/02314/OUT). The following conditions were attached to the planning permission in relation to Great Crested Newts:-:

Condition 6 - Work shall be carried out strictly in accordance with the Great Crested Newt Mitigation Strategy by Eco Tech (November 2012) and as shown on Map 1 included within the Mitigation Strategy attached as an appendix to this planning permission. Reason: To ensure the protection of Great Crested Newts, a European Protected Species.

Condition 7 - No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to Great Crested Newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence. Reason: To ensure the protection of Great Crested Newts, a European Protected Species.

6.1.2 These conditions were based on the fact that the proposed development affected land within 100 metres of a pond (in a private rear garden beyond the application

site boundary) where great crested newt breeding was confirmed in 2010. An update of the Great Crested Newt Survey was commissioned in April and May 2014 in order to establish any change in the status of this protected species at the site. The updated survey provided findings that no Great Crested Newts (or any other amphibian species) were recorded. The pond was found to support a high population of various ornamental fish species which were introduced into the pond in 2011, and there is no longer a presence of great crested newts.

- 6.1.3 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.1.4 Having regard that there are no Great Crested Newts presence and that they will have dispersed from the pond the Planning Ecologist has confirmed that no mitigation licence is required and therefore condition 7 can be removed from the planning permission. Reasonable precautions to avoid affecting Great Crested Newts are recommended in a method statement to promote favourable conservation status of Great Crested Newts in the locality. These include creation of two new potential breeding ponds and enhancement of terrestrial habitat around the new ponds. In order to secure both of these items it is recommend varying condition 6 to indicate that the development should be carried out strictly in accordance with the Great Crested Newt Survey and Revised Mitigation Strategy to ensure the protection of great crested newts, a European Protected Species.

## **7.0 CONCLUSION**

- 7.1 The principle for residential development has been established under the previous outline permission. The submitted Great Crested Newt Survey and Revised Mitigation Strategy have established that the proposed development is reasonably unlikely to result in an offence under Regulation 41 and therefore no licence is required. However, to avoid affecting Great Crested Newts the proposed Mitigation Strategy will be conditioned accordingly which will include the creation of two new potential breeding ponds.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they

disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10.0 BACKGROUND

## 10.1 **Relevant Planning Policies**

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

### **National Planning Policy Framework (March 2012):**

11 : Conserving and Enhancing the Natural Environment

### **Shropshire Council Core Strategy (February 2011):**

CS17 : Environmental Networks

## 10.2 **Relevant Planning History**

12/02314/OUT - Outline application for proposed residential development; formation of new vehicular and pedestrian access (all matters reserved). Granted 8<sup>th</sup> February 2013.

## 11.0 **ADDITIONAL INFORMATION**

List of Background Papers - Application reference 14/02718/VAR

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr Aggie Caesar-Homden

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 1(2) of the Town and Country Planning (Development Management Procedure) (England) 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 by the 8th February 2016.

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 number of units
- The means of enclosure of the site
- The levels of the site
- The means of access for disabled people
- The drainage of the site
- The finished floor levels

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

5. The development site shall be as indicated on drawing no. 294-001-V29 received on the 28th May 2012.

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

6. Work shall be carried out strictly in accordance with the Great Crested Newt Survey and Revised Mitigation Strategy by Eco Tech dated June 2014.

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

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

7. The residential development shall not begin until a written and binding scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and thereafter permanently retained. The scheme shall include:
- Type of the affordable housing provision to be made.
  - The timing of the construction of the affordable housing.
  - The arrangements to ensure that such provisions are affordable for both initial and subsequent occupiers of the affordable housing;
  - The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing and the means by which such occupancy shall be afforded.

Reason: In accordance with Policy CS11 of the Shropshire Core Strategy.

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

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.

**Informatives**

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.



Committee and Date  
 North Planning Committee  
 23 September 2014

Item  
**13**  
 Public

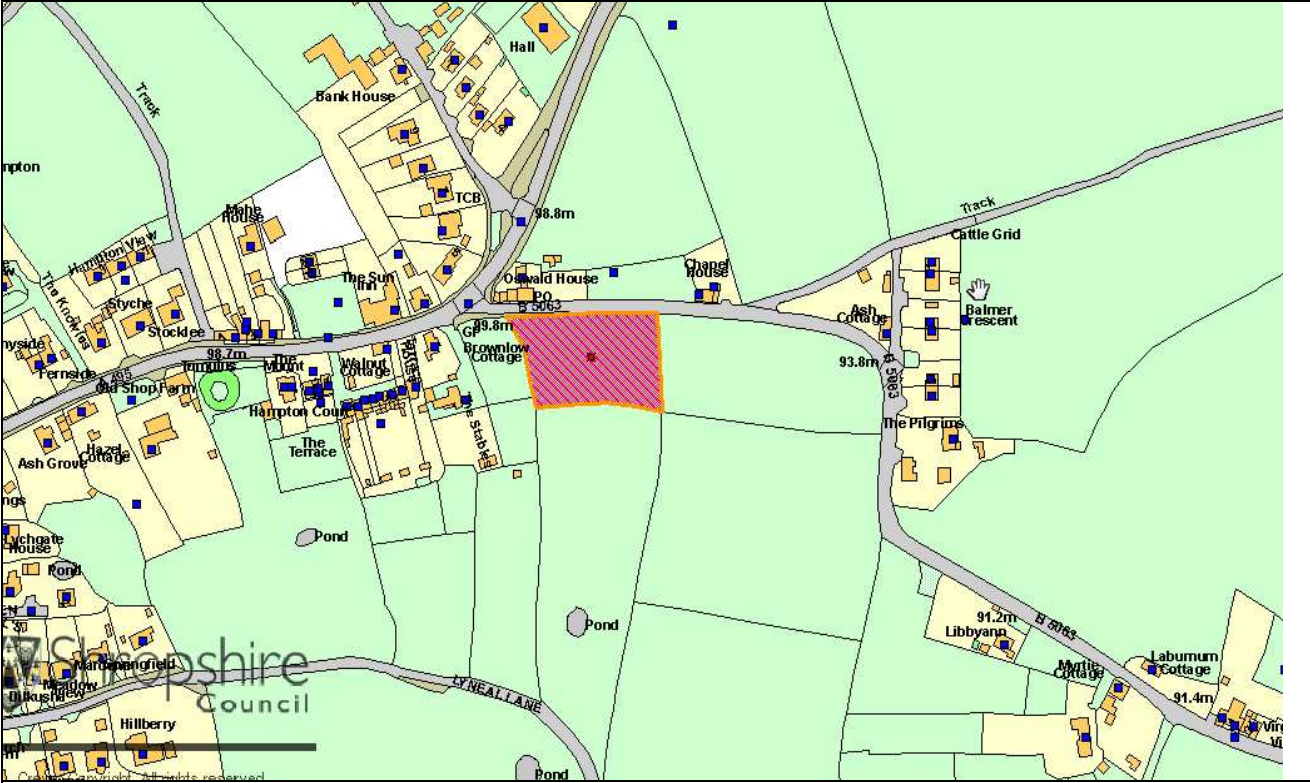
## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

**Summary of Application**

<b>Application Number:</b> 14/01063/OUT	<b>Parish:</b>	Welshampton And Lyneal
<b>Proposal:</b> Outline application (access) for the erection of 7 dwellings		
<b>Site Address:</b> Proposed Development Land South Of B5063 Welshampton Shropshire		
<b>Applicant:</b> Les Stephan Planning Ltd		
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 343768 - 335018



**Recommendation:-** Grant Permission subject to the conditions set out in Appendix 1 and the applicant entering into a S106 to secure the provision of affordable housing and no objection being received from Natural England.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The submitted application seeks outline planning for a residential development. The appearance, landscaping, layout and scale are all reserved for later approval. The applicant is seeking approval for the principle of a residential development on the site and the means of access. The original application was for the erection of 10 dwellings and included the layout of the site. The applicant has since amended the application reducing the number of dwellings down to 7 and adding layout to the list of `reserved matters.
- 1.2 In addition to the dwellings the applicant is also proposing the creation of a new bus stop and a new footpath link to the eastern extremity of the site.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is a 0.3 hectare area of land which is approximately half of a long narrow field running along the southern edge of the Welshampton to Wem road on the edge of the village. To the south of the site there are open agricultural fields defined by intermittent native hedge planting and to the west there is a small paddock area. On the opposite side of the road it is predominantly agricultural/ paddock land with two dwellings located hard on the edge of or very close to the passing road.
- 2.2 The main part of Welshampton is to the west of the application site and mainly fronts onto the A495 Ellesmere to Whitchurch Road. The village has a predominantly linear form although there a number of instances of backland development and mini estates. To the east of the application site and on the outside of a sharp bend in the road there is a small cluster of eight dwellings, these sit very slightly detached from the rest of the village because of the broken street frontage and the presence of the agricultural fields and hedgerows. These dwellings also sit outside the village's 30 mph speed limit.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The local member and the Chair of the planning committee considers that the Parish Council have raised material planning issues that warrant consideration by the members of the north planning committee.

### 4.0 Community Representations

- Consultee Comments

#### 4.1 Parish Council

At the meeting of Welshampton and Lyneal Parish Council held on 28 May 2014 the following points were noted:

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

- Maximum 5 dwellings per site
- 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.

The Parish Plan adopted in 2008 contained the following comment:

- Important that we keep a balanced view on new homes, so that we take on board that our lanes and roads are not overloaded with traffic.

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

#### Number of dwellings

The proposal is for 10 dwellings so this application does not meet with the statement within the SAMDev SDP “The settlements of Welshampton and Lyneal are 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.”

#### Site Layout

The current plan is the third submitted to the Parish Council for consideration albeit only the second one submitted to Shropshire Council. The layout is not considered appropriate for the village and it is assumed the prime reason for the design is to make further development on adjoining sites possible. There is also an electricity transformer in the centre of the site and it is not clear whether this has been taken into account.

#### Drainage

Both the SAMDev SDP and the VDS makes reference to drainage issues. The statement in the VDS is outlined above the statement in the SAMDev is as follows:

- All new development is subject to establishing adequate foul drainage and water supply There is no mains sewage system in Welshampton and the Parish Council is aware that residents living in the already sodden areas in the village are seriously concerned about the increase in extra water arising from the development. The Parish Council confirms the comments made by several residents direct to Shropshire Council, as part of previous planning application consultations, that current drainage systems are struggling to cope.

In particular, residents have made representations to both Shropshire Council and the Parish Council that the recent development at The Sun Inn has impacted on the water levels and that this development could compound the problem.

The Parish Council strongly requests that, based on the above comments, Shropshire Council's Drainage Engineer considers the impact of this development not just on 'adjacent properties' but a wider area.

The Parish Council also notes that drainage details, plans and calculations can be made conditional at Outline application stage but due the serious concerns raised the Parish Council considers these should be addressed fully at this stage.

### Traffic

The increased volume of vehicles caused by the size of this development will lead to traffic converging at a short stretch of the busy B5063 particularly at peak times. The recent reduction of public transport available to residents in the village leads to a greater dependence on private transport at peak times. The safety of pedestrians walking along this stretch of B5063 is already a concern before taking into account the traffic issues identified above. The re-siting / addition of the school bus stop is not considered a safer alternative.

### 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 20 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. 3 June 2014

Parish Council general further comments (5/9/14)

Drainage

As indicated in the section for Welshampton in the submitted SAMDev Policy, "All development is subject to establishing adequate foul drainage and water supply". Paragraph 5.90 gives further explanation: "In the case of waste water infrastructure capacity, whilst the allocated sites may not independently have an impact, the scale of development may mean that hydraulic modelling is needed for the catchment as a whole. Development should be phased appropriately to take into account of critical infrastructure improvements." In addition, the number of dwellings in Welshampton is set at a maximum of 20 houses. To avoid any confusion, Welshampton has no mains foul water drainage, all dwellings are served by septic tanks.

Of the 5 current applications totalling 30 dwellings there is only one site with 7 dwellings within the development boundary and it is believed a positive determination will soon be issued. A further 2 applications of 3 dwellings is currently seeking additional information to the effect of drainage on a nearby SSSI Ramsar site. This leaves 20 houses, 10 nearer the main part of the village than the other 10.

In light of the number of resident's concerns regarding the current impact on drainage from the development of 6 dwellings at The Sun, the Parish Council would strongly request that Planning Officers seek guidance on the cumulative effect of possibly 30 dwellings on drainage to the village which is in line with explanation paragraph 5.90 and additional sub-clause (v) in Policy MD3.

Matching housing guideline – cumulative effect

With regard to Policy MD3 'Matching the settlement housing guideline', it is clear that the current number of dwellings proposed exceeds the Welshampton guideline. Therefore the amendments to explanation paragraph 4.22 referring to the cumulative effects resulting in unsustainable development is applicable not just on infrastructure but on the community goodwill.

The potential detrimental impact on community cohesion following such a high percentage of new dwellings at one time is of significance. The Council is aware that community cohesion is a material consideration taken into account with recent applications in West Felton.

Weight attributed to SAMDev

The Parish Council's opinion is that although it is recommended that limited weight

given to the SAMDev as it is still to undergo examination, the Policy would not have been submitted to the Inspector if Shropshire Council did not consider it sound. It is noted there are no challenges to the section for the Welshampton and Lyneal Cluster. The Parish Council considers therefore that the weight allocated to SAMDev for applications in Welshampton can be increased.

The Parish Council requests that these comments are taken account when determining all 5 applications.

4.2 **Highways-** No objection subject to conditions requiring localised widening of the road, visibility splays and the provision of the bus stop.

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

4.4 **Ecology-**  
No objection subject to informatives. The application site is within 750 metres of Clarepool Moss, a component SSSI of the Midland Meres and Mosses Phase 1 Ramsar site and West Midland Mosses SAC. Cole Mere SSSI and Ramsar site is 1.5km distant. Fenn's, Whixall, Bettisfield Wem and Cadney Mosses SAC/Ramsar is 3.3km to the west. It is considered that with conditions requiring a drainage scheme which meets the requirements set out by the Councils Drainage Section and the Environment Agency's permitting standards at Reserved Matters stage, there is no risk of an impact on the water quality of any European site.

4.5 Natural England- No response at time of writing report.

4.6 **Affordable Housing-**  
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.

4.7 - Public Comments  
8 letters of objection received commenting on the following grounds:  
Site is outside of the development boundary  
Unsafe vehicle access and inadequate A495/ B5063 junction  
Scheme will cause water to be on the road  
Village infrastructure is over loaded  
School bus stop adjacent to the site  
Scheme is the first stage of the development of the larger field  
Noise pollution generated by extra cars  
Inadequate water pressure in the village  
No demand for dwellings as house in the village are unsold.  
Not in accordance with the Village Design Statement  
No need for an alternative bus stop

## 5.0 THE MAIN ISSUES



Principle of development  
 Siting, scale and design of structure  
 Highway Safety  
 Visual impact and landscaping

## 6.0 OFFICER APPRAISAL

### 6.1 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' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.

6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development 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 NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the

adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.

- 6.1.5 It is acknowledged that the site is outside of the Welshampton development boundary previously set within the North Shropshire 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, these policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.
- 6.1.6 Policy CS6 of the Core Strategy, 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. 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 As part of SAMDev Welshampton has been put forward as a Community Cluster and states that, “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. All new development is subject to establishing adequate foul drainage and water supply”. Whilst the Parish Council and residents have referred to this the SAMDev is yet to go through the process of examination in public. As such only limited weight can be awarded to the document at this stage.
- 6.2 **Is the Site Sustainable?**
- 6.2.1 Paragraph 7 of the NPPF explains that there are three dimensions to sustainable development, these are economic, social and environmental. Paragraph 8 goes on to advise that in order to achieve sustainable development, economic, social and environmental gains should not be sought in isolation, because they are mutually dependant.
- 6.3 **Economic Consideration**
- 6.3.1 In economic terms the proposed development will provide employment during the construction process and support suppliers, provide Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts; although these benefits would be achieved by any new housing development in any location. The most important economic benefit would be the spending power of new residents who would help to support limited local services such as the pub and local garage. It is acknowledged that Welshampton itself has very few job opportunities and as such residents are likely to travel to Oswestry, Ellesmere, Shrewsbury or further afield to find employment. As such economic benefits are likely to be felt not just within the village. As such it is considered that the economic

benefits of providing additional housing can be awarded some weight.

#### 6.4 **Social Consideration**

6.4.1 Socially the scheme will provide both affordable and open market housing of which there is a proven need across Shropshire as set out in policy CS11 of the Core Strategy. Typically the number of affordable dwellings would be based on the target rate at the time of the reserved matters submission; currently set at 10%. However the applicant is willing to commit to providing 2 of the dwellings to be affordable, equating to an overprovision of 29%. The applicant has confirmed that the Wrekin Housing Trust have expressed an interest in the affordable dwellings.

6.4.2 The scheme would provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9. 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 ensures that this matter will be dealt with after the consent. The CIL contribution would provide for infrastructure enhancements as required.

6.4.3 It is recognised that increasing the number of residences in a settlement without a proportionate increase in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. It is also recognised that Welshampton is the subject of a number of other planning applications which if all approved would result in an expansion of around 27 dwellings in the village. The Parish Council have commented that this would result in a housing stock increase of 30% which could not be sustained and would negatively impact on the local infrastructure.

6.4.4 The scheme must be considered on its individual merits although the cumulative impact of additional new housing is also a material consideration. Recent planning inspectors' decisions have taken into account the adverse impact of increasing the number of dwellings in an settlement, outside of the plan making process, as a material consideration. Substantial increases in residences could result in harm because of the need to allow time for proportionate increases in infrastructure and for the community to adapt, and the possible adverse impact on community cohesion. Welshampton has recently been subject to 5 separate planning applications (including this current application) equating to a total of 27 dwellings. So far only the 7 dwelling adjacent to Old Shop Farm has received a resolution to grant planning permission. Welshampton has around 115 dwellings in its main core of the village, as such it is considered that the scheme of this scale is in relation to the overall size of Welshampton. Even with the other current applications it would still result in a relatively small percentage increase and would not be disproportionate to the size of the settlement and the services it currently has. It is considered that the above issue would not outweigh the presumption in favour of sustainable development given the current housing shortfall.

6.4.5 It is recognised that the proposed development is on a parcel of agricultural land that sits outside of the existing built environment of Welshampton. Building houses on undeveloped parts of the countryside would conflict with the core planning principles, set out in paragraph 17 of the NPPF of conserving and enhancing the natural environment and encouraging the effective use of land by reusing land that

has been previously developed. To meet Shropshire's current and future housing needs it will necessitate the development of agricultural land in addition to brownfield sites. Paragraph 112 of the NPPF requires the Local Planning Authority to take into account the economic and other benefits of the best and most versatile agricultural land. Whilst the loss of agricultural land will cause economic harm in term of a reduction in the land available for farming the site is grade 3 agricultural land which is only of "good to moderate" quality and furthermore the scale of the development proposed will not result in significant loss of agricultural land. It is considered that loss of the grade 3 land is outweighed by the economic benefits of providing additional housing in this instance.

6.4.6 Any built development will inevitably have an impact on any site by the replacement of natural land with built development. At present there is only a limited feeling of being 'within' the village until you reach the junction with the A495 when travelling from the Wem direction. Instead the approach to Welshampton feels semi-rural with the narrow width of the road and the scattering of dwellings before meeting the more dense development of the main core of the village at the junction. However, whilst the development of this parcel of land would result in a change to its character the new built development would not appear disconnected to the rest of the village or appear out of context as it would link the main core of the village to the small number of dwelling further to the east and would be a logical expansion of the village in keeping with its linear form. It is Officers opinion that that the harm that the proposed development would cause to the character and appearance of the area would not result in an adverse impact of considerable weight.

6.4.7 Welshampton has a limited range of facilities which include a public house, hair dressers, vehicle repair garage, place of worship and a primary school. In addition to the facilities in the village there is also a bus service to Ellesmere; although this is fairly infrequent with just 3 buses a day. Whilst the accessibility and the facilities available is less than in other settlement is just one consideration in assessing the site sustainability. It is not the only consideration with sustainability being a much broader subject.

6.4.8 The proposed development would result in the expansion of the village on a parcel of agricultural land, it would however not extend beyond other dwelling which would reasonably be considered to be part of Welshampton (Balmer Crescent). To provide the required housing growth for Shropshire there will be a need to provide housing on the edge of existing settlements. The proposed development would be 'read' as being part of the existing settlement and would not appear isolated or detached and it would not affect any specifically valued landscape, affect protected wildlife or harm a site of historic importance. Whilst it is recognised that there would be some harm it is considered by Officers that this would not be sufficient to outweigh the benefits referred to above.

## 6.5 **Siting, scale and design of structure**

6.5.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. The applicant has now reduced the number of dwellings proposed down from 10 to 7. The indicative layout now provided by the applicant only shows the outline of the site and the approximation position of the bus stop and footpath towards Balmer Crescent. The finer detail of the scheme would be fully considered

at the time of the reserved matters application. Officers opinion is that the size of the site is capable of accommodating a development of 7 dwellings without the site appearing cramped or out of context with the prevailing layout of the area. The layout and form of the development is not known at this stage and would still be subject to full consideration at the reserved matters stage.

## 6.6 Highway Safety

6.6.1 The applicant proposes a single point of access into the site, this would be approximately 50 metres to the east of the junction between the B5063 and the main road through Welshampton. Also included within the proposal is the localised widening of the B5063. At present overrunning is occurring at the edge of the existing carriageway due to its limited width. Increasing its width would make it easier for HGV's or agricultural vehicles to pass one another. The development would also provide an opportunity to create a new bus stop lay-by. At present there is a bus stop on the B5063 which is adjacent to the junction. This includes a shelter but buses have to stop on the highway as there is no layby. As a consequence causing traffic queues to form at the junction, the creation of new bus stop would help to provide a safer environment for highway users as the bus would not obstruct the flow of traffic. The applicant also proposes to provide a footpath within the application site which would extend east leading to the inside edge of the 90 degree corner on the road. This would be of benefit both proposed and existing residents who currently have to walk along the narrow road in order to walk to the school or public house.

6.6.2 It is considered that the provision of the bus stop and appropriate footpath is of benefit although it is acknowledged that the Parish Council consider the bus stop to be on a dangerous stretch of road and therefore do not support its provision. The scheme has been considered by the Council's Highways Officer who raises no objection subject to conditions that require the bus stop and footpath to be provided prior to occupation of the dwellings.

## 6.6.3 Impact on Neighbours

The addition of 7 dwelling on a site will inevitably increase the number vehicle movements and increase the amount of activity on a site that is currently used for agricultural purposes. The 7 dwellings would effectively be self-contained with vehicles accessing the site by the access created as part of the scheme. There are no other dwellings that immediately adjoin the site and on the opposite side of the road the nearest dwelling is to the north west. The layout of the site is one of the reserved matters and would therefore be fully considered at a later date. However, it is considered that the site is adequately large enough to be able to provide adequate distances of separation to existing dwellings to ensure that there is no detrimental impact on residential amenities.

## 6.7 Drainage

6.7.1 Welshampton does not benefit from any mains drainage system as such it will be necessary for the development to be served by a private package treatment plant located within the site. This is a point that is acknowledged by the Council in the submitted SAMDev document which states that, "All new development is subject to

establishing adequate foul drainage and water supply”, it goes on to state in para 5.90, “In the case of waste water infrastructure capacity, whilst the allocated sites may not independently have an impact, the scale of development may mean that hydraulic modelling is needed for the catchment as a whole. Development should be phased appropriately to take account of critical infrastructure delivery and seek to positively contribute towards local infrastructure improvements”. As SAMDev has yet to be adopted only limited weight can be awarded to the specific wording of the document.

- 6.7.2 As this is an outline planning application only seeking to establish the principle of a residential development no precise details of the drainage system have been provided. Instead it is considered appropriate to require the drainage details; which would include relevant percolation tests and calculations to be provided as part of the reserved matters submission.
- 6.7.3 The surface water flows would also be discharged to soakways and the applicant has confirmed that such a system would incorporate suitable attenuation so that they can cope is a storm event. The Council’s Drainage Engineer is satisfied that it would be appropriate for the full details of the drainage system to be provided as part of the reserved matters submission.

## 6.8 Ecology

- 6.8.1 The Council’s Ecologist has been in consultation with Natural England regarding the impact upon any European protected sites. The outcome is that the Council must satisfy itself “that there is at least one measure of treating the foul effluent arising from the development without affecting the European site be that septic tank with soakaway or sealed cesspool with effluent removed from catchment.” The Council’s Drainage Engineer is satisfied that an acceptable drainage system can be achieved and that the precise details can be submitted as part of the reserved matters application for consideration. It is considered that with conditions requiring a drainage scheme which meets the requirements set out by the Councils Drainage Section and the Environment Agency’s permitting standards at Reserved Matters stage, there is no risk of an impact on any European site.
- 6.8.2 The Council’s Ecologist has also provided comments with regards to badgers, bats and nesting birds and relevant planning conditions will be imposed. Overall it is considered that the development can take place without detrimentally impacting upon the ecological value of the site or protected species.

## 6.9 Affordable Housing

- 6.9.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. Although the number of dwellings proposed has been reduced from 10 to 7 the applicant is still proposing to provide 2 affordable dwellings; equating to a 29% provision which significantly exceeds the policy requirement of 10%. A 10% provision on a development would only require a financial contribution and rather than affordable dwellings on the site. The applicant has signed the affordable housing pro-forma agreeing to the contribution

and to meet the legal cost of preparing the Section 106 agreement.

## **7.0 CONCLUSION**

7.1 The site is located outside of the current Welshampton development boundary and is therefore classed as a departure from the development plan, however, significant weight must be awarded to paragraphs 7 and 8 of the NPPF where there is a presumption in favour of sustainable development.

7.2 The proposal will be of some benefit in terms of boosting the local housing supply including the provision of two affordable dwellings. It is considered that Welshampton is of sufficient size with some services and facilities in both the village and the wider Ellesmere area to be a sustainable location for new residential development. Accordingly, it is considered on balance that the benefits of the scheme is not demonstrably outweighed by the harm caused and that the proposal complies with policies CS6 and CS11 of the Core Strategy and the requirements of the National Planning Policy Framework.

## **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:  
CS4- Community Hubs and Community Clusters  
CS5- Countryside and Greenbelt  
CS6- Sustainable Design and Development Principles  
CS9- Infrastructure Contributions  
CS11-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 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 2(1) 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 12 months 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. A scheme of foul drainage, and surface water drainage including all relevant calculations and specifications has shall be submitted with the first reserved matters submission. The approved scheme shall be completed before the development is occupied.

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

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until a scheme for the localised widening of the Class II road to 5.5 metres and provision of 1.8m wide footway along the site road frontage and the footpath leading to Balmer Crescent as shown on drawing no 04 Rev B (received 8th July 2014) has been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall not be occupied until the works have been carried out strictly in accordance with the approved details.

Reason: In the interests of highway safety.

6. Details of the design and construction of any new roads, footways, accesses together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority before the development begins. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

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

7. Six woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be provided prior to the occupation of the dwelling/ building.

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

8. A minimum of 2 car parking spaces shall be provided for each unit of living accommodation in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To provide for the parking, loading and unloading of vehicles off the highway in the interests of highway safety.

9. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 or any order revoking and re-erecting that Order with or without modification, no hedges, fences, growths or other structures shall be planted or erected within the approved visibility splays.

Reason: To maintain a satisfactory measure of visibility from the road junction(s)/access in the interests of highway safety.

10. At the junction of the main estate road/access with the adjoining highway visibility splays in both directions along the adjoining highway shall be provided as follows:

- (a) A point 2.4 metres measured along the centre line of the main estate road/access measured from the continuation of the nearer edge of the adjoining highway carriageway.
- (b) Points 43 metres along the nearer edge of adjoining highway carriageway measured from the intersection of the centre line of the main estate road/access.
- (c) A straight line joining the above points.

Reason: To provide a satisfactory measure of visibility from the main estate road/access in both directions along the adjoining highway.

11. The gradient of the drives between the edge of the estate road carriageway(s) and the back of the footway/verge/margin shall be not exceed 1 in 24 and thereafter the gradient shall not exceed 1 in 10.

Reason: To ensure the formation of satisfactory access (es) to the properties in the interests of highway safety.

12. The carriageway(s) and footway(s) shall be completed to base course macadam level before any dwelling is occupied.

Reason: To ensure the formation of satisfactory access (es) to the properties in the interests of highway safety.

13. The junction of the estate road with the adjoining highway shall be constructed in accordance with the Local Planning Authority's specification for the time being in force for residential and industrial estate roads.

Reason: To ensure the formation of a satisfactory estate road junction to serve as a means of access to the development.



Committee and Date

North Planning Committee

23 September 2014

Item

14

Public

## Development Management Report

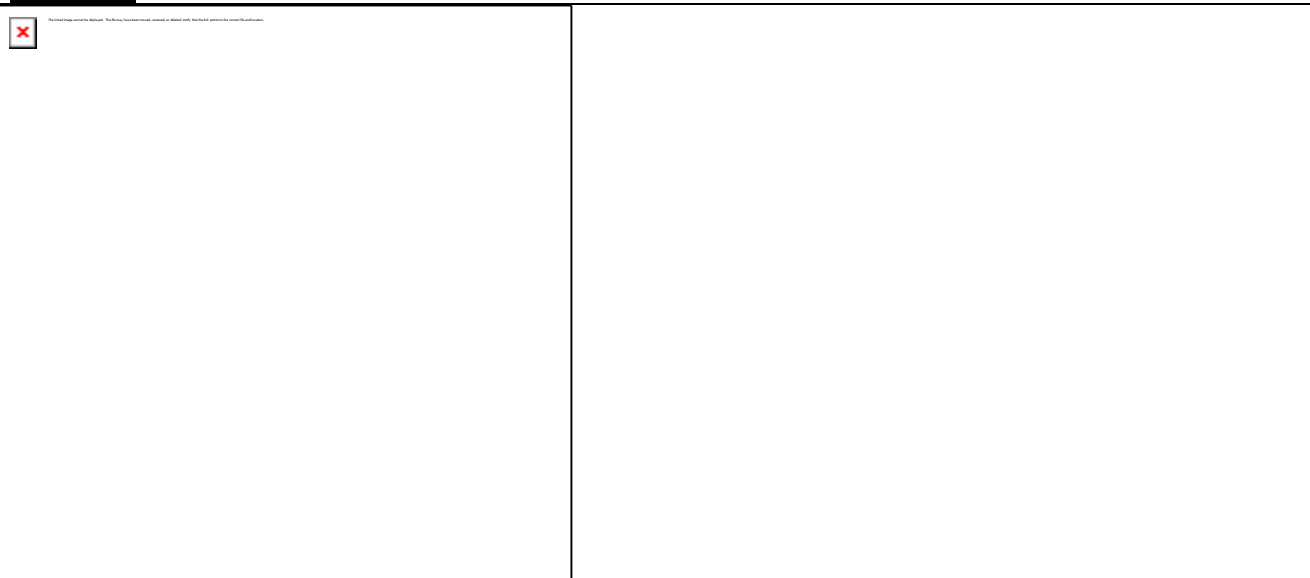
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

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

**Grid Ref:** 343161 - 334954



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**Recommendation:- Grant Permission subject to the applicants entering into a S106 to provide an affordable housing contribution and subject to the conditions set out in Appendix 1.**

### REPORT

#### 1.0 THE PROPOSAL

- 1.1 This report is an addendum to the report presented to members on the 1<sup>st</sup> July 2014 which detailed the proposal for outline planning permission for residential development on land adjacent to Oakleigh Farm within the village of Welshampton. The application included details of access, layout and scale with all other matters reserved for later approval and as such the application seeks consent for the principle of developing the site for a new dwelling. An indicative layout plan was submitted with the original application showing a single, detached dwelling and detached garage with access provided via the existing private drive to the north off Stocks Lane.
- 1.2 The following report seeks to advise members on their resolution that Committee were minded to defer the application until all aspects of the drainage and its potential impact on ecological sites had been considered. The minutes of the meeting record the following:
- 1.3 -‘The Principal Planning Officer introduced the application drawing Members attention to the schedule of additional letters and confirming that the Committee had undertaken a site visit that morning to view the site and assess the impact of the proposal on the surrounding area. The Principal Planning Officer provided an update on ecology issues, explaining that following the submission of an updated information request from Natural England, the Council’s ecologist had recommended that further drainage percolation tests were required to assess the impact on the Clarepool Moss Site of Special Scientific Interest (SSSI) and Ramsar Site which were adjacent to the site. The Principal Planning Officer therefore explained that the recommendation would be to grant delegated powers to the Planning Service Manager to grant planning permission subject to the resolution of outstanding ecology issues.
- 1.4 Members of the Committee felt that the implications of a potential failure in drainage systems were so significant that consideration of the application should be deferred until further information was obtained in relation to drainage and the impact on the adjoining SSSI and Ramsar Site.
- 1.5 It was resolved that consideration of the application be deferred until further information was obtained on the means and location of waste water disposal to enable the Local Planning Authority to carry out a Habitats Regulation Appraisal (HRA) of the project under the Conservation of Habitats and Species Regulations 2010 (as amended).’

## 2.0 **MATTERS FOR CONSIDERATION**

- Impact on Ecology
- Update on 5 year land supply

### 2.1 **Impact on Ecology**

- 2.2 Further to consultation with the Council’s Ecology team the application was judged to fall within Natural England’s new Impact Risk Zones (IRZ) for Natural England consultations. The Local Planning Authority is required to consider drainage proposals and determine whether pathways exist between proposed developments and designated sites. If there are, or it is unclear in these cases Natural England is consulted.

- 2.3 Clarepool Moss Site of Special Scientific Interest (SSSI) and Ramsar Site lies less than 400m to the south at its nearest point and the application site lies within the Natural England consultation zone for this SSSI.
- 2.4 The designated features of the European site at Clarepool Moss SSSI are sensitive to reductions in water quality (for example through eutrophication and sediment), specifically through urban run-off. Nitrogen and phosphorus levels at the moss should not be increased in order to demonstrate no impact on the integrity of the site.
- 2.5 From the latest version of the Shropshire Water Cycle Study (2014) it is known that the Welshampton sewage treatment works has no current capacity.
- 2.6 The proposed single dwelling was intended to either drain foul waste to septic tank and drainage field or to septic tank and the stream which flows northwards. In view of the site's location in relation to Clarepool Moss and the fact that the stream flows northwards to the River Dee Special Area of Conservation (SAC), some 17km or more downstream, it was determined that a Habitat Regulation Assessment should be undertaken for Clarepool Moss, and potentially for the River Dee.
- 2.7 As a result details of the type and volume of the septic tank and the drainage fields, together with a plan to scale of their location were requested and were subsequently submitted.
- 2.8 The foul drainage for the proposed dwelling is proposed to flow to a bio-disc sewage treatment plant and drainage field as shown within the submitted details. An appropriate percolation test is deemed to have been submitted.
- 2.9 It was judged that as the development sites lies at just above 90m and the surface of Clarepool moss at around 100m the proposed septic tanks with drainage fields would not have an adverse impact, particularly given the distances involved. Natural England are therefore of the view that Clarepool Moss is at the top of the water table and subsequently a septic tank with drainage field would not have any likely significant effect on Clarepool Moss.
- 2.10 A small stream/ditch to the north east of the development site flows eventually to the River Dee over 17km downstream. However, it was also deemed unlikely that the proposed dwelling would have a significant impact on the River Dee especially given that the site is considered to sit on lower ground than the designated site or to discharge into a stream flowing away from the site. The submitted percolation test indicates that a drainage field will function in this location and consequently no impact is expected on the River Dee Special Area of Conservation.
- 2.11 Further to the above views received from Natural England the Council's Ecology team have undertaken a Habitat Regulation Assessment, which is attached to this report, and have provided updated comments, also based on the submitted Ecological Appraisal by Churton Ecology (March 2014).
- 2.12 It is concluded that providing a condition ensuring that foul drainage water details are carried out as approved is attached to any planning consent there is no risk of an impact on any European site.

### 2.13 **Other wildlife issues**

2.14 Churton Ecology (2014) state :

2.15 Potential ecological issues associated with the proposed development, on or near the site include

- i) the disturbance of nesting birds within the breeding season if there is any hedgerow removal
- ii) the disturbance of bat foraging and commuting habitats caused by artificial lighting situated close to hedgerows
- iii) damage to the root systems of hedgerows if work encroaches on their root protection zones. (This could negatively affect breeding bird habitat as well as bat foraging and commuting habitat in the longer term.)

2.16 Churton Ecology state that there will be no (significant) direct loss of bat foraging or commuting habitats since the hedgerows will be largely retained, and any negative impact on bats is likely to be temporary and of very minor/negligible significance. However, excessive, poorly located and/or inappropriate sources of external lighting could cause disturbance to bats, potentially resulting in the severance of flyways and deterioration of favoured foraging areas. In view of this it is particularly important that lighting recommendations in their report are implemented.

2.17 Great Crested Newt has been recorded 300m to the south-east and there are several pools in the wider surrounds. However, any pools to the south are fragmented from the development site by a busy main road; a pool to the north (at 225m distance) is again isolated from the site by a stream. In addition, the terrestrial habitats present on and around the site can be described as poor and there is altogether no potential for trans-site migrations associated with the meta-population system.

2.18 Additional conditions and informatives are recommended requiring that any development work is carried out in accordance with the submitted Ecological Appraisal by Churton Ecology (March 2014) in order to ensure the protection of wildlife including bats and birds.

### 3.0 **Update on 5 Year Land Supply**

3.1 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.

3.2 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.



- 3.3 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
- 3.4 1. Five year housing land supply/housing supply  
Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF paragraph 49 and these provide the starting point for considering planning application.
- 3.5 2. 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.
- 3.6 The Shropshire Core Strategy was adopted on the 31st March 2011 and is in this context considered up-to-date.
- 3.7 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.
- 3.8 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen.
- 3.9 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 Plan and all the representations made on the Plan has recently been submitted to the Secretary of State for examination by an Independent Planning Inspector.
- 3.10 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.

- 3.11 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.
- 3.12 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.
- 3.13 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.
- 3.14 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.
- 3.15 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.
- 3.16 Although the site is currently classed as falling within open countryside under the existing North Shropshire Local Plan it is included within the wider cluster area identified under the emerging SAMDev plan as such identified in principle as being suitable for small scale infill development. The proposal is for a single dwelling only and its general scale and density is deemed to be commensurate with the density and

pattern of development within Welshampton.

- 3.17 Accordingly, taking into account the update to the 5 year land supply the application is still considered by officers to represent sustainable development within its location.

#### 4.0 CONCLUSION

- 4.1 Officers have sought to advise members within this report of the issues raised at the 1<sup>st</sup> July 2014 meeting. Additional information submitted in relation to the proposed drainage arrangements and further research carried out into the affected protected sites entail that the ecology queries raised are deemed to have been satisfactorily addressed. As such, the officers recommendation remains the same as that presented at the 1<sup>st</sup> July meeting, which is that, subject to the applicants entering into a S106 legal agreement to secure affordable housing, and subject to conditions, planning permission be granted.
- 4.2 Taking into account the update to the 5 year land supply issue officers are of the view that 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 that the NPPF “presumption in favour of sustainable development” applies.
- 4.3 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.

#### 5.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

##### 5.1 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.

## 5.2 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.

## 5.3 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.

## 6.0 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.

## 7.0 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

## 8.0 ADDITIONAL INFORMATION

Cabinet Member (Portfolio Holder)

Cllr M Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – Habitats Regulations Assessment

APPENDIX 3 – 1<sup>st</sup> July Report

**APPENDIX 1**

**Conditions**

**STANDARD CONDITION(S)**

1. Details of the 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 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months 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.

6. The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/06C, attached to this decision notice, unless otherwise agreed in writing by the planning authority.

Reason: To ensure appropriate sewage treatment and ensure the protection of the European protected sites.

7. Work shall be carried out strictly in accordance with the Ecological Appraisal of land proposed for residential development at Welshampton, Shropshire (SJ431349) by

Churton Ecology (March 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of wildlife including bats and birds.

## **APPENDIX 2**

### **Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement**

Application name and reference number:

14/01721/OUT

Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG

Date of completion for the HRA screening matrix:

9<sup>th</sup> August 2014

HRA screening matrix completed by:

Dr Sue Swales  
County Ecologist  
Shropshire Council  
01743 252567  
[sue.swales@Shropshire.gov.uk](mailto:sue.swales@Shropshire.gov.uk)

**Table 1: Details of project or plan**

Name of plan or project	Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG
Name and description of Natura 2000 sites	<p>Part of the <b>West Midlands Mosses Special Area of Conservation (SAC) and Midland Meres and Mosses Phase 1 Ramsar series of sites and notified at a national level as Clarepool Moss Site of Special Scientific Interest (SSSI).</b></p> <p><b>Qualifying Features of West Midland Mosses SAC:</b> H3160. Natural dystrophic lakes and ponds; Acid peat-stained lakes and ponds H7140. Transition mires and quaking bogs; Very wet mires often identified by an unstable `quaking` surface</p> <p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The extent and distribution of qualifying natural habitats</li> <li><input type="checkbox"/> The structure and function (including typical species) of qualifying natural habitats, and</li> <li><input type="checkbox"/> The supporting processes on which qualifying natural habitats rely.</li> </ul> <p><b>Ramsar site criterion:</b> <b>Criterion 1a.</b> A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog. Ramsar criteria: <b>Criterion 2a.</b> Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce six stamened waterwort <i>Elatine hexandra</i>, needle spike-rush <i>Eleocharis acicularis</i>, cowbane <i>Cicuta virosa</i>, marsh fern <i>Thelypteris palustris</i> and elongated sedge <i>Carex elongate</i>. <b>Criterion 2a.</b> Contains an assemblage of invertebrates, including the following rare wetland species. 3 species considered to be</p>



	<p>endangered in Britain, the caddis fly <i>Hagenella clathrata</i>, the fly <i>Limnophila fasciata</i> and the spider <i>Cararita limnaea</i>. Other wetland Red Data Book species are; the beetles <i>Lathrobium rufipenne</i> and <i>Donacia aquatica</i>, the flies <i>Prionocera pubescens</i> and <i>Gonomyia abbreviata</i> and the spider <i>Sitticus floricola</i>.</p> <p><b>River Dee SAC</b></p> <p>River Dee and Bala Lake (Wales) SAC The source of the River Dee lies within the Snowdonia National Park and its catchment contains a wide spectrum of landscapes. Annex I Habitats that are a primary reason for selection of site: •Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation. Annex II Species that are a primary reason for selection of site: •Atlantic salmon <i>Salmo salar</i>, •Floating Water Plantain <i>Luronium natans</i>. Annex II Species present as a qualifying feature but not a primary reason for selection of site: •Sea lamprey <i>Petromyzon marinus</i> •Brook lamprey <i>Lampetra planeri</i> •River lamprey <i>Lampetra fluviatilis</i> •Bullhead <i>Cottus gobio</i> •Otter <i>Lutra lutra</i></p>
Description of the plan or project	<p>Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG The drainage proposed for the dwelling development is to a bio-disc sewage treatment plant and drainage field.</p>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

### Statement

The designated features of the European site at Clarepool Moss SSSI are sensitive to reductions in water quality (for example through eutrophication and sediment), specifically through urban run-off. Nitrogen and phosphorus levels at the moss should not be increased in order to demonstrate no impact on the integrity of the site.

From the latest version of the Shropshire Water Cycle Study (2014) it is known that the Welshampton sewage treatment works has no current capacity. The foul drainage for this dwelling will flow to a bio-disc sewage treatment plant and drainage field as shown on plan 1753/06C. An appropriate percolation test has been submitted.

Natural England provided advice by email dated 10<sup>th</sup> July 2014 for this and another application nearby:

‘it is unlikely that these dwellings will have a significant impact on the River Dee and that is a reasonable assumption to make about the three new dwellings in Welshampton

especially if they are sat on lower ground than the designated site or discharging into a stream flowing away from the site. My feeling from looking at the map was that Clarepool Moss was at the top of the water table which is a feeling Robert Duff also expressed.'

The dwelling would be just under 400m north of Clarepool Moss (Phase 1 Ramsar) at its nearest point. Contour information shows the development site lies at just above 90m and the surface of Clarepool Moss is higher, at around 100m. In view of this, a septic tank with drainage field would not have likely significant effect on Clarepool Moss.

A small stream/ditch to the north east of the development site flows eventually to the River Dee over 17km downstream. The percolation test indicates that a drainage field will function in this location and so no impact is expected on the River Dee SAC.

Providing the condition below is attached to any planning permission , there is no risk of an impact on any European site.

#### **Condition**

The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/06C, attached to this decision notice, unless otherwise agreed in writing by the planning authority.

**Reason: To ensure appropriate sewage treatment and ensure the protection of the European protected sites.**

#### **The Significance test**

The proposed works in the Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG will not have a likely significant effect on the Midland Meres and Mosses Phase 1 Ramsar site or River Dee SAC.

#### **The Integrity test**

The proposed works in the Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG will not have an impact on the integrity of the Midland Meres and Mosses Phase 1 Ramsar site or River Dee SAC. An Appropriate Assessment is not required.

#### **Conclusions**

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

### **Guidance on completing the HRA Screening Matrix**

#### **The Habitat Regulation Assessment process**

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent

authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –  
 (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and  
 (b) is not directly connected with or necessary to the management of that site,  
 must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

#### **Habitat Regulation Assessment Outcomes**

**A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.**

**If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.**

#### **Duty of the Local Planning Authority**

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

### **APPENDIX 3 – 1<sup>st</sup> JULY 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

### 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. 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 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 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 be 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.

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Committee and Date

North Planning Committee

23 September 2014

Item

15

Public

## Development Management Report

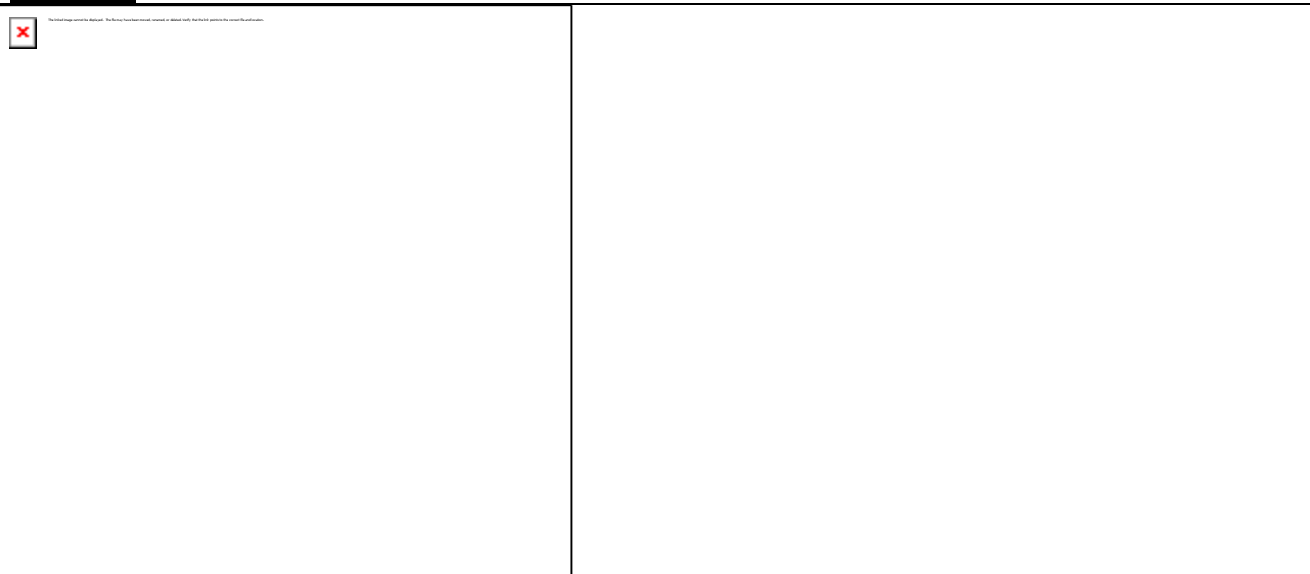
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

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

**Grid Ref:** 343245 - 335010



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

REPORT

## **1.0 THE PROPOSAL**

- 1.1 This report is an addendum to the report presented to members on the 1<sup>st</sup> July 2014 which detailed the proposal for outline planning permission for residential development on land off Stocks Lane within the village of Welshampton. The application included details of access and layout with all other matters reserved for later approval and as such the application seeks consent for the principle of developing the site for two new dwellings. An indicative layout plan was submitted with the original application showing two, detached brick dwellings orientated to face the existing farmhouse with access provided via the existing private drive to the north off Stocks Lane.
- 1.2 The following report seeks to advise members on their resolution that Committee were minded to defer the application until all aspects of the drainage and its potential impact on ecological sites had been considered. The minutes of the meeting record the following:
- 1.3 -‘The Principal Planning Officer introduced the application drawing Members attention to the schedule of additional letters and confirming that the Committee had undertaken a site visit that morning to view the site and assess the impact of the proposal on the surrounding area. The Principal Planning Officer provided an update on ecology issues, explaining that following the submission of an updated information request from Natural England, the Council’s ecologist had recommended that further drainage percolation tests were required to assess the impact on the Clarepool Moss Site of Special Scientific Interest (SSSI) and Ramsar Site which were adjacent to the site. The Principal Planning Officer therefore explained that the recommendation would be to grant delegated powers to the Planning Service Manager to grant planning permission subject to the resolution of outstanding ecology issues.

Members of the Committee felt that the implications of a potential failure in drainage systems were so significant that consideration of the application should be deferred until further information was obtained in relation to drainage and the impact on the adjoining SSSI and Ramsar Site.

- 1.4 It was resolved that consideration of the application be deferred until further information was obtained on the means and location of waste water disposal to enable the Local Planning Authority to carry out a Habitats Regulation Appraisal (HRA) of the project under the Conservation of Habitats and Species Regulations 2010 (as amended).’

## **2.0 MATTERS FOR CONSIDERATION**

- Impact on Ecology
- Update on 5 year land supply

### **2.1 Impact on Ecology**

- 2.2 Further to consultation with the Council’s Ecology team the application was judged to fall within Natural England’s new Impact Risk Zones (IRZ) for Natural England consultations. The Local Planning Authority is required to consider drainage



proposals and determine whether pathways exist between proposed developments and designated sites. If there are, or it is unclear in these cases Natural England is consulted.

- 2.3 Clarepool Moss Site of Special Scientific Interest (SSSI) and Ramsar Site lies less than 475m to the south at its nearest point and the application site lies within the Natural England consultation zone for this SSSI.
- 2.4 The designated features of the European site at Clarepool Moss SSSI are sensitive to reductions in water quality (for example through eutrophication and sediment), specifically through urban run-off. Nitrogen and phosphorus levels at the moss should not be increased in order to demonstrate no impact on the integrity of the site.
- 2.5 From the latest version of the Shropshire Water Cycle Study (2014) it is known that the Welshampton sewage treatment works has no current capacity.
- 2.6 In view of the site's location in relation to Clarepool Moss and the fact that the stream flows northwards to the River Dee Special Area of Conservation (SAC), some 17km or more downstream, it was determined that a Habitat Regulation Assessment should be undertaken for Clarepool Moss, and potentially for the River Dee.
- 2.7 As a result details of the type and volume of the septic tank and the drainage fields, together with a plan to scale of their location were requested and were subsequently submitted.
- 2.8 The proposed dwellings are intended to either drain foul waste flow to a bio-disc sewage treatment plant, and then into the watercourse to the north west of the development.
- 2.9 Natural England are of the opinion that as the development sites lies at just above 90m and the surface of Clarepool moss at around 100m, at the top of the water table, the proposed drainage arrangements would not have an adverse impact, particularly given the distances involved.
- 2.10 It is also deemed unlikely that the proposed dwellings would have a significant impact on the River Dee Special Area of Conservation especially given that the site is considered to sit on lower ground than the designated site.
- 2.11 Further to the above views received from Natural England the Council's Ecology team have undertaken a Habitat Regulation Assessment, which is attached to this report, and have provided updated comments, also based on the submitted Ecological Appraisal by Churton Ecology (March 2014).
- 2.12 It is concluded that providing a condition ensuring that foul drainage water details are carried out as approved is attached to any planning consent there is no risk of an impact on any European site.
- 2.13 **Other wildlife issues**

- 2.14 Churton Ecology (2014) state :
- 2.15 The main ecological issues associated with the development are
- i) the possible destruction or disturbance of bat roosts (if present) in the mature Sycamore, if it is to be felled or lopped and
  - ii) disturbance of bats (by inappropriate lighting) that may be using the nearby farm buildings, and/or the mature Sycamore tree for roosting and/or the stream corridor and scrub for foraging and/or commuting. Enhancement opportunities include more hedgerow planting at site boundaries and along the stream.
- 2.16 Conditions are recommended requiring that works is carried out strictly in accordance with the submitted Ecological Appraisal in order to ensure the protection of bats and birds.
- 2.17 A condition requiring the production of a detailed landscaping plan as part of any subsequent Reserved Matters application is also requested.

### **3.0 Update on 5 Year Land Supply**

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 1. Five year housing land supply/housing supply  
Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably

outweigh the benefits of the development will still have a strong presumption in favour

- 3.5 2. 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.
- 3.6 The Shropshire Core Strategy was adopted on the 31st March 2011 and is in this context considered up-to-date.
- 3.7 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.
- 3.8 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen.
- 3.9 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 Plan and all the representations made on the Plan has recently been submitted to the Secretary of State for examination by an Independent Planning Inspector.
- 3.10 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.
- 3.11 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.
- 3.12 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.

- 3.13 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.
- 3.14 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.
- 3.15 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.
- 3.16 Although the site is currently classed as falling within open countryside under the existing North Shropshire Local Plan it is included within the wider cluster area identified under the emerging SAMDev plan as such identified in principle as being suitable for small scale infill development. The proposal is for two detached dwellings and their general scale and density is deemed to be commensurate with the density and pattern of development within Welshampton.
- 3.17 Accordingly, taking into account the update to the 5 year land supply the application is still considered to represent sustainable development within its location.

#### 4.0 **CONCLUSION**

- 4.1 Officers have sought to advise members within this report of the issues raised at the 1<sup>st</sup> July 2014 meeting. Additional information submitted in relation to the proposed drainage arrangements and further research carried out into the affected protected sites entail that the ecology queries raised are deemed to have been satisfactorily addressed. As such, the officers' recommendation remains the same as that presented at the 1<sup>st</sup> July meeting, which is that, subject to the applicants entering into a S106 legal agreement to secure affordable housing, and subject to conditions, planning permission be granted.
- 4.2 Taking into account the update to the 5 year land supply issue officers are of the view that 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 that the NPPF “presumption in favour of sustainable development” applies.

- 4.3 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.

## **5.0 Risk Assessment and Opportunities Appraisal**

### **5.1 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.

### **5.2 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.

### **5.3 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.

## 6.0 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.

## 7.0 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

## 9.0 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 2 – Habitats Regulations Assessment  
APPENDIX 3 – 1<sup>st</sup> July report

## APPENDIX 1

### STANDARD CONDITIONS

1. Details of the 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 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months 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.

### CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. SuDS Applicability for the site is Attenuation. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval prior to built development commencing on site and the works carried out in accordance with the approved details. A catchpit should be provided on the upstream side of the proposed soakaways.

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

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

5. Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage fields should be submitted for approval prior to built development commencing on site including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 3' should be used to determine the number of persons for the proposed development i.e. for a 3 bedroom dwelling, the population equivalent should be 5 and the sizing of the septic tank and drainage fields should be designed to cater for a



minimum of 5 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. The works shall be carried out in accordance with the approved details.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

## **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

6. If non permeable surfacing is 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.

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

7. The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/02 C, attached to this decision notice, unless otherwise agreed in writing by the planning authority.

Reason: To ensure appropriate sewage treatment and ensure the protection of the European protected sites.

8. Work shall be carried out strictly in accordance with the Ecological Appraisal of land proposed for residential development at Welshampton, Shropshire (SJ431349) by Churton Ecology (March 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of wildlife including bats and birds.

9. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- a) Means of enclosure, including all security and other fencing
  - b) Hard surfacing materials
  - c) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, and in particular, lighting)
  - d) Planting plans, including native-species hedges and trees to the boundaries and stream and any other wildlife habitat and features (e.g. hibernacula)
  - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
  - f) 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)
  - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
  - h) Implementation timetables.

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

**APPENDIX 2****Habitat Regulation Assessment (HRA) Screening Matrix  
& Appropriate Assessment Statement**

Application name and reference number:

14/01723/OUT

Proposed Residential Development Land West Of  
Stocks Lane  
Welshampton  
Shropshire

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

Date of completion for the HRA screening matrix:

5<sup>th</sup> September 2014

HRA screening matrix completed by:

Nicola Stone  
Assistant Biodiversity Officer  
01743-252556

**Table 1: Details of project or plan**

Name of plan or project	14/01723/OUT Proposed Residential Development Land West Of Stocks Lane Welshampton Shropshire Outline application for the erection of 2No dwellings (to include access and layout)
Name and description of Natura 2000 sites	<p>Part of the <b>West Midlands Mosses Special Area of Conservation (SAC) and Midland Meres and Mosses Phase 1 Ramsar series of sites and notified at a national level as Clarepool Moss Site of Special Scientific Interest (SSSI).</b></p> <p><b>Qualifying Features of West Midland Mosses SAC:</b> H3160. Natural dystrophic lakes and ponds; Acid peat-stained lakes and ponds H7140. Transition mires and quaking bogs; Very wet mires often identified by an unstable `quaking` surface</p> <p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The extent and distribution of qualifying natural habitats</li> <li><input type="checkbox"/> The structure and function (including typical species) of qualifying natural habitats, and</li> </ul>

	<p>□ The supporting processes on which qualifying natural habitats rely.</p> <p><b>Ramsar site criterion:</b>  <b>Criterion 1a.</b> A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.  Ramsar criteria:  <b>Criterion 2a.</b> Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce six stamened waterwort <i>Elatine hexandra</i>, needle spike-rush <i>Eleocharis acicularis</i>, cowbane <i>Cicuta virosa</i>, marsh fern <i>Thelypteris palustris</i> and elongated sedge <i>Carex elongate</i>.  <b>Criterion 2a.</b> Contains an assemblage of invertebrates, including the following rare wetland species. 3 species considered to be endangered in Britain, the caddis fly <i>Hagenella clathrata</i>, the fly <i>Limnophila fasciata</i> and the spider <i>Cararita limnaea</i>. Other wetland Red Data Book species are; the beetles <i>Lathrobium rufipenne</i> and <i>Donacia aquatica</i>, the flies <i>Prionocera pubescens</i> and <i>Gonomyia abbreviata</i> and the spider <i>Sitticus floricola</i>.</p> <p><b>River Dee SAC</b></p> <p>River Dee and Bala Lake (Wales) SAC  The source of the River Dee lies within the Snowdonia National Park and its catchment contains a wide spectrum of landscapes.  Annex I Habitats that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> <li>• Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation.</li> </ul> <p>Annex II Species that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> <li>• Atlantic salmon <i>Salmo salar</i>,</li> <li>• Floating Water Plantain <i>Luronium natans</i>.</li> </ul> <p>Annex II Species present as a qualifying feature but not a primary reason for selection of site:</p> <ul style="list-style-type: none"> <li>• Sea lamprey <i>Petromyzon marinus</i></li> <li>• Brook lamprey <i>Lampetra planeri</i></li> <li>• River lamprey <i>Lampetra fluviatilis</i></li> <li>• Bullhead <i>Cottus gobio</i></li> <li>• Otter <i>Lutra lutra</i></li> </ul>
Description of the plan or project	<p>Outline application for the erection of 2No dwellings to include access, and layout, Proposed Residential Development Land West Of, Stocks Lane Welshampton, Shropshire.</p> <p>The drainage proposed for the dwellings development is to a bio-disc sewage treatment plant, and into a watercourse.</p>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

### Statement

The designated features of the European site at Clarepool Moss SSSI are sensitive to reductions in water quality (for example through eutrophication and sediment), specifically through urban run-off.

Nitrogen and phosphorus levels at the moss should not be increased in order to demonstrate no impact on the integrity of the site.

From the latest version of the Shropshire Water Cycle Study (2014) it is known that the Welshampton sewage treatment works has no current capacity. The foul drainage for this dwelling will flow to a bio-disc sewage treatment plant and into a water course on plan 1753/02 C.

Natural England provided advice by email dated 10<sup>th</sup> July 2014 for this and another application nearby:

‘it is unlikely that these dwellings will have a significant impact on the River Dee and that is a reasonable assumption to make about the three new dwellings in Welshampton especially if they are sat on lower ground than the designated site or discharging into a stream flowing away from the site. My feeling from looking at the map was that Clarepool Moss was at the top of the water table which is a feeling Robert Duff also expressed.’

The dwelling would be just under 475m north of Clarepool Moss (Phase 1 Ramsar) at its nearest point. Contour information shows the development site lies at just above 90m and the surface of Clarepool Moss is higher, at around 100m.

A small stream/ditch to the north west of the development site flows eventually to the River Dee over 17km downstream. Discharge into this water course is unlikely to cause an impact on the River Dee SAC.

Providing the condition below is attached to any planning permission, there is no risk of an impact on any European site.

#### **Condition**

The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/02C, attached to this decision notice, unless otherwise agreed in writing by the planning authority.

**Reason: To ensure appropriate sewage treatment and ensure the protection of the European protected sites.**

#### **The Significance test**

14/01723/OUT

The proposed works in the Outline application for the erection of a 2 detached dwellings to include access and layout, Land West Of Stocks Lane, Welshampton, Shropshire will not have a likely significant effect on the Midland Meres and Mosses Phase 1 Ramsar site or River Dee SAC.

#### **The Integrity test**

The proposed works in the Outline application for the erection of a 2 detached dwellings to include access and layout, Land West Of Stocks Lane, Welshampton, Shropshire will not have an impact on the integrity of the Midland Meres and Mosses Phase 1 Ramsar site or River Dee SAC. An Appropriate Assessment is not required.

#### **Conclusions**

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

## Guidance on completing the HRA Screening Matrix

### The Habitat Regulation Assessment process

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the ‘significance test’ and the other known as the ‘integrity test’ which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –  
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and  
(b) is not directly connected with or necessary to the management of that site,  
must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context ‘likely’ means “probably”, or “it well might happen”, not merely that it is a fanciful possibility. ‘Significant’ means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

### Habitat Regulation Assessment Outcomes

**A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.**

**If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.**

### Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the ‘significance’ test and the ‘integrity’ test before making a planning decision.

## APPENDIX 3 – 1<sup>st</sup> JULY 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 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 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.



Committee and Date

North Planning Committee

23 September 2014

Item

16

Public

**Development Management Report to Consider Planning Applications subject to S106 resolution having regard to the Council's published 5 years housing supply Land Supply Statement of 12th August 2014**

Responsible Officer: Ian Kilby

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## Summary

This report seeks Members support in respect of planning applications to North Planning Committee has previously resolved to approve where a decision has not yet been issued pending conclusion of a S106 agreement and where there may have been a change in the balance of considerations arising from the publication of the revised 5yr Housing land Supply Statement on 12<sup>th</sup> August.

## Recommendation:-

**Grant Permission for the applications set out in Appendix A subject to the recommendations for each item, Section 106 Legal Agreement and conditions as set out in the original reports to North Planning Committee and as recorded in the minutes of these meetings**

### 1.0 BACKGROUND

- 1.1 It is a matter of law that all planning applications need to be considered in accordance with the legislation and relevant policy that applies at the point decision is taken. The Council published a revised 5 year housing land supply statement on 12<sup>th</sup> August to demonstrate that, based on data up to 31<sup>st</sup> March 2014, it has a 5.5 year housing land supply.
- 1.2 A number of planning applications for residential development have been referred to this Planning Committee for consideration in recent months where the committee were advised that the Council did not at that time have a five year supply of housing land, this being the position since September 2013. The absence of a five year housing land supply was therefore one of the factors taken into consideration and affecting the weight given to Development Plan policies.
- 1.3 In cases for residential development Planning Committee has resolved to permit the application subject to a S106 legal agreement to provide for affordable housing contributions and any other measures required to make the development acceptable that could not be subject to a planning condition, these applications remain

undetermined until the agreements are signed. This report seeks members views on how the published 5year land supply affects the overall balance of considerations to ensure that at the point the S106 is completed and the decision is issued all relevant material considerations have been taken into account.

- 1.4 The planning applications for housing development where the 5year land supply issue was a material consideration and where there is a resolution to permit the application subject to a S106 agreement that has not been completed are included in Appendix A. In each case these are applications that the Committee will have applied the presumption in favour of sustainable development and therefore will have been considered to be sustainable having regard to the social, environmental and economic considerations set described in the NPPF.
- 1.5 Paragraph 14 of the NPPF states that “*At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.*” For decision taking the NPPF confirms that “**For decision-taking this means:**
- **approving development proposals that accord with the development plan without delay; and**
  - **where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:**
    - **any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or**
    - **specific policies in this Framework indicate development should be restricted.”**

## 2.0 OFFICER APPRAISAL

- 2.1 NPPF Paragraph 49 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. This had been the position in Shropshire since September 2013 when the last 5 years’ supply statement was published and this meant that on the housing supply point, Shropshire Councils *relevant* policies were then out of date, and so had less weight as part of the overall consideration.
- 2.2 For decision taking, the applications where there is a resolution to permit but the S106 agreement has not been signed are presented in Appendix A having regard to the following considerations:
- The presumption in favour of sustainable development described in paragraph 14 of the NPPF applies in any event – all the schemes presented to committee will have been assessed first on this point having regard to the social, environmental and economic considerations;
  - The NPPF aim of boosting significantly the supply of housing is a material consideration and “*housing applications should be considered in the context of the presumption in favour of sustainable development*” (NPPF paragraph 49) and this needs to be considered in relation to the positive and negative impacts of the scheme;



- Policies may be considered out of date and of limited weight for other reasons (e.g. age of a saved local plan policy and consequent inconsistency with NPPF policies) therefore simply having a 5year land supply does not mean full weight can be given to saved housing policies or emerging SAMDev policies (the weight to these policies also being dependent on the extent of unresolved objections and degree of consistency with the NPPF);
- There is a strong likelihood of continuing under delivery against the county-wide Core Strategy target for another few years, meaning that the overall requirement at each update would be higher, even though the number of sites available will be increasing. Consequently, in the balance of considerations if more acceptable sustainable and suitable sites that are permitted impact of under-delivery is offset to a greater degree;
- Now that the SAMDev Plan has been submitted to the Secretary of State for its examination, the Plan is at an advanced stage of preparation. However, the Plan has not been through the examination stage and there are unresolved objections to elements of it (e.g. sites contributing to the housing supply), so the weight that can be attached has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications.

2.2 In relation to determining planning applications outlined in Appendix A, the main issues to consider are

- whether a particular proposal is in accordance with the Development Plan,
- how it sits in relation to the emerging SAMDev Plan, and
- whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.

The fact of having a five year land supply can never be a reason in itself for refusing a planning application; it simply affects what other policy considerations are applied as set out above.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

The applications included in Appendix A were referred to committee for consideration accordance with the Council's scheme of delegation. There is no provision in the scheme of delegation in cases where the balance of material planning considerations may have changed for these "minded to approve" decisions to then be delegated to officers.

### 4.0. RELEVANT PLANNING POLICIES

Central Government Guidance:

National Planning Policy Framework 27<sup>th</sup> March 2012

National Planning Practice Guidance 6<sup>th</sup> March 2014

Shropshire Council Core Strategy and Saved Policies

SAMDev Plan (submitted for examination)

**Appendix A – An assessment of how the balance of considerations is affected in each case in the context of a 5yr supply of housing land. The original reports to committee and minutes of those meetings are available to view via the online planning register following the link below:**

<http://planningpa.shropshire.gov.uk/online-applications/>

**1. 13/02994/OUT Outline application for the erection of a detached dwelling to include means of access Land Adjacent to Woodbury Hengoed Oswestry SY10 7EU**

**Considered by Planning Committee on 15th October 2013**

- Although the site is classed as 'open countryside' according to current and emerging policy and lacks local support, material considerations are considered sufficient to justify a departure in this case. The proposed development could reasonably be considered to be sustainable in a way consistent with NPPF and it seems unlikely that a single additional infill dwelling could be construed as significantly exceeding the agreed development strategy.

- **Development Plan Considerations**

This is a site in the countryside under both current and emerging policy, where new open market housing development would not accord with policies H16 or H19 of the Oswestry Plan (as there is no development boundary for Hengoed) and the emerging development strategy for Hengoed identified in the SAMDev 'Revised Preferred Options'.

- **How the proposal sits in relation to the emerging SAMDev Plan**

It is significant that, in approving 15 additional dwellings in Hengoed, the Council have already started to apply the emerging SAMDev policy, since such development would have been contrary to the Oswestry Plan. However, in these circumstances, it is a question of whether other material considerations change the view, with the circumstances being sufficiently exceptional to justify a departure. Material considerations include the fact that the site would effectively be infill and could represent sustainable development consistent with the NPPF definition, but that it lacks Parish Council support. The key test is that within draft Policy MD3 (given that we have already started to apply the emerging SAMDev to development in this area). MD3 provides that:

The identified housing requirements for settlements are a significant material consideration. Where development would result in the number of completions plus outstanding permissions exceeding the identified requirement, regard will be had to:

- i. The degree by which the requirement is exceeded;
- ii. The likelihood of delivery of the outstanding permissions;
- iii. Evidence of community support;
- iv. The benefits arising from the development.

In light of this test, notwithstanding the PC view, the proposed development could reasonably be considered to be sustainable in a way consistent with NPPF and it seems

unlikely that a single additional infill dwelling could be construed as significantly exceeding the development strategy

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

The layout and design of the proposed dwelling is acceptable in principle and the development would have no significant impact on neighbours' amenities, drainage, protected species or highway safety. An affordable housing contribution would be secured through a S106 agreement. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects. Having regard to the Council's 5yr housing land supply there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme. In order to promote delivery of the scheme an additional condition limiting the outline planning permission to a 12month period is recommended.

**Recommendation:- Grant Permission subject to the conditions set out in the report to Committee of 15<sup>th</sup> October 2013, an additional condition limiting the outline permission to a period of 12 months.**

2. **13/02698/OUT Outline application for the erection of ten dwellings (Amended Description) Land West of London Road Irelands Cross Woore Shropshire/04483/FUL Considered by Planning Committee on 14<sup>th</sup> January 2014**

- This is considered to be a site where sustainable development can be accommodated.
- **Development Plan Considerations**
- The proposed site is located along a the B5415 on the edge of Irelands Cross settlement which is situated between Woore and Pipegate settlements in an area considered as countryside when assessed against the saved and forthcoming policies. Government guidance contained in policy 6 'Delivering a Wide Choice of High Quality Homes' of the National Planning Policy Framework indicates that applications for housing should be considered in the context of the presumption in favour of sustainable development. Advice is given that local planning authorities should avoid new isolated homes in the countryside. It is accepted that the application would be a departure from the current saved North Shropshire Local Plan policies but the NPPF now has greater weight in the overall consideration.
- **How it sits in relation to the emerging SAMDev Plan**
- Woore Parish Council has indicated that it wishes to see Woore as a Community Hub with Irelands Cross and Pipe Gate. Woore is the largest of the 3 areas and most of the local facilities are based here. However, all three settlements have close social and physical links. The Parish Council wants the Site Allocation Management Development Plan (SAMDev) to recognise these links whilst retaining the existing development separation between Woore, Irelands Cross and Pipe Gate. It is proposed that whilst

some infilling development on suitable sites within the settlements may be appropriate, the open land between the three areas should remain undeveloped. In the latest SAMDev Revised Preferred Options document (July 2013) the Parish Council are in support of an additional 50 dwellings over the remainder of the plan period (2013 to 2026). However, correspondence has been received from the Parish Council in August 2013 indicating that they are now only requesting a further 15 dwellings built on infill plots. However, the formal allocation of the community hubs and community clusters will be provided within the Site Allocations & Management of Development document which although submitted to the Planning Inspectorate has yet to be subject to formal examination

- The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan. This site is not allocated for development in the emerging SAMDev plan but has been considered to be sustainable having regard to the social, environmental and economic impacts.
  - **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**
  - The proposed development is within walking distance of Woore which is only 0.7km along a pavement where a number of essential day to day services are available. The development site can be developed to provide a safe means of access, suitable drainage and a layout which could be designed to prevent any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife, whilst no important trees will be lost. The development would be positioned between existing residential properties and would have a roadside frontage which is characteristic to the majority of properties in Irelands Cross
  - Having regard to the Council's 5yr housing land supply, the agent has confirmed a willingness to bring forward the reserved matters application expeditiously and so there is an expressed intention to develop the site. To encourage this an additional planning condition limiting the grant of outline planning permission to a period of 12 months is recommended. There are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme.
  - **Recommendation: Grant Permission subject to the conditions set out in the report to Committee of 15th October 2013, an additional condition limiting the outline permission to a period of 12 months.**
3. **13/03481/OUT Outline application (all matters reserved) for residential development; vehicular access and estate roads; diversion of Public Right of Way; associated highway and landscape works Storage Land And Premises (former Dairy) Mile Bank Road Whitchurch  
Considered by Planning Committee 14<sup>th</sup> January 2014**
- This is a brownfield site where sustainable development can be accommodated.
  - **Development Plan Considerations**

The site is outside the development boundary previously set within the North Shropshire Local Plan and also has not been carried forward as a preferred option site within the emerging Site Allocations and Management of Development (SAMDev) document as it was considered to be not well related to Whitchurch and that there were other sites which are adjacent to the town which could meet the housing need for the area. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development.

- **How the proposal sits in relation to the emerging SAMDev Plan,**

The site has not been allocated for development but as a brownfield development site there is a presumption in favour of bringing these sites forward and it has been included in the councils calculation for 5yr housing land supply.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

- The site is located outside of the current Whitchurch development boundary and is therefore classed as a departure from the development plan. Although it is accepted that the site is not in a highly sustainable location it does benefit from being close to the market town and the proposed development provides for redevelopment of a brownfield site and provides additional housing supply. The indicative plans indicate that the layout will be sympathetic to levels of the existing site and that there will be no adverse impact upon local or residential amenity. The development can be provided with an appropriate vehicular access and improvements to the public footpaths crossing the site. Furthermore it can be provided without risk of flooding and surface water and foul drainage can be addressed at the reserved matters stage. The development includes suitable measures to safeguard existing trees, hedgerows and local landscape character and will not be harmful to local habitats or biodiversity. The development includes the satisfactory provision of affordable housing in accordance with Policy CS11, infrastructure provision in accordance with policy CS9 and open space within the site in accordance with the Interim Planning Guidance. Accordingly, it is considered that the proposal complies with existing and emerging development plan policies together with Policies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy and the requirements of the National Allocations and Management of Development (SAMDev) Plan. The proposal is considered to address the concerns of respondents in respect of impact on the local road network, congestion and safety, the loss of wildlife habitat and green space whilst complying with saved and emerging development plan policies and the NPPF.

Having regard to the Council's 5yr housing land supply position, given that the site has been considered to be sustainable, the balance of considerations rests with the objective of significantly boosting the supply of housing. Consequently, there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme. In order to promote delivery of the scheme an additional condition limiting the outline planning permission to a 12month period is recommended.

**Recommendation: That, subject to an additional condition limiting the outline to 12 months and the conditions recommended previously in the minutes of the meeting of 14<sup>th</sup> January 2014**

**4. 13/01912/OUT Outline application for residential development comprising 25 dwellings (all matters reserved) The Vicarage Tilstock Whitchurch SY13 3JL Considered by Planning Committee on 11<sup>th</sup> February 2014**

- The site is being put forward for allocation within the forthcoming Shropshire Site Allocations and Management of Development document; it is considered to be a sustainable location on the edge of a large village and policy 47 of the National Planning Policy Framework sets a presumption in favour of sustainable development.

- **Development Plan Considerations**

The proposed site is located on the edge of Tilstock settlement as defined by the development boundary within the North Shropshire Local Plan. It is positioned between existing residential properties on Tilstock Lane and Church Close. Policy H5 'Infilling, groups of houses and conversions in market towns and main service villages' of the North Shropshire Local Plan is still a saved policy and indicates that within villages such as Tilstock infilling and groups of houses within the development boundary will be acceptable providing they contribute to affordable housing. The application site in part lies outside the development boundary and as such the proposed development would not be in accordance with policy H5 and the principle of residential development on this site would be a departure from adopted policy.

- **How the proposal sits in relation to the emerging SAMDev Plan,**

- Tilstock is being promoted in the Site Allocations and Management of Development document (SAMDev) as part of a community cluster with Ash Magna/ Ash Parva, Prees Heath, Ightfield and Calverhall. The village is being promoted with a development boundary and a preferred housing site, which is the site to which this application relates. The supporting text in the first draft of the preferred options SAMDev suggests a maximum of 25 dwellings on the site with additional infilling to provide a total for the village of 30 houses. The revised preferred option document retains this allocated site and also allocates two further sites for 12 and 13 dwellings as the document advises that all three sites have community support.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the 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 implications or adversely affect statutorily protected species. As such the proposal therefore accords with policies CS6, CS17 and CS18 of the Shropshire Council Core Strategy and the National Planning Policy Framework

**Five year land supply considerations**

Having regard to the position regarding land supply, the key points to consider are that the land supply calculation includes a number of sites in SAMDev and brownfield locations yet to be developed. Under delivery on the ground will continue to erode the 5 year land supply figure until such a time as development activity on the ground increases. In principle the site is considered to be sustainable and as a SAMDev allocation this has also been taken into consideration as part of the Council's five year housing land supply calculations. To encourage the early delivery of the site it is recommended that the permission is reduced to 12 months and a planning condition will be included to this effect. The officer recommendation, having regard to these factors and the changing balance of considerations in the context of a 5 year housing land supply is to therefore to maintain a recommendation for approval.

## **Recommendation**

**Recommendation:- That Planning Permission be granted in accordance with the Committee decision taken on 11<sup>th</sup> February 2014 subject to an additional condition limiting the grant of outline permission to a period of 12 months.**

**5. 13/04606/OUT Outline application for the erection of a detached bungalow with integral garage (all matters reserved) Proposed Dwelling Adjacent Cemetery Daisy Lane Whittington Shropshire  
Considered by Planning Committee on 11<sup>th</sup> February 2014**

- This is considered to be a site where sustainable development can be accommodated adjacent to the built up area of Whittington

- **Development Plan Considerations**

Whittington is classed as a 'larger settlement' under 'saved' policy H5 of the Oswestry Local Plan and has a clear development boundary; wherein development is permitted on allocated sites, on sites with planning permission and on other suitable windfall sites within the development boundary. The proposed site to which this application relates is located outside this development boundary and as such is considered to be in 'open countryside'. While the saved policies of the local plan have some weight this needs to be considered in light of its consistency with the NPPF. 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.

- **How the proposal sits in relation to the emerging SAMDev Plan,**

The settlement of Whittington has been identified as a Community Hub and the Parish Council have given their agreement to the designation of a boundary around the main built up area of the village which excludes this site. The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

- The proposal is considered to represent a sustainable form of development and the adverse impacts of granting permission for higher housing numbers would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. A single dwelling cannot said to be significantly boosting the housing supply but then the impacts of such a development are less overall.

In order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.

### **Recommendation**

**Recommendation:- Grant Permission subject to an additional condition to limit the permission to a period of 12 months and the conditions recommended previously at the meeting of 11<sup>th</sup> February 2014**

- 6. 13/03821/OUT Outline application (all matters reserved) for the erection of 9 dwellings (including 3 affordable) Land East Of The Old Rectory Selattyn Shropshire SY10 7EZ  
Considered by Planning Committee on 11<sup>th</sup> March 2014**

- This is considered to be a site where sustainable development can be accommodated.
- **Development Plan Considerations**
- The site is located outside of the Selattyn development boundary as defined by the Proposals Map of the Oswestry Borough Local Plan.
- **How it sits in relation to the emerging SAMDev Plan**
- Selattyn and Gobowen Parish Council has decided that they want to be part of a Community Cluster as set out under Policy CS4 of the Core Strategy. The settlements included within the cluster are Upper/ Middle/ Lower Hengoed and Pant Glas. The Parish Council did not support any of the sites that were originally identified for development in Selattyn. The Parish Council now want a housing target of 5 dwellings over the plan period which would be infill development only and within the existing development boundary of Selattyn. Now SAMDev is on deposit this should not be significant weight at this stage due to the fact there remain unresolved objections to the plan.
- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**
- Although the Council has a five year land supply the 'presumption in favour of sustainable development' and the need to boost the housing supply (a government priority) is a significant material consideration when determining planning applications for Housing. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village. It is considered that the benefits of the



scheme of providing three affordable units and being located in a sustainable settlement outweigh the harm of being outside of the existing development boundary. It is considered that the site can be developed for 9 dwellings without there being any detrimental impact on amenities of neighbouring occupiers or the safety of highway users, therefore complying with relevant local policy and the requirements of the NPPF.

In order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.

- **Recommendation: That planning permission be granted in accordance with the Committee decision of 11<sup>th</sup> March 2014 and an additional condition limiting the grant of outline planning permission to a period of 12 months**
- 7 **13/05016/OUT Outline application for the erection of 2 no. detached dwellings (all matters reserved) Land Adjoining 8A St. Martins Moor St. Martins Oswestry SY10 Considered by Planning Committee 11<sup>th</sup> April 2014**
- This is considered to be a site where sustainable development can be accommodated within an established residential area.
  - **Development Plan Considerations**
  - 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 "saved" policies of the Oswestry Borough Local Plan (OBLP) include a development boundary for St. Martins Moor, within which appropriate new housing development would normally be permitted. The application site lies outside of this boundary but immediately adjoins it.
  - **How it sits in relation to the emerging SAMDev Plan**
  - This site is not allocated for development in the emerging SAMDev plan but has been considered to be sustainable having regard to the social, environmental and economic impacts.
  - **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**
  - Although two dwellings cannot be said to significantly boost the supply of housing the impacts arising from this scale of development are not significant. The NPPF sets out that the priority is therefore to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is an appropriate location for two additional dwellings as it is situated adjacent to existing houses within the settlement.
  - Having regard to the Council's 5yr housing land supply position, given that the site has been considered to be sustainable, the balance of considerations rests with the objective

of boosting the supply of housing against the impacts of the development in this location as a site not included in the SAMDev plan. The impacts of the development have been considered acceptable although in order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.

- **Recommendation: That planning permission be granted in accordance with the Planning Committee decision of 11<sup>th</sup> March 2014, subject to an additional condition limiting the outline permission to a period of 12 months**
- 8 **13/04682/OUT Erection of 6no detached dwellings (including 1no affordable unit) with means of access and layout Land north of Jubilee Cottage Harmer Hill Shrewsbury SY4 Considered by Planning Committee on 8<sup>th</sup> April 2014**
- This is considered to be a site where sustainable development can be accommodated within an established residential area.
  - **Development Plan Considerations**
  - The application has been advertised as a departure as it lies outside the development boundary previously set within the North Shropshire Local Plan and would also be outside the proposed development boundary for Harmer Hill within the emerging Site Allocations and Management of Development (SAMDev) document in which Harmer Hill forms part of a Community Cluster with Myddle. Shropshire Council has an adopted Core Strategy and CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD.
  - **How it sits in relation to the emerging SAMDev Plan**
  - Harmer Hill is being promoted to fall within the Community Cluster of Myddle and Harmer Hill where new residential development would be acceptable under the SAMDev plan. The latest proposed figures for infill residential development requested by Myddle and Broughton Parish Council indicate the provision of 50 dwellings during the plan period. Although this application has indicated the provision of 6 dwellings and would fall within this figure the Parish Council has requested that any additional dwellings are provided as individual or small groups of housing as infill development. The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan.
  - **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**
  - The proposed development is adjoining the existing development boundary for Harmer Hill and provides a number of local services including two public houses; a bus service to Wem, Ellesmere and Shrewsbury; a village hall; church; and employment opportunities in a hotel, together with Lea Hall business park (0.9km away). The

development site can be developed to provide a safe means of access, suitable drainage and a layout which could be designed to prevent any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife, whilst no important trees will be lost. The development would be positioned between existing residential properties and would be considered as infill development within Harmer Hill. It is therefore considered that this application will assist in contributing to the five year land supply and that having regard that the development site is adjoining a key sustainable settlement where future residents could access a number of services resulting in a sustainable form of development this application should be considered acceptable in principle against the NPPF.

- Having regard to the Council's 5yr housing land supply position, given that the site has been considered to be sustainable, the balance of considerations rests with the objective of boosting the supply of housing against the impacts of the development in this location as a site not included in the SAMDev plan. The impacts of the development have been considered acceptable although in order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. In addition the agent has confirmed that they have signed the S106 legal agreement which will be held until the decision is made. In addition the agents have received an offer on this land and the prospective purchaser is looking to develop the site as soon as practicable. It is considered therefore that the site will come forward for early delivery. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.
- **Recommendation: That planning permission be granted in accordance with the Planning Committee decision of 8<sup>th</sup> April 2014, subject to an additional condition limiting the outline permission to a period of 12 months.**

**9 13/03846/OUT Outline application (access & scale) for the erection of ten single-storey dwellings; formation of parking area and vehicular access Residential Development South Of Old Mopsis Way Morda Considered by Planning Committee on 6<sup>th</sup> May 2014**

- This is considered to be a site where sustainable development can be accommodated within an established residential area.
- **Development Plan Considerations**
- The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to CS5 of the core strategy
- **How it sits in relation to the emerging SAMDev Plan**
- Morda has expressed a wish to be considered as countryside and not to provide for any new residential development. However, this designation as countryside would only come into effect following the adoption of the SAMDev. The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan. Having regard also to the recent appeal decision it is suggested that the SAMDev plan is not sufficiently advanced.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**
- The site is considered to be a sustainable location on the edge of a village and policy 47 of the National Planning Policy Framework sets a presumption in favour of sustainable development. It is considered that the proposal for 10 bungalows is considered to be an appropriate scale that would relate positively to existing neighbouring development and the proposal would not have any highway safety 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. A recent planning appeal was dismissed solely because the applicant had not produced a signed S106 agreement. The Inspector considered that limiting the development to bungalows would be “in character with adjacent properties and a satisfactory scale of development” and “the development of this site would provide a suitable form of rounding-off between existing residential estates and the open fields beyond”. The Inspector carefully considered all of the representations he received, including traffic, disturbance and access onto Trefonen Road. The Inspector found that, “none of them carried sufficient weight or substance to justify the refusal of planning permission”.
- Having regard to the Council's 5yr housing land supply, there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme. The impacts of the development have been considered acceptable although in order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.
- **Recommendation: That planning permission be granted in accordance with the Planning Committee decision of 6<sup>th</sup> May subject to an additional condition restricting the outline permission to a period of 12 months**

**10. 13/01393/OUT Outline application (to include access) for Use of land for residential development Proposed Residential Development Land East Of Kingfisher Way Morda  
Considered by Planning Committee on 3<sup>rd</sup> June 2014**

- This is considered to be a site where sustainable development can be accommodated and the issues considered in some detail in the original report to Committee.

**Development Plan Considerations**

- The site is located outside of the Morda development boundary as defined by Proposals Map of the Oswestry Borough Local Plan, which remains in effect as a saved policy.
- **How it sits in relation to the emerging SAMDev Plan**

Morda has not been put forward as either a hub or a cluster and as such the Parish wishes to be considered as countryside for the purposes of SAMDev. In such locations

there would typically be a presumption against new residential development. The SAMDev Plan has been submitted for consideration it has yet to go through the process of examination in public and there remain unresolved objections; as such only limited weight can be awarded to the document at this stage.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

Further to the sites consideration at the meeting of 3<sup>rd</sup> June the applicant has reviewed the position regarding access to the site and requests now that consideration be given to the site being accessed solely via Weston Road and that Kingfisher Way will be removed from the application. This change will require additional consultation with Highways Officers and it is therefore recommended that the application be considered subject to no additional highway issues being raised as a result of the revised access proposals. The removal of Kingfisher Way would also avoid the “rat run”, a concern raised by residents. Officers confirmed that in response to a comment made by the Chairman at the meeting of 3<sup>rd</sup> June, both accesses could be used and noted that, on its own, the Weston Road access was suitable. Members were therefore happy with either/or access but requested any reserved matters application to be referred to committee for consideration. The applicant’s agent has confirmed that this site is entirely deliverable and a sale is under negotiation

Having regard to the Council’s 5yr housing land supply, there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme. This scheme would provide 69 dwellings, the location has been considered by Committee to be sustainable and the agent is willing to accept a permission limited to 12 months to promote early delivery.

**That planning permission be granted subject to the decision of Planning Committee of 3<sup>rd</sup> June 2014, no additional objections received to the revised access proposals deleting the Kingfisher Way access and an additional condition limiting the grant of outline planning permission to a period of 12 months**

- 11 14/00462/FUL Erection of 40 dwellings; formation of vehicular access, site landscaping including central open space and infrastructure Land Opposite Sunnyside Off Wrexham Road Whitchurch Considered by Planning Committee on 3rd June 2014**

- The site has been considered to be 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 accord 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.
- **Development Plan Considerations**

The site lies outside the development boundary as set in the North Shropshire Local Plan and as such it has been advertised as a departure and would not normally be supported for development.

- **How the proposal sits in relation to the emerging SAMDev Plan**

The application site is not a preferred allocation in the SAMDev Plan. The proposal needs to be considered in the light of the presumption in favour of sustainable development and against all other policies within the Shropshire Core Strategy. Officers consider that the proposed development of this site for 40 dwellings, on its own or counted with the other sites put forward before SAMDev adoption, would not prejudice the SAMDev or future development of allocated housing sites. The size of the development is not significant when considered against the housing allocation for Shropshire as a whole or even taken against the proposed 1,200 new dwellings for Whitchurch. The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

The development can be provided with appropriate vehicular accesses, internal layout and pedestrian access and will provide connections to the existing public transport and a new bus stop. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity and public open space will be provided which also improves the accessibility and the landscaping of the space around the watercourse. 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.

Having regard to the Council's 5yr housing land supply, there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme.

**Recommendation:- That planning permission be granted subject to the decision of Planning Committee of 3<sup>rd</sup> June**

**12 13/04868/OUT Outline application for the erection of five dwellings and formation of vehicular access (all matters reserved) Development Land East Of Shrewsbury Road Cockshutt Shropshire Considered by Planning Committee on 1<sup>st</sup> July 2014**

- This is considered to be a site where sustainable development can be accommodated and has been considered in some detail in the original report to committee.

- **Development Plan Considerations**

The application site is currently 'countryside' in planning policy terms and is not identified for development in the North Shropshire Local Plan although its policies are now out of date and can be given little weight.

- **How the proposal sits in relation to the emerging SAMDev Plan,**

Cockshutt is identified in SAMDev as a community hub where a potential 50 dwellings have been identified throughout the plan period

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

The proposal is considered to represent a sustainable form of development and the adverse impacts of granting permission for housing would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The proposal would have no adverse environmental or ecological implications and would not impact on highway safety. The existing infrastructure is sufficient to support the proposed development and the proposal will provide local needs affordable housing and will be liable for the required CIL payment It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote 'strong, vibrant and healthy communities'.

Having regard to the Council's 5yr housing land supply position, given that the site has been considered to be sustainable, the balance of considerations rests with the objective of significantly boosting the supply of housing against the impacts of the development in this location. In order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.

### **Recommendation**

**Recommendation:- Grant Permission subject to the decision of 1<sup>st</sup> July and an additional condition to limit the permission to a period of 12 months**

**13 14/00459/OUT Outline application (access only for approval) for mixed residential development; formation of vehicular access and estate roads; associated infrastructure works; Development Land East Of 163 Wrexham Road Whitchurch Considered by Planning Committee on 1<sup>st</sup> July 2014**

- The site has been considered to be 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 accord with national planning policy priorities.

- **Development Plan Considerations**

The site lies outside the development boundary as set in the North Shropshire Local Plan and as such it has been advertised as a departure and would not normally be supported for development.

- **How the proposal sits in relation to the emerging SAMDev Plan**

The application site is not a preferred allocation in the SAMDev Plan. The proposal needs to be considered in the light of the presumption in favour of sustainable development and against all other policies within the Shropshire Core Strategy. Officers consider that the proposed development of this site for 31 dwellings, on its own or counted with the other sites put forward before SAMDev adoption, would not prejudice the SAMDev or future development of allocated housing sites. The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

The development can be provided with appropriate vehicular accesses, internal layout and pedestrian access and will provide connections to the existing public transport. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity. 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.

Having regard to the Council's 5yr housing land supply, there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme. The impacts of the development have been considered acceptable although in order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.

**Recommendation:- That planning permission be granted subject to the decision of Planning Committee of 1<sup>st</sup> July 2014 and an additional condition restricting the permission to a period of 12 months**

**14 13/02217/OUT Outline application for mixed residential development; formation of open space; alterations to existing vehicular access Land On North Side Of Whittington Road Gobowen Oswestry  
Considered by Planning Committee on 1<sup>st</sup> July 2014**

- The site has been considered to be in a sustainable location, on the edge of the existing built development, where it benefits from transport links and the facilities, services and Infrastructure.

- **Development Plan Considerations**



The site is located outside of the Gobowen development boundary as defined by the Proposals Map of the Oswestry Borough Local Plan.

- **How the proposal sits in relation to the emerging SAMDev Plan**

The application site is not a preferred allocation in the SAMDev Plan. The SAMDev Plan has identified Gobowen as a 'Community Hub' as set out under Policy CS4 of the Core Strategy. Gobowen would have future housing growth of about 200 dwellings over the plan period. This includes 110 dwellings being provided on two allocated sites with the remainder provided as infill, groups of houses and conversions. The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

It is considered that the benefits of the scheme of providing affordable dwellings and being located in a sustainable settlement outweigh the harm of being outside of the existing development boundary. A similar stance was taken by the planning inspector for the appeal on the neighbouring site (The Tilings). It is considered that the site can be developed for around 50 dwellings without there being any detrimental impact on amenities of neighbouring occupiers or the safety of highway users, therefore complying with relevant local policy and the requirements of the NPPF.

The applicants agent has confirmed that the S106 agreement has been signed by the applicant. Furthermore a marketing scheme has been prepared for this site in association with the adjoining site at The Tilings (which was approved at Appeal).

Having regard to the Council's 5yr housing land supply, there are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 14, of a presumption in favour of sustainable housing development as exemplified by this scheme. The impacts of the development have been considered acceptable although in order to promote delivery of the scheme it is proposed that the grant of outline planning permission is restricted to one year and a planning condition will be included to this effect. The officer recommendation, having regard to these factors is to therefore to maintain a recommendation for approval.

**Recommendation:- That planning permission be granted subject to the decision of Planning Committee of 29<sup>th</sup> July 2014 and an additional condition restricting the permission to a period of 12 months**

**15 13/04845/FUL Full planning application for mixed residential development of 65 dwellings; formation of new vehicular access and estate roads; associated infrastructure; landscaping and formation of public open spaces at Land West Of Morda Bank, Morda  
Considered by Planning Committee on 1<sup>st</sup> July 2014**

- The site is being put forward for allocation within the forthcoming Shropshire Site Allocations and Management of Development document; it 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.

- **Development Plan Considerations**

The proposed site is located on the edge of Oswestry, as defined by the development boundary within the Oswestry Borough Local Plan, although it is acknowledged that it is within the Oswestry Rural Parish of Morda. It is positioned between existing residential properties to the north and east, on the opposite side of Morda Road and an area to be retained as open space to the south between the site and the main village of Morda. Policy H5 'Larger Settlements' of the Oswestry Borough Local Plan is still a saved policy and indicates that within the larger settlements, including Oswestry Town and Morda, housing development will be permitted on allocated sites, sites with planning permission and on other suitable windfall sites within the development boundaries. The application site lies outside the development boundary and as such the proposed development would not be in accordance with policy H5 and the principle of residential development on this site would be a departure from adopted policy.

- **How the proposal sits in relation to the emerging SAMDev Plan,**

- Oswestry is being promoted in the Site Allocations and Management of Development document (SAMDev) as a Market Town and Key Centre with a development boundary which includes the application site as one of the preferred housing sites for the town. The supporting text in the first draft of the preferred options SAMDev suggests approximately 65 dwellings on the site. The SAMDev submitted to the Planning Inspector retains this allocated site.

- **Whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.**

- The application, as a fully detailed scheme includes details of the layout, scale and appearance and is considered to be appropriate, respecting the existing road frontage, Love Lane and retaining a gap between the development and Morda. Furthermore the development will contribute to affordable housing, infrastructure, not result in harm to the amenities of neighbouring residents, be provided with an appropriate access.
- At the time of the July committee meeting there was one outstanding issue, that being the potential for Great Crested Newts in the pond at the adjacent property, The Cottams. Since the July meeting the applicant's ecologist has been able to assess the pond and take water samples to establish the likelihood of GCN. However, the results of the survey work of the pond within the garden of the neighbouring property were inconclusive and as such it can not be clarified whether GCN use this pond or not. The applicant's consultant considers that as there is no direct impact or loss of the pond there is no direct impact on the habitat of GCN. The Council Ecologist has therefore recommended a method statement be produced to check the hedge and areas suitable for GCN prior to site clearance; to undertake work outside of the hibernation period for GCN; to ensure that contractors are aware of the potential for GCN and be given an

identification sheet; and for contractors to cease work of a GCN or unidentified amphibian is found. The method statement of reasonable avoidance measures and has now been submitted and the Council Ecologist has confirmed that the statement is appropriate and will ensure that, even if GCN use the pond in the adjacent garden, that they are not adversely affected by the development. As such the proposal therefore accords with policies CS6, CS9, CS17 and CS18 of the Shropshire Council Core Strategy and the National Planning Policy Framework

### **Five year land supply considerations**

Having regard to the position regarding land supply, the key points to consider are that the land supply calculation includes a number of sites in SAMDev and brownfield locations yet to be developed. Under delivery on the ground will continue to erode the 5 year land supply figure until such a time as development activity on the ground increases. In principle the site is considered to be sustainable and as a SAMDev allocation this has also been taken into consideration as part of the Council's five year housing land supply calculations. As a full application submitted by a housing developer weight can also be attributed to the deliverability of the site. The officer recommendation, having regard to these factors and the changing balance of considerations in the context of a 5 year housing land supply is to therefore to maintain a recommendation for approval.

### **Recommendation**

**Recommendation:- That Planning Permission be granted in accordance with the Committee decision taken on 1<sup>st</sup> July 2014 with an additional condition relating to ecology as follows:**

*Work shall be carried out strictly in accordance with the Great Crested Newt Method Statement by FPCR dated September 2014*

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

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<u>Committee and Date</u>
North Planning Committee
23 September 2014

<u>Item</u>
17
Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### SCHEDULE OF APPEALS AS AT COMMITTEE 23<sup>rd</sup> SEPTEMBER 2014

#### Appeals Lodged

<b>LPA reference</b>	14/01104/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Enterprise Prospects Ltd
<b>Proposal</b>	Erection of one dwelling
<b>Location</b>	Land Adj. Rednal Manor West Felton Oswestry
<b>Date of appeal</b>	21.08.2014
<b>Appeal method</b>	Written
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/01018/FUL
<b>Appeal against</b>	Planning Condition
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Ajmer Rai
<b>Proposal</b>	Change of use of agricultural land to domestic garden land
<b>Location</b>	Ashford Hall, Knockin
<b>Date of appeal</b>	26.08.2014
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

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