



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

Date: Monday, 9 March 2015

**Committee:
North Planning Committee**

Date: Tuesday, 17 March 2015

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
John Cadwallader
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes
VACANCY

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 252726

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 12)

To confirm the Minutes of the meeting of the North Planning Committee held on 17th February 2015

Contact: Emily Marshall 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 At Lostford Lane, Wollerton, Shropshire (14/04787/VAR) (Pages 13 - 28)

Variation of Condition No.1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans.

6 Alexandra Road, Oswestry, Shropshire, SY11 1LU (14/05473/FUL) (Pages 29 - 48)

Erection of 55 extra care apartments with associated support accommodation and 8 bungalows and associated works.

7 Development Land South Of Aspen Grange, Weston Rhyn, Oswestry, Shropshire (14/01654/OUT) (Pages 49 - 72)

Outline application for residential development (All Matters Reserved).

8 Proposed Residential Development Land East Of Kingfisher Way, Morda, Shropshire (14/05461/VAR) (Pages 73 - 84)

Variation of Condition No. 12 attached to Planning Application No. 13/01393/OUT dated 31st October 2014 to achieve access from Weston Road only.

9 Development Management Report to seek Delegated Authority to Planning Officers (Pages 85 - 88)

Development Management Report to seek Delegated Authority to Planning Officers to reconsider reports previously presented to North Planning Committee for housing schemes of 10 or less dwellings in light of the Ministerial Statement of 28th November 2014 and the decision of Cabinet dated 21st January 2015.

10 Appeals and Appeal Decisions (Pages 89 - 116)

11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 14th April 2015, in the Shrewsbury Room, Shirehall.

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Committee and Date

North Planning Committee

17th March 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 17 February 2015

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

2.00 - 5.20 pm

Responsible Officer: Emily Marshall

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

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Gerald Dakin, Steve Davenport, Pauline Dee, Vince Hunt, David Lloyd, David Minnery and Peggy Mullock

120 Apologies for Absence

There were no apologies for absence.

121 Minutes

That the Minutes of the meeting of the North Planning Committee held on 20th January 2015 be approved as a correct record and signed by the Chairman.

122 Public Question Time

There were no public questions, statements or petitions received.

123 Disclosable Pecuniary Interests

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

Councillor Paul Wynn declared a non-pecuniary interest in relation to planning applications 14/03484/OUT Ash Hall, Ash Magna, Whitchurch as he was an acquaintance of the applicant and 14/03428/OUT, Aston Road and Church Lane, Wem as the applicant had been a Member of North Shropshire District Council, alongside Councillor Wynn.

124 Land North West Brooklands Farm Dudleston Ellesmere (14/02730/MAW)

The Technical Specialist Planning Officer introduced the report, explaining that an appeal against non-determination had been made in respect of the application for a temporary operation for an exploratory borehole and associated infrastructure, and

therefore a decision would be made by the Planning Inspectorate. The Committee were therefore asked to confirm what decision it would have made on the application, had the appeal against non-determination not been lodged. The North Planning Committee had previously considered the application at its meeting on 24th October, at which they were minded to refuse the application.

Chris Hesketh, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- His objections were legitimate and plan based, they focused on four specific areas;
 - 1) The Slurry Lagoon – the risk of damage to the Slurry Lagoon needed proper assessment;
 - 2) Sound Levels – the noise limit should be 40dB;
 - 3) Contamination of natural drinking water supplies that were present within close proximity to the site;
 - 4) The detrimental effect on a legally protected hedgerow; and
- It was clear that that the application was not in the best interests of the public or the County.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Steve Davenport, as local Ward Councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Members had educated themselves on the issues surrounding the application; and
- He urged the Committee to reaffirm the decision to refuse the application for the benefit of Shropshire.

Having considered the submitted plans, the majority of Members present expressed their objection to the application.

RESOLVED:

- 1) That had the decision still been before the Council, that planning permission be refused for the following reasons:

The application would be contrary to Core Strategy Policies CS6 and CS18 as it:-

- Had not been adequately demonstrated that the proposed development can be undertaken without adverse impact upon residential and local amenity due to the disturbance from noise emissions.
- Had not been adequately demonstrated that the proposed development would not have an unacceptable impact upon private water supplies in the area through contamination or damage resulting from site preparation, drilling and

restoration operations, and the passing of vehicles across the site and access track

- Had not been adequately demonstrated that the proposed development, including the preparation of the site and subsequent reinstatement, can be undertaken without causing pollution of groundwater and surface water from the failure of the slurry lagoon caused by damage resulting from the number, frequency and type of vehicles travelling past it
 - Is considered that the benefits of the proposed scheme, in establishing the characteristics of the underlying coal measures, would not outweigh the potential harm to the area as set out above.
- 2) That the Council's statement of case for the appeal against non-determination is predicated on the issues as set out in section 2.4 of the Planning Officers report.

125 Land at Brookmill, Hampton Wood, Ellesmere (14/02078/FUL)

The Principal Planning Officer introduced the application for the construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use. It was explained that the application had been considered at the previous meeting held on 20th January 2015 at which Members had been minded to refuse Planning Permission due to concerns in relation to the visual impact of the proposed development and the viability of the enterprise. Further information had been provided within the officer's report which sought to address the concerns raised at the previous meeting. The officer's report recommended approval of the application.

The Principal Planning Officer drew member's attention to the Schedule of Additional Letters, which contained the report by Reading Agricultural Consultants, which had previously be circulated to Members of the Planning Committee.

Mr Leslie Smith, planning agent on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The late submission of the Reading Agricultural report had prejudiced the decision making process and urged the Committee to refuse or defer the application; and
- If the Committee were minded to approve the application the Conditions 7 and 11 should be amended to comply with Shropshire Core Strategy Policy CS6.

Councillor Chris Symes, Welshampton & Lyneal Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The poaching of the site was not being given proper consideration;
- The site was wet all year round; and
- Even if the land were of good quality and did not have the problems referred to, it would struggle to be big enough to support an equine business of the size proposed.

Mrs Kelsey, the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- There were no current objections from any of the statutory consultees;
- The business had been profitable for two years, bred competition horses for international clients and held a strong client base, all of which proved the sustainability of the business;
- That the poaching and visual impact would be limited once the stables were erected; and
- Many letters of support had been received.

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

- The proposed development was not diversifying the rural economy;
- The proposals did not meet local need; and
- The proposals did not meet Policies CS5 and CS6 of the Shropshire Core Strategy and for this reason should be refused.

Having considered the submitted plans and given consideration to the independent report by Reading Agricultural Consultants, which addressed many of the Committee's original concerns, the majority of Members supported the Officer's recommendation, subject to additional conditions in relation to the electricity generator and the mobile field shelters.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendations, subject to the conditions set out in Appendix 1 and additional conditions relating to the insulation of the onsite electricity generator and the details of the mobile field shelters to be submitted before being brought on site.

126 Proposed Residential Development South of Ash Hall, Ash Magna, Whitchurch (14/03484/OUT)

The Principal Planning Officer introduced the outline application (access for approval) for residential development (some affordable housing) and associated amenity space.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Gerald Dakin, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He was pleased to see the site had come forward for development; and
- The development met the criteria for sustainable development.

Having considered the submitted plans, the Committee unanimously expressed their support for the proposals.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, 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.

127 Land South of 54 Red Bank Road, Market Drayton (14/03759/FUL)

The Principal Planning Officer introduced the application for the erection of a pair of semi-detached dwellings.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Minnery, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He had received no objections in relation to the site; and
- An application had previously been approved on the site.

Having considered the submitted plans, the Committee unanimously expressed their support for the proposals.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation, subject to the applicant entering into a S106 agreement to secure an affordable housing contribution and subject to the conditions set out in Appendix 1.

128 Land Off A49 Hadnall, Shropshire (14/03995/OUT)

The Principal Planning Officer introduced the outline application (access for approval) for residential development of up to forty dwellings, the provision of public open space and car park and restoration of the moat (amended description) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding

area. The Principal Planning Officer drew Members' attention to the Schedule of Additional Letters.

Jane Whittaker, Clerk to Hadnall Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The cumulative impact of this and other developments within Hadnall should be taken into account.
- The highways infrastructure was not adequate to accommodate an additional development;
- If the application were granted, the Parish Council requested that consideration be given to providing four way traffic lights at Station Road/A49 Junctions and a controlled pedestrian crossing; and
- Questioned whether the restoration of the moat be funded by the developer.

Helen Howie, Agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The development met the NPPF definition of a sustainable settlement;
- The development would deliver significant community benefits;
- In a Parish Council Survey undertaken in 2013, almost half of the respondents indicated that they wanted Hadnall to be designated as a Community Hub in SAMDev; and
- The development would improve vehicle safety, create significant amounts of public open space and would fund the restoration of the moat.

The Chairman read out representations made by Councillor Simon Jones as the Local Member, in support of the objections made by Hadnall Parish Council.

During the ensuing debate, the concerns expressed by the Parish Council and local member in relation to the cumulative impact of the development and in relation to highways safety, were acknowledged and it was questioned whether additional conditions in relation to Highways Safety might be appropriate. In response the Council's Solicitor advised that in this instance it would not be reasonable or necessary to place additional conditions in this respect as the problems referred to by Members were pre-existing and not directly caused by the proposed development. Members were reminded that Shropshire Council's Highways were satisfied with the proposals, however the Committee's concerns could be raised with Highways and the Parish Council.

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

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation, subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant affordable housing contribution at the time of the

reserved matters application and the restoration and future maintenance of the moated site.

129 Proposed Residential Development Land Between Aston Road And Church Lane Wem (14/03428/OUT)

The Principal Planning Officer introduced the outline application for the erection of 50 no. dwellings (to include access), confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer drew Members' attention to the information contained within the Schedule of Additional Letters.

Dr Leonard Staines, a local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The volume of traffic that would be generated by the development could not be accommodated on the existing roads;
- Amended plans meant that there would only be one road to the development and all traffic leaving would have to reach the A49; and
- An adequate road structure was critical to future residents.

Amy Henson, agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The town provided a significant range of facilities and had excellent public transport links, therefore the proposed site was highly sustainable;
- No objections had been received from Highways;
- Network Rail had confirmed that they had no objections to the proposal;
- Five affordable houses would be provided on site; and
- The proposed development meets the criteria in the NPPF.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Pauline Dee, as local Ward Councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- Concerns that the town would be cut in to two by the potential future closure of the level crossing;
- HGV movements from nearby Industrial Estates should be considered; and
- The concerns of her local constituents were highlighted, these included flooding, the scale of the development, the development being outside the development boundary and the safety of the level crossing.

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

- The cumulative impact on the town of Wem should be considered;
- There was no support within the local community for this development;
- The local school and medical centre had reached capacity; and
- There were similarities between this application and one that had been refused in December 2014 and this created a precedent for future applications.

Having considered the submitted plans for the development, the majority of Members' felt that whilst the concerns of local residents and the Town Council were relevant, the site was considered sustainable, as set out in the NPPF and would boost the Council's housing land supply.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation, subject to the applicants entering into a S106 agreement to secure affordable housing and a financial contribution towards investigating and implementation of changes to the traffic management in the area of the railway crossing and subject to the conditions set out in Appendix 1 and an additional condition to secure the implementation of a phased programme of archaeological work.

130 Development Land East Of Wem Road Shawbury (14/04558/OUT)

The Principal Planning Officer, introduced the outline application (access for approval) for mixed residential development, drawing Members attention to the Schedule of Additional Letters and confirming that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

The Chairman read out a statement from Councillor Simon Jones, who supported the Parish Council's objections to the application.

Justin Stevenson, the agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The proposed development would provide benefits to the local community, businesses and services and Community Infrastructure Levy (CIL) money would be spent locally;
- Three affordable units would be provided;
- Protected species had been carefully considered throughout the application process; and

- The development would help to sustain local services within Shropshire and boost the housing supply.

RESOLVED:

That the Area Planning Manager/Principal Planning Officer be granted delegated powers to issue outline planning permission subject to:

- No defensible objections being received from Public Protection or MOD on receipt of an additional Noise Survey;
- The applicants entering into a S106 agreement to secure affordable housing and;
- The conditions set out in Appendix 1.

131 Land On Runway At Twemlows Hall Higher Heath Whitchurch (14/03957/FUL)

The Technical Specialist Planning Officer, introduced the application for the formation of solar farm, drawing Members attention to the Schedule of Additional Letters and an additional email of objection.

Lesley Watson, a local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The site was 100 metres away from the A41 and therefore too close to the road;
- The A41 was very fast moving and the Solar Farm would be a distraction to drivers along this road;
- Landscaping would take time to establish; and
- She was surprised that the Parish Council had withdrawn their original application.

Mr Edward Matson, the applicant spoke in support of the proposals in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which a number of points were raised including the following:

- The application had been made in attempt to maintain the family business and to diversify;
- The solar panels used would be low lying and would be well screened with trees and hedgerows to reduce the visual impact;
- The application had the support of Natural England and Butterfly Conservation; and
- The applicants had worked closely with the Parachute Club.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Gerald Dakin, as local Ward Councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Discussions with the British Parachute Association and Tilstock Parachute Club had been positive;
- He was confident that the steps that would be taken to reduce visual impact would be very effective;
- He was pleased to note that Vogt Solar had confirmed that the Parachute Club would still be able to operate; and
- The proposed solar farm would secure a renewable energy supply for the future and was situated in an ideal location.

Following concerns expressed by the Committee in response to points made by the public speaker in relation to highways safety, the Planning Officer confirmed that the solar farm would be very well screened and provided detail on the proposed planning scheme and the height of the fencing.

RESOLVED:

That planning permission be granted in accordance with the Officers recommendation and subject to the conditions set out in Appendix 1.

132 Land At Lostford Lane, Wollerton (14/04787/VAR)

The Principal Planning Officer introduced the application for a variation of Condition No. 1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans.

Hannah Twells, the agent for the applicant spoke against the proposals in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which a number of points were raised including the following:

- The dimensions of the approved plans still fell short of the Inspectors spacing requirements for livestock;
- The building is more agricultural in character; and
- Confirmed that all livestock were produced for food rather than being bred for shooting.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Karen Calder addressed the Committee as the Local Member, during which a number of point were raised including the following:

- The cumulative effect on the dimensions was outlined, and it was explained that the building was 38% higher and there was a 20% increase in capacity;
- To approve the variation would result in a slow creep towards what was originally refused by the Committee and by the Inspector;
- Questioned whether the birds were being reared for food or for shooting; and
- The proposals was contrary to Policies CS5 and CS6 of the Shropshire Core Strategy.

During the ensuing debate, it was proposed and seconded that the Officer's recommendations to grant permission be approved. However, upon being put to the vote the proposal was not carried.

Having considered the submitted plans, the majority of Members present expressed concern in relation to the design, scale and appearance of the proposed agricultural building and for these reasons considered the variation to be contrary to Core Strategy Policies CS5 and CS6.

RESOLVED:

Members were minded to refuse Permission against the Officer's recommendation.

The Committee raised concerns in relation to the design, scale and appearance of the proposed agricultural building and therefore it was considered contrary to Core Strategy Policies CS5 and CS6.

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

Councillor David Minnery left the meeting at this point.

133 Land off GreenFields Lane, Market Drayton (14/03782/OUT)

The Principal Planning Officer introduced the report, which sought to clarify the wording of a Condition that had been proposed at the meeting held in November 2014.

RESOLVED:

That the wording of the additional condition previously agreed on 17th November 2015, be approved in accordance with the Officer's recommendation, to read:

Prior to the commencement of the development, including any works of demolition, a Construction Traffic Statement shall have been submitted to, and approved in writing by, the local planning authority. The Statement shall restrict the use of Hampton Drive for construction traffic to the construction of the first 50 dwellings only and shall show alternative means of construction traffic access for development beyond the first 50 dwellings. The approved Statement shall be adhered to throughout the construction period.

134 Appeals and Appeal Decisions

RESOLVED:

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

135 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 17th March 2015 in the Shrewsbury Room, Shirehall.

Signed (Chairman)

Date:



Committee and Date
 North Planning Committee
 17 March 2015

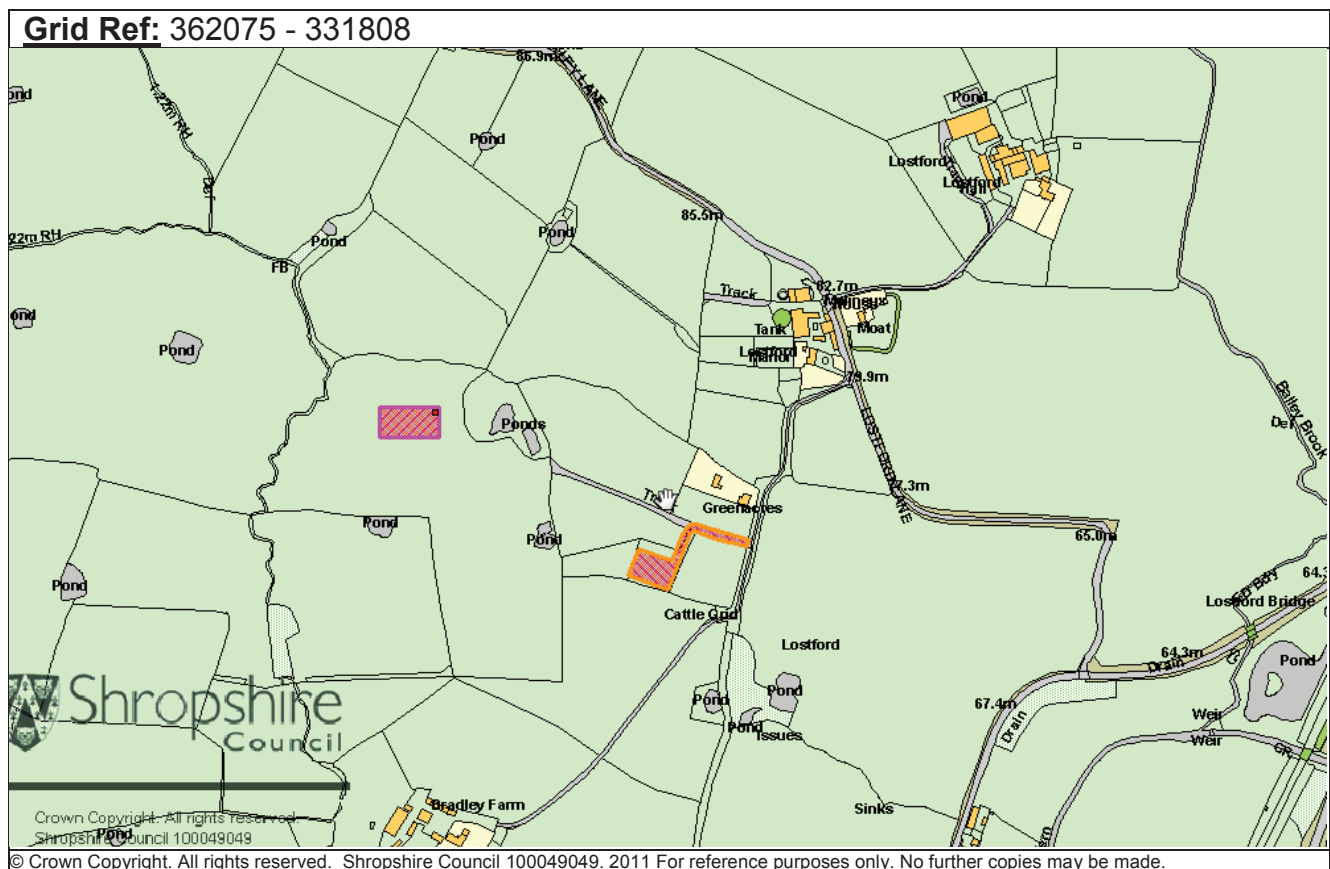
Item
5
 Public

Development Management Report

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

Summary of Application

Application Number: 14/04787/VAR	Parish:	Hodnet
Proposal: Variation of Condition No.1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans		
Site Address: Land At Lostford Lane Wollerton Shropshire		
Applicant: Cheshire Game Supplies		
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk	



Recommendation:- Taking account of the concerns raised by members in January further information has been provided and as such officers continue to recommend that permission be granted subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This report is an addendum to the report presented to members in February 2015 which detailed the proposal for variation of condition 1 (approved plans) attached to planning permission 11/04429/FUL that was granted on appeal on the 2nd January 2013. The variation relates to the size and cladding of the agricultural building and the duck and geese sheds. The works have already been commenced and therefore development is for retrospective approval.

The site at Lostford comprises 30.5 acres of land which is owned and occupied by the applicant. He has a further 17.5 acres of land that is rented at The Tumps in Lower Heath and 6.5 acres of land at Sandford. His business includes duck, geese and pheasant rearing as well as managing cattle and sheep. He currently has a stock of 12 head of beef cattle and a flock of 111 breeding ewes.

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

- Concern in relation to the design, scale and appearance of the proposed agricultural building.

Matters for Consideration

- **Design, scale and appearance of the proposed agricultural building.**

2.0 Design, Scale and Appearance

2.1 The application is considered in the light of the National Planning Policy Framework (NPPF) which replaced the majority of national policy statements and guidance including Planning Policy Statement 7 (PPS7), Sustainable Development in Rural Areas.

2.2 Part 11 of the framework relates to: Conserving and enhancing the natural environment and is relevant to the consideration of the application. This states that the planning system should contribute to and enhance the natural and local environment by way of a number of measures including the protection and enhancement of valued landscapes, geological conservation interests and soils and wider benefits of ecosystem services. It requires that impacts on biodiversity are minimised, the avoidance of unacceptable levels of soil, air, water or noise pollution or land instability; to wider ecological networks.'

2.3 Part 3 of the NPPF also supports economic growth in rural areas and in particular cites the promotion of development and diversification of agricultural and other land-based rural businesses.

2.4 Under the council's adopted core strategy policy CS5 'Countryside and Green

Belt' planning seeks to allow for agricultural related development although proposals for large scale new development needs to demonstrate that there are no unacceptable adverse environmental impacts.

- 2.5 Also CS6 'Sustainable Design and Development Principles' seeks to ensure that all development Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate.
- 2.6 Statements have been provided by the applicant and agent that demonstrate that although the previously approved building was acceptable, there is a justified need for the increased size building in operating the agricultural unit. The amount of use will vary through out the year depending on the activities of the particular season. The statement indicates that the building will be used for the repair and cleaning out of the duck and geese pens from the site; the storage of feed for ducks and geese reared on the site; the storage of haylage and straw that is produced by the applicant. The applicant is self-sufficient in forage and bedding for his cattle and sheep. The building will also be used to house his cattle during the winter months (October to March) and to house his sheep during the lambing season (January to April). As is apparent from the above there will be multiple uses being carried out at the same time. In addition information has been provided regarding the Welfare of Farmed Animals (England) Regulations 2007. For example sheep with lambs at foot required 2.2 sq metres of floor space each and therefore an area of approximately 244 sq metres will be required between January and March to accommodate the sheep only. Further space will be required for the associated lambing equipment. The area allocated for sheep equates to approximately 218 sq metres which is lower than the regulations require on the basis that the number of sheep and lambs will fluctuate during the months of January to March. The cattle will require approximately 41 sq metres during the months of November and March with additional space required for feeding, watering and for management of the herd. This leaves one to two bays to be used for the storage of fodder, haylage, straw, sundries, agricultural machinery, repairs and cleaning of the duck and geese pens as well as access to the sheep pens.
- 2.7 Although a smaller building was the subject of the previous planning application and was approved on appeal, it can not be assumed that had a larger building been applied for it would have been refused consent. There are examples of other applications within Hodnet Parish where agricultural buildings of similar size have been approved. Therefore whilst there is opposition to the proposed scale, other applications within North Shropshire for such buildings have been approved of this scale for holdings of this size. In particular given, that it will have a multi-functional use within the agricultural unit, it is officers opinion that there is justification for the size of the building now proposed.
- 2.8 Externally the building is to be partially clad with concrete panels and to have the Yorkshire boarding above, the roof is to be clad in fibre cement sheeting. Both the timber and the fibre cement sheeting will weather and over time and it is officer opinion that it will blend more readily with rural landscape as opposed to the previously approved metal profile cladding that was approved under the appeal.

The use of concrete panels with Yorkshire boarding above is common practice where animals are to be housed as it provides the appropriate ventilation and security that is required for livestock.

2.9 Photographs have been taken by the Case Officer of the site from viewpoints around the area to demonstrate the visual impact in the landscape of the building. In addition the applicant has provided elevation and floor plan overlays to demonstrate the differences between the size of that approved and that which is now applied for. All of this information has been made available on the Council website and will also be presented to members at the committee meeting.

2.10 Members are also requested to consider that in addition to the use of more appropriate materials for the building, the applicant has agreed to plant trees along the western boundary of the track that serves the farm in order to soften the impact of the building in the landscape. Furthermore the building as approved would also have been visible in the landscape and therefore Councillors are requested to consider whether the visual impact of the larger, more appropriately clad building would be any more visually intrusive than that previously approved.

3.0 Other Matters

3.1 A letter of representation was received too late to be considered by Members at the meeting on the 17th February 2015.

3.2 A concern is raised that despite points being raised in letters by local residents the issues are not answered. Due to the level of correspondence that is received in connection with planning applications it is not possible to respond to individual questions raised. However the report that is prepared by the Case Officer will cover the issues raised, where these are relevant to the application.

3.3 This application is not dealing with the principle of the buildings being on the site as this was accepted with the appeal approval. This application is only looking to vary condition 1 attached to the planning permission granted at appeal with all the other conditions remaining in force. This condition deals with the approved plans for the buildings to be constructed on the site. Therefore other issues cannot be considered as part of the current application.

3.4 As such the issues regarding highway passing places is not for consideration. The original appeal decision does not require passing places to be provided. Conditions were included on the original decision to deal with the issues of Great Crested Newts and these have been complied with.

3.5 The visual impact of the buildings has been detailed within the original report and in this Addendum. All other issues regarding the number of birds, the restriction on distance to the bank of ponds etc that have covered by conditions attached remain in place.

Development Management Report

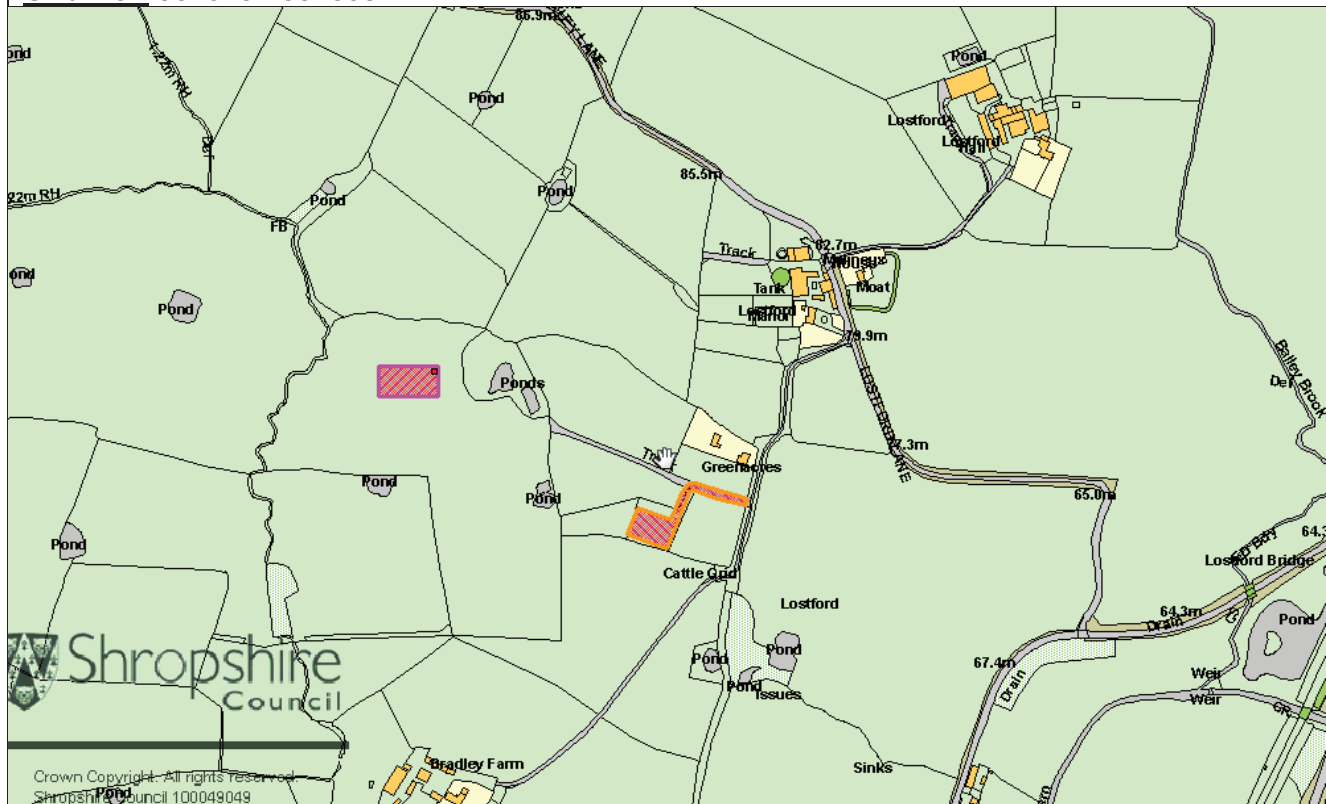
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04787/VAR	Parish: Hodnet
Proposal: Variation of Condition No.1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans	
Site Address: Land At Lostford Lane Wollerton Shropshire	
Applicant: Cheshire Game Supplies	
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk

Grid Ref: 362075 - 331808



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission to vary condition 1 (approved plans) attached to planning permission 11/04429/FUL that was granted on appeal on the 2nd January 2013. The variation relate to the size and cladding of the agricultural building and the duck and geese sheds. The works have already been commenced and therefore development is for retrospective approval.
- 1.2 The planning permission allowed for an agricultural building measuring 30.48 metres x 12.192 metres with a height to ridge of 5.892 metres. It is proposed with this application that the agricultural building will measure 32.3 metres by 15.826 metres with a maximum height to ridge of 6.413 metres. The original sizes of the bird sheds were 5 buildings of 7.315 metres by 5.486 metres with a maximum height of 2.787 metres. The proposed bird sheds will be 20 buildings 3.05 metres by 3.66 metres with a height of 1.88 metres with and 3 buildings 2.44 metres x 2.44 metres and 1.52 metres high.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site forms part of a larger holding of four fields totalling 10.96 hectares and is within an area of open countryside where there is a sporadic scattering of residential dwellings, farms and equine facilities. The site originally consisted of five adjoining fields which are defined by a mix of hedgerows, post and wire fences and mature trees. Only one of the four fields is proposed to be used for the pens which will occasionally be relocated within that field. The first field, which lies closest to the road, would have the access track and storage building. Within the wider land ownership there are two small ponds and another two lie immediately outside the applicants ownership. Some of these are known to contain great crested newts.
- 2.2 The nearest dwelling to the site is Greenacres, a bungalow adjacent to the access track that formed part of the proposal. Other dwellings in the vicinity are Bradeley Farm to the south of the site, and Lostford Manor Farm to the north east. There are a number of dwellings to the north and north east of the site
- 2.3 The nearest settlement as identified in the Council's Settlement Strategy (Policy G1 of the adopted Local Plan – see Appendix 1 to this Statement) is Hodnet which lies approximately 3.5 km away.
- 2.4 The site is set within an area characterised by large open fields and sporadic development. The fields are marked by hedgerows of varying quality, some post and rail fencing and some trees. The trees are mainly mature or over-mature and parts of the hedgerow have not been managed and therefore present an open structure. Views of nearby properties are readily available from within the site and the reverse is equally true due to the gentle changes in contours around the site.
- 2.5 The Shropshire Landscape Typology 2006 identifies this area as lying within or on the edge of the Principal Settled Farmlands. The Key characteristics of this landscape type are:
- Mixed farming land-use

- Varied pattern of sub-regular, hedged fields
The area has a mix of clusters of houses and farmsteads set in open countryside with labourers cottages set along the roadside. Furthermore, the site is visible from a public footpath and a road.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications requested to be referred, by the Local Member, to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman to be based on material planning reasons. A Practice Note is available in relation to “material planning considerations”.

Cllr Calder requested that if this application were to be recommended for approval that it should be considered by the Planning Committee as the planning permission was granted by the Inspector with specific conditions in place. The floor area of the storage shed is, according to this new application, exactly 50% larger than that for which consent was secured.

The storage building is 523mm higher than that permitted and thus significantly more visible from, for instance, Lostford junction of Hodnet By-pass.

The building is built of corrugated asbestos roof and concrete panel walls, whereas the consent specified plastic coated box section steel.

This request has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

4.1 Consultee Comments

4.1.1 **Highways Development Control:** No objection

4.1.2 **Drainage:** No objection. However confirmation of the revised drainage area of the portal shed is required.

4.1.3 **Natural England:** No comment.

4.1.4 **Rights of Way:** No objection.

4.1.5 **Hodnet Parish Council:** Cheshire Game Farms have not met the terms of their successful application in the size and scope of the permitted development neither have they carried out the accompanying measures to mitigate that development as listed by the Planning Inspector. Hodnet Parish Council opposed the original development and object to this variation. Further we would remind the planning officers that Cheshire Game Supplies are breaking the terms of permission by rearing birds for shooting - the appeal Inspector granted permission for the rearing of ducks because that is "agriculture", whereas the rearing of game birds is as deemed "industry". It is imperative that the applicant meet the terms laid out by the Planning Inspector.

4.2 **Public Comments**

4.2.1 13 Letters of representation have been received in connection with the application. The areas of concern relate to:

- Failure by the applicant to discharge conditions previously imposed.
- The development shows a flagrant disregard for planning regulations and should be refused and the conditions enforced.
- The justification for changing the approved buildings is not acceptable.
- At the appeal the approved scheme was described as being appropriate for the business. There is no justification for a larger building.
- The full impact of the development on the countryside should be given consideration.
- The storage building, bird sheds and pens are a significant increase over the original approval.
- The development is visually a major scar on the landscape and increasing the size of the buildings has increased this impact.
- The increase in the floor space of the building will cause an increase in the number of birds and therefore the flies, odour and run-off.
- The external cladding of the storage building is more industrial and therefore detrimental to the rural surroundings.
- Policy CS5 of the Shropshire Core Strategy protects the countryside from unnecessary development
- The increase in the sizes of the buildings will cause more traffic to be generated to the detriment of other road users.

5.0 **THE MAIN ISSUES**

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Ecology
- Drainage

6.0 **OFFICER APPRAISAL**

6.1 **Policy & Principle of Development**

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

6.1.2 Para 28 of the NPPF supports the principle of a prosperous rural economy including the sustainable growth and expansion of all types of business and enterprise in rural areas. Within the NPPF paras 109 to 125 deal with the issue of

the impact of development on the natural environment. It requires development to protect and enhance the natural environment.

- 6.1.3 Policy CS13 in the Shropshire Core Strategy supports the principle of economic development within rural areas recognising the continued importance of farming for food production. This is provided the development accords with the principles contained in policy CS5.
- 6.1.4 The issues regarding the design, scale and other material planning considerations will be discussed further within this report.

6.2 **Design, Scale and Character**

- 6.2.1 Policy CS5 'Countryside and Green Belt' of the Shropshire Core Strategy Policy requires that new development in the countryside be strictly controlled. It identifies that agricultural related development, although it may be large scale, will be required to demonstrate that there are no unacceptable adverse environmental impacts. CS6 'Sustainable Design and Development Principles' 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.
- 6.2.2 Concerns have been received regarding the scale and external appearance of the building and the pens. It is considered by local residents and the Parish Council that the larger building and the increase in the number of pens has a detrimental impact on the rural landscape of the area. There is further concern that at the appeal the previously approved buildings were considered large enough for the business and there is insufficient to warrant the changes.
- 6.2.3 In the appeal in 2013 the issue of the size of the agricultural building and the pens was considered by the Inspector. Evidence submitted at the time indicated that the sizes were the minimum to allow the agricultural business to operate.
- 6.2.4 The approved agricultural building measured 30.48 metres x 12.19 metres with an eaves height of 3.95 metres and a ridge height of 5.89 metres. Externally the building was to have been clad in slate blue coloured box profile cladding to its roof and walls. Two roller shutter doors were included, one at each end of the northern elevation.
- 6.2.5 As built the building measures 32.2 metres x 15.85 metres with a height to eaves of 3.94 metres and a ridge of 6.4 metres. This represents an approximate increase of 38% in the floor area of the building. The height will also be increased by approximately 0.6 metres. Externally the walls will be part clad in slate blue box profile sheeting, part Yorkshire boarding and part pre-cast concrete panels. Part of the northern elevation and the western elevation will remain open. Doors will be included on the western and eastern elevations. The roof is clad in anthracite grey cement fibre sheeting.

- 6.2.5 When submitted the justification given for the change in the sizes of the approved buildings was due to an incorrect order being made for the agricultural building, and the smaller pens for the geese and ducks being more readily available given the timescales available to the applicant. Further justification regarding the size of the building has been submitted regarding the agricultural building. This states that the agricultural business not only includes the ducks and geese but also sheep and cattle and that the building will be required to house them at various times of the year. The building will also need to accommodate agricultural equipment, feed and bedding.
- 6.2.6 Whilst the external materials have changed, these are not uncommon materials used in agricultural buildings. Yorkshire boarding over concrete panels is regularly used in buildings that will house livestock as it provides the shelter, air and protection required for animals. The anthracite coloured roof is also a regularly used material in agricultural buildings as particularly in the UK climate the colour blends better with the natural surroundings.
- 6.2.7 The proposed duck and geese pens have been changed to 20 triangular prisms which are much smaller in their cubic capacity. As a result more of these are required to accommodate the same number of birds. Each of the prisms measures 3.05 metres by 3.66 metres with a height of 1.88 metres and externally is coloured green and three wooden sheds measuring 2.44 metres by 2.44 metres with a height ridge of 1.52 metres. The previous approval comprised five wooden sheds measuring 7.315 metres by 5.486 long by 2.796 metres high.
- 6.2.8 It is acknowledged that the proposal increases the size of the agricultural shed and the number of duck and geese structures and as such would make them more visible in the landscape than those previously approved. However, officers do not consider that this additional visual impact would result in significant material harm to the landscape. The materials and their colour are similar to many other agricultural buildings within the County and will ensure that the proposal has minimal visual impact and there is justification which demonstrates the building size is appropriate for the agricultural business.
- 6.2.9 In addition the applicant has provided a plan outlining a proposed scheme of landscaping. Whilst it is appreciated that this will not completely screen the agricultural shed from view, it will further soften the visual impact of it in the landscape.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The nearest dwelling to the application site is located to the north east of the agricultural building. This is a detached dwelling which has outbuildings typical of a rural location. At approximately 90 metres from the agricultural shed and given the orientation of the development, this would be too far from the development to have an impact on the residential amenities enjoyed.

6.4 Ecology

- 6.4.1 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. Therefore a consultation has been sent to the Council's Ecologist.
- 6.4.2 The application has been supported with plans to show the position of the duck and geese pens. These demonstrate that the pens can be located within the parameters set out in the original planning application to protect the local great crested newt populations. Although the opinion of the Ecologist is awaited at the time of writing this report it is the opinion of the Case Officer that had this been a potential issue the Planning Inspector would not have allowed the pens and sheds to be within 50 metres of their location.
- 6.4.3 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.

6.5 Drainage

- 6.5.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.5.2 The development has been assessed by the Council's Drainage Engineer. No objection has been raised to the scheme however they require confirmation that the installed soakaway drainage system has sufficient capacity.
- 6.5.3 As there is land available to the applicant to ensure that an appropriate system is installed a condition will be included on any planning permission that may be granted requiring full details to be submitted to the Local Planning Authority for approval. The approved scheme shall be installed within three months of the date of planning permission being granted.
- 6.5.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

6.6 Other Matters

- 6.6.1 It is alleged by local residents that the applicant has failed to comply with conditions attached to the original planning permission. This should be used as a reason to refuse any further applications. Apart from the change to the structures that have been constructed, all other conditions appear to have where necessary been discharged and complied with. Whilst it may be of concern to local residents, this is not a material planning consideration that can influence a recommendation.
- 6.6.2 Concerns have been expressed that the larger building will encourage more vehicle movements to the detriment of highway safety. The access drive to the site only serves Bradley Farm and Greenacres. The applicant has no planning restriction on how many vehicles and their type that can use this drive or the land.

The erection of the building to store agricultural vehicles would not necessarily increase the amount of traffic using the premises or the driveway over and above that currently experienced.

- 6.6.3 Both the Parish Council and local objectors have raised concern that the applicant is raising game birds and not ducks and geese. However at the time of the officer site visit the pens were erected but not stocked and the Council have not been provided with any evidence to show non-compliance with the condition. Should this become an issue the Council will be able to take enforcement action but it is not a matter for this application which is proposed to be approved with the same conditions as the appeal decision.

7.0 CONCLUSION

- 7.1 It is appreciated that the buildings are different to those previously proposed and in the case of the agricultural shed significantly bigger. However on balance the increase would not necessarily make them more visually intrusive in the rural landscape. The proposed materials and the size of the agricultural shed are similar to other agricultural buildings within Shropshire and the colours generally minimise their visual impact. The extra landscaping proposed will further soften the impact of the building. The proposed duck and geese sheds, although there are more of them, will only contain the same number of birds as limited by the condition imposed on the original planning permission. Their smaller scale will not have any more impact on the character of the area than the previously approved fewer, but larger buildings.

It is the opinion of officers that the amended scheme has no further detrimental impact on the character and appearance of the rural landscape than the previous approval. As such the proposal is considered to be in accordance with the NPPF and policies CS5, CS6, CS13, CS17 and CS18 of the Shropshire Core Strategy.

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - 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 six weeks after the grounds to make the claim first arose 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:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS13 - Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management

Relevant planning history:

09/70036/FUL Change of use of land from agricultural for the rearing of game birds, erection of bird rearing pens/ runs and erection of associated storage building with creation of access REFUSE 15th September 2009

09/03052/FUL Erection of temporary seasonal rearing pens and outdoor runs; formation of access track to include change of use of land REFUSE 19th August 2010

11/04429/FUL Erection of an agricultural storage building and 5 no. wooden sheds for livestock; retention of hardcore track and hardstanding REFUSE 1st June 2012

Appeal

09/01611/REF Change of use of land from agricultural for the rearing of game birds, erection of bird rearing pens/ runs and erection of associated storage building with creation of access DISMIS 20th September 2010

Appeal

12/01984/REF Erection of an agricultural storage building and 5 no. wooden sheds for livestock; retention of hardcore track and hardstanding ALLOW 2nd January 2013

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Karen Calder
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions**

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

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

2. The duck and geese sheds shall not at any time be sited within 50 metres of the top of the bank of any pond.
 3. The duck and geese sheds shall not at any time be sited within 50 metres of the top of the bank of any pond.
 4. The hibernacula, setaside areas and fencing shall be maintained as shown in the approved details drawing SA12603/02 revision B received on the 17th May 2013.
.
 5. The development shall be carried out and used in full accordance with the recommendations of the Method Statement (Shropshire Wildlife Surveys, March 2012) and the Great Crested Newt, Habitat Improvement and Management Plan (Shropshire Wildlife Surveys, March 2012).
 6. 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) no external lighting shall be installed within any part of the site.
 7. The agricultural storage building shall not be brought into use until soakaways have been provided in accordance with details to be submitted to and approved in writing by the local planning authority.
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Committee and Date

North Planning Committee

17 March 2015

Item

6

Public

Development Management Report

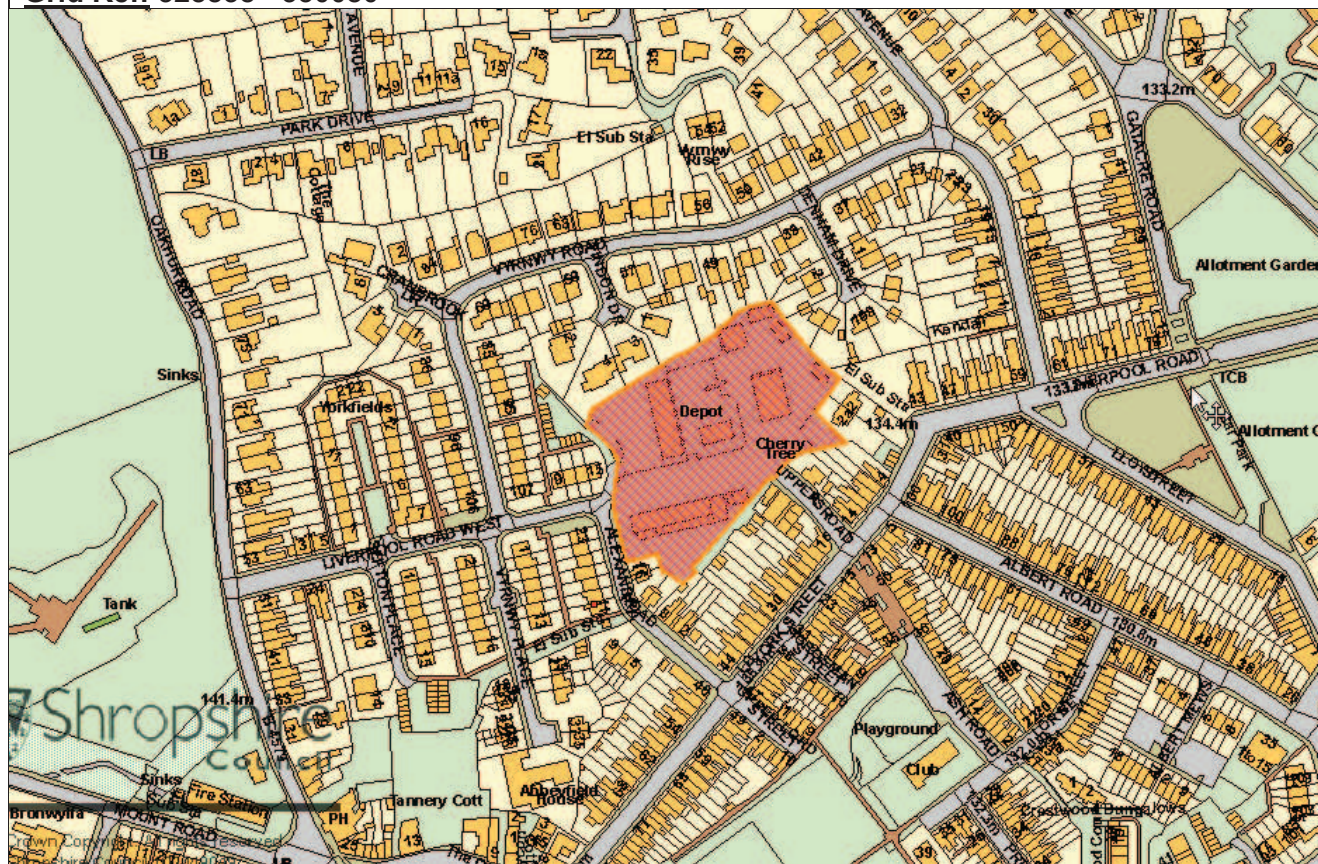
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/05473/FUL	Parish: Oswestry Town
Proposal: Erection of 55 extra care apartments with associated support accommodation and 8 bungalows and associated works	
Site Address: Alexandra Road Oswestry Shropshire SY11 1LU	
Applicant: Wrekin Housing Trust	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 328838 - 330080



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 The application seeks full planning permission for the erection of a block of 1 and 2 bed apartments and 8 bungalows for use as Extra Care accommodation. Extra Care accommodation is specific accommodation for residents over the age of 55 provided on a rented bases and also provides tailor made care packages available to residents based on an individuals needs and also provides 24 hour emergency care and support. It is not a care home in that residents do not need to have a care requirement; however care is available at a range of levels to residents to add to their accommodation.
- 1.2 The application has been submitted with full plans, a design and access statement, statement of community involvement, transport statement, travel plan and ecology surveys.
- 1.3 As submitted the scheme proposed 55 apartments made up of 37 two bed units and 18 one bed units with the 8 bungalows proving a mix of 6 two bed and 2 one bed. Within the apartment building the development is also intended to provide a publically accessible café, residents dining area, hobby/ meeting room, lounge, staff accommodation, laundry, scooter charging and storage facilities, lifts and plant rooms. Two bin storage areas are also shown to be provided externally within the parking areas. 28 parking spaces are proposed and the development will also include areas of private garden space and landscaping.
- 1.4 During consideration of the application the scheme has been reduced by 2 apartments. The changes to the scale and appearance of the building will be considered later in the report.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the former Council highway depot with offices, workshops, storage, areas of hard standing and parking. The depot ceased use in 2014 and has been empty since. It lies within an area of residential dwellings which are a mix of two storey and single storey detached, semi detached and terrace houses. The site has a number of changes in levels both natural and man made for the previous use of the site. The housing to the north and west is at a higher level with the housing to the east and south being at the lower level of the site.
- 2.2 Four pipes cross the site and constrain the available development area of the site. Three of these pipes carry water from lake Vyrnwy to Liverpool. The other is a local sewer pipe. There is also an option for the operator of the Lake Vyrnwy pipes to install a fourth on this route if required.
- 2.3 The site lies within the development boundary for Oswestry the site is close to the town centre and local services and facilities. Oswestry has a good range of services and facilities available within the town, retail, medical, leisure and employment. There is public transport in the form of bus services but the nearest train station is at Gobowen.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The land is currently owned by Shropshire Council. Wrekin Housing Trust have an option to purchase it subject to the granting of planning permission. However, as it is currently still in the ownership of the Council and the development does not propose development which is a statutory function of the Council the scheme of delegation requires the decision to be made by committee.

Furthermore Oswestry Town Council has expressed a view which is contrary to officers opinion and which raises material planning considerations which the Area Planning Manager, Principal Planning Officer and the Chair of the committee agree should be considered by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Oswestry Town Council - Object.** The Council, and indeed local residents, support in general terms that some development should be permitted on this site but within in a less intrusive development. With regard to this application, the Council wish to recommend to Shropshire Council in the strongest terms that it refuses this application:

- The proposed four storey scale of development is out of keeping with the traditional two storey residential nature of the area and its local setting. The Council would wish to quote paragraphs 4.81 and 4.86 from the Shropshire Local Development Framework: Adopted Core Strategy Section CS6 Sustainable Design & Development Principles which the application contravenes.
- The four storey elevation will visually intrude and affect local properties and amenities and the peaceful enjoyment of residential properties that border the site boundary and beyond that include Liverpool Road West, Alexandra Road, Vyrnwy Road, Findon Drive, Denham Drive, York Street, Thornhurst Avenue, Vyrnwy Place and Sefton Place.
- The inclusion of flats in the design increases the density of population to an unacceptable level i.e. from 35 to 63 units.
- The highway access to the site is via an established residential area with narrow carriageway and on-street parking on both sides of the road. Further exacerbation will present additional risk to both pedestrians and motorists.
- Due to the over intensification of development, the Council challenges as to whether there is sufficient amenity space to serve the development.
- Access for emergency vehicles and delivery vehicles is unacceptable through an already congested network of narrow streets.
- Concern is voiced at the volume of traffic requiring access to the site in terms of visitors, deliveries, utilities and residents.
- The site offers a potential risk of flooding with two high pressure water mains carrying water from Lake Vyrnwy to Liverpool.

- Inadequate consultation has been carried out on this application with many local residents being unaware of its existence or potential impact. The consultation period that included Christmas and New Year did not assist transparency.

- The Council request that the application be formally refused by Shropshire Council and that consideration of it should be via the Northern Area Planning Committee and not under any Officer delegated powers.

4.1.2 **Affordable Housing** - The type and mix of accommodation has been agreed with the registered provider and we welcome the provision of Extra care facilities in this area as the need is high. The properties will also need to be advertised through Shropshire's Homepoint system as well as Choices letting scheme.

4.1.3 **Archaeology** - We have **no comments** to make on this application with respect to archaeological matters.

4.1.4 **Highways** - The highway authority have **no objection**, in principle, to the proposed development but question the rationale behind the 'one way' traffic system through the site. Whilst noting that this system has come about through public consultation, the highway authority would prefer to see both access points retained to access and egress the site. Clearly if problems then occurred following the site being development this matter could be dealt with rather than pre-empt an issue that may not come about and given also that the roads within the development would remain private.

In addition to the above, no cycle parking is provided within the site complex although the supporting information suggests that staff etc would be able to cycle to the site as a travel mode. Secure cycle parking therefore should be provided.

4.1.5 **Ecology - No objection.** Recommends conditions and informatives.

Turnstone (2014) carried out three bat emergence surveys on the southern most building in May and June 2014. The trees were assessed in the Phase 1 survey and found low bat roosting potential. Foraging behaviour by common and soprano pipistrelle bats was recorded on the south and western site boundaries, however no bats were found to emerge.

4.1.6 **Drainage - No objection.** The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

4.1.7 **Public Protection** - The planning portal now includes background papers (Geoenvironmental Assessment) (2/3/15) but the document is incomplete.

Accordingly, before this application is determined, Public Protection need to see a full copy of this assessment and any documents that it refers to in order to decide what conditions in respect of land contamination need to go onto any approval granted. I will review this application again on receipt of a full copy of the report.

4.1.8 **Police Architectural Liaison Officer** - Does not objection but recommends Secured by Design to design out crime and or the fear of crime and to promote community safety.

4.2 Public Comments

4.2.1 11 letters of representation have been received raising the following concerns:

- 4 storey flats will tower above the surrounding 2 storey houses
- Scale will be out of keeping with the existing residential development
- Will result in overlooking from windows and balconies
- Will result in loss of light and increased noise
- Loss of light to gardens and greenhouses
- Loss of garden to easement zone
- Reduction in ground level will require retaining walls for existing gardens prior to pile driven foundation work commences
- Potential for smells and vermin from waste storage close to neighbouring properties
- Will affect amenity during demolition and construction
- Insufficient parking and amenity space proposed
- Increase in traffic and impact on existing residents on-street parking
- Loss of property value and view

4.2.2 2 letters of support has been received on the following grounds:

- Supported accommodation is needed in Oswestry and the rest of Shropshire
- Excellent design
- On-way traffic route is appropriate

4.2.3 Following submission of amended plans a further 5 letters of representation were received, 4 objecting and 1 supporting. The objectors have commented that the amended plans do not overcome the neighbour's objections to the 4 storey building or the location of the bin stores. Objectors consider the development will tower over existing property, is contrary to CS6 in not being in keeping with the local environment and that the proposal is financially driven.

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’, with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 6.1.3 The application site is within the development boundary for Oswestry as shown in both the saved Oswestry Local Plan and also within the forthcoming SAMDev plan. Furthermore, the site has an existing use and as such is considered to be brownfield, or previously developed land. Therefore there is a strong presumption in favour of redevelopment of the site and residential development is considered to be appropriate within the development boundary. The key issues with the proposed development are the density of the development, the scale and massing of the building proposed to contain the apartments, the resultant impact on neighbouring amenity and the impact of traffic. These matters are all considered in detail in the following sections of the report.
- 6.1.4 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.
- 6.1.5 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the ‘presumption in favour’ development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits.
- 6.1.6 Officers consider that the site is sustainably located, close to services and facilities and within the development boundary of the town. The redevelopment of the site, in any format, would provide economic benefits in terms of construction jobs and additional spending from residents and, in the case of the proposed extra care development, also provides on-site employment and economic generation from the café. There are also social benefits from residential development in the form of support for services and facilities and in addition the extra care development will provide 100% affordable housing for a specific part of the community. The comments of the Council Housing Officer confirm that the provision of extra care

housing is promoted by the Council and that there is an identified need. Environmentally the development will remove the existing buildings and hard standings and provide landscaping where there is currently none. However, the development does also propose a large scale building which has some environmental harm. The detail of the scale and impact is considered below.

6.2 **Layout, scale and design**

- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.2.2 The application proposes a block of 53 (reduced from 55) apartments and a group of 8 bungalows. The site layout is constrained by the existing pipes which run east to west and north to south. The apartment block is proposed to the north of the Liverpool pipes and east of the local sewer pipe and has an angled L shape footprint. The bungalows are to the south of the Liverpool pipes in an L shape facing the internal road and facing Alexandra Road. The bungalows will follow the same line of the existing housing on Alexandra Road and then turn into the site, backing onto the properties on York Street. The apartment block has a section of gable end facing down Upper Ash Road extending back from Upper Ash Road towards the gardens of the properties on Vyrnwy Road with the café, lounge, kitchen and offices on the ground floor and two floors of apartments above. At the north-eastern corner of the building a fourth storey is provided with three flats in the corner section of the building.
- 6.2.3 The building then turns and runs parallel with the gardens of the properties on Vyrnwy Road and provides two to four storeys of apartments. The four storey part of the building in this section faces into the site, towards the road through the site and the proposed garden and bungalows. At the rear, facing towards the existing properties the building is predominately two storey with staff accommodation provided in the roof space. There are three flats in the fourth floor in the north-eastern corner of the building facing towards existing housing. A third section of the building is provided in a T shape at the eastern end of the site facing over the end of 15 Liverpool Road West and providing apartments partly two storeys and partly three storeys with the section facing towards the rear garden of 15 Liverpool Road West being two storey.
- 6.2.4 The concerns of the neighbouring residents and the Town Council are noted and acknowledged. However, it is also officer's advice to members that it is important to note that the building is not wholly four storey and provides variety in height, shape and form. The issue is whether the scale and massing of the building is appropriate and whether it complies with the requirements of adopted policy and the NPPF which promote development that is in keeping with the character and appearance of the area.
- 6.2.5 The submitted design and access statement notes that the site levels have been reduced following pre-application discussions with officers where the level of the site and the height of the building was raised as a potential issue. The agent considers that the scale and layout of the site has taken into account the existing

surrounding development and that the proposed differing roof heights and materials will break up the massing of the building.

- 6.2.6 Cross sections have been provided which show the scale of the building in relation to the neighbouring properties, however this plan is a little confusing in that it shows the scale of the development at the cross section and what is behind that section. It therefore appears that there are higher sections close to existing properties than there will be on the ground. Cross section AA does help to show the scale of the development and the height of the first floor balconies on the end of the building facing over 15 Liverpool Road West. The cross section shows that the first floor at this point would be lower than the first floor of the neighbouring property. It also shows the scale of the building and the distance to the house on Denham Drive.
- 6.2.7 Cross section BB shows the change in ground levels from the bungalow on Findon Drive and the site and that in this part of the development the first floor would be only slightly higher than the ground floor of the bungalows. Section CC shows the relationship of the proposed building with the properties on York Street and section DD shows the building between Vyrnwy Road and York Street properties. All the sections also show the existing buildings on site as dotted outline.
- 6.2.8 Officers accept that the scale is greater than the existing buildings on the site and also greater than the surrounding development. Policy CS6 of the Shropshire Core Strategy promotes development that is high quality and respects and enhances local distinctiveness. It further requires development to protect, restore, conserve and enhance the natural, built and historic environment which is appropriate in scale, density, pattern and design taking into account the local context and character. The policy does not require development to be the same scale and design as existing buildings but to respect and enhance distinctiveness and be appropriate in scale etc. It is therefore a case of considering whether the proposal is appropriate and respecting the distinctiveness or not. Officers acknowledge that the immediate surrounding housing is single storey and two storey. However, there are other buildings within the wider area which are larger and furthermore the land levels to the north and west of the application site rise above the site and therefore the houses further north and to the west are at a higher level.
- 6.2.9 It is officers opinion that the scale and density of the development, being four storey and flats, is not necessarily in keeping with the immediate surrounding scale and density of development. However, it is also officer's opinion that this difference in scale and density is not significantly harmful. It is unlikely that the development will be visible beyond the immediate area. The agent has provided additional drawings showing the building as viewed from within Denham Drive and Findon Drive with the existing buildings shown in the foreground. These two additional drawings show that beyond the two storey houses on Findon Drive and Vyrnwy Road the building will not be highly visible. It will be visible above the bungalows on Findon Drive but it will not be highly visible from the wider area. Therefore it is considered that the impact of the development will be on the immediate neighbouring properties, which is considered in detail in the following section, rather on the character and appearance of Oswestry.
- 6.2.10 Concern has also been raised that the applicant is applying for high density and

four storeys for increased profit. Although officers would advise that the finances of the scheme are not given significant weight in the determination of the application it can be confirmed that Wrekin Housing Trust, as the applicant, have applied for the number of units which would make the scheme financially viable. The brownfield nature, possible contamination and previous use and buildings need to be taken into account, the pipes across the site have constrained the available development area and the site levels are to be reduced. These issues have all added cost which would not be a factor on a greenfield site. To seek to further reduce the scale of the building may result in the development not proceeding and the site lying empty and dis-used and also not provide for a type of affordable housing which has been identified as a corporate need.

- 6.2.11 Within the comments from the Town Council and local residents the level of amenity space has been queried. As noted in the description of the layout above the apartments are proposed to have shared amenity space with an area to both the front and rear of the apartments. Furthermore many of the apartments are to be provided with balconies, where this does not result in significant overlooking, and there is a second floor outdoor terrace area also proposed. The proposed bungalows will have an area of shared amenity to the rear and small areas of amenity to the front of each property. Officers acknowledge the concern of the Town Council, however the proposal has been designed in discussion with the operator of the end use, Wrekin Housing Trust, who operate other similar sites and therefore officer's advice would be that the end user is happy with the level of amenity and therefore have no reason to question it.
- 6.2.12 Local representations have commented that the site has consent for 35 dwellings and that was what they thought was going to be developed. It is accepted that the Oswestry Place Plan identifies the site as being suitable for 35 houses, however there is no planning history for housing development on the site. The application presented to members needs to be considered on its own merits and the identification in the Place Plan is not grounds on which a refusal could be based. Members need to determine whether they consider that the scale, layout and appearance of the proposed development is acceptable or whether there are any substantial harms which would warrant refusal of the application.
- 6.3 **Impact on residential amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 Concern has been raised by the Town Council and local residents about the potential impact of the development on the surrounding properties. Concern has been raised about the affect on amenities, overlooking, loss of light and impact on people being able to enjoy their properties. These are valid planning considerations and the policy noted above does advise that development should safeguard amenity. However, because a development can be seen from an existing property or would result in some overlooking does not automatically make it refusible. Some loss of amenity is not necessarily unacceptable and the Council can only justify refusing an application which has unacceptable adverse impact on the amenities of the existing residents.
- 6.3.3 The proposed bungalows would be over 30 metres from the nearest neighbouring

property on York Street and 15 metres from the nearest existing property on Alexandra Road. However this nearest property would face a blank gable of a bungalow. The properties on the opposite side of Alexandra Road would be approximately 19 metres from the proposed bungalows and as such the existing residents along this side of the proposed development would not be significantly affected by the proposed development.

- 6.3.4 The main impact of the proposed development will be from the apartment block in the northern half of the site. The proposal as submitted was for 55 apartments in 2, 3 and 4 storey sections. During the consideration of the application amended plans were submitted which removed 2 apartments and have altered the scale of some parts of the building. As previously noted the building is not fully four storeys and the impact needs to be considered in terms of the scale of the section closest to each of the neighbouring properties. Not all of the surrounding properties will be affected by the four storey section other than by reason of being able to see it and the loss of a private view is not a planning consideration. The impact on the wider Oswestry area has already been discussed previously within this report.
- 6.3.5 Number 15 Liverpool Road West, an end of terrace, two storey property, sits to the west of the proposed apartment block with a blank gable in the side elevation of the existing property and the private garden to the rear between the house and an area of garages. The proposed development at this point will be 2 and 3 storeys facing towards the blank gable and the garden at a distance of 15 metres to the house and just under 12 metres to the garden. This would normally be considered to be an acceptable distance between a new dwelling and an existing dwelling, however in this case not only is the scale of the development up to three storeys but the proposal included balconies on this elevation which will enable residents greater views over the neighbours property than could be achieved from a window. Officers have therefore requested that the two balconies to apartments 16 and 17 which would face over the garden of 15 Liverpool Road West be amended.
- 6.3.6 Number 4 Findon Drive is a single storey dwelling which sits on a higher ground level than the application site, before the proposed reduction in levels, but with the rear elevation of the existing bungalow facing over the site. At this point the closest part of proposed development is 2 storey with a blank gable facing towards number 4 at a distance of 12 metres. This distance will ensure that the existing property does not suffer from loss of daylight to the bungalow. The 3 storey section closest to number 4 Findon Drive is over 20 metres from the existing dwelling and in the section where there are windows in the second floor flats these are provided by roof lights in the roof slope. As such officers do not consider that the development of the site would result in loss of privacy to number 4 Findon Drive. The impact on number 3 Findon Drive is similar with windows proposed in the roof slope facing these properties at a distance of more than 21 metres. Number 1 Findon Drive is set at an angle and as such does not have any windows facing directly towards the proposed development, is over 21 metres from the proposed development. The change in site levels will require the provision of supports to the existing gardens, however this will not affect amenity or the ability for these properties to enjoy their gardens.
- 6.3.7 53 to 43 Vyrnwy Road and 2 and 4 Denham Drive are all two storey semi detached houses with windows in ground and first floor facing towards the

proposed development and private rear gardens between the existing houses and the application site. It is at this part that the proposed development is 4 storeys in height with flats provided in all four storeys. The proposed building is 11 metres from the edge of the application site and over 30 metres from the existing dwellings. It is this part of the building that has been most amended in the revised plans. The revised plans now only propose 3 flats in the third storey and two in the fourth storey of the building. Flat 53 in the fourth floor will not have any windows facing towards Vyrnwy Roads only roof lights in the roof slope. Flat 52 in the fourth floor has windows and a balcony but these are set further back. It is officers opinion that the amended plans have reduced the impact on the existing properties noted here and that the impact will not be unacceptable.

- 6.3.8 Numbers 6 and 8 Denham Drive are also two storey semi detached houses backing onto the application. The amended plans have removed most of the fourth storey with the exception of flat 52. The ground floor is proposed to contain plant and offices. The distance between the proposed building and these two properties is over 22 metres, however again it includes balconies on the second and third storey. The angle of the proposed building does not directly face 6 and 8 Denham Drive and as such the impact will only be when residents use the balconies and step out and look towards the existing properties. It is therefore considered by officers that it would not be reasonable to require these balconies to be removed as the impact would be infrequent and reduced by the layout of the site. The distance of the proposed building from the existing would not result in any loss of light.
- 6.3.9 2 and 2a York Street also back onto the site and are two storey semi detached houses with a private rear garden between the site and the house. These properties are 21 metres from the nearest part of the proposed development, again at a point where it is 3 storey with balconies. However, as with Denham Drive, these properties are at an angle and do not face directly towards the proposed development and as such it is considered that the impact on these properties is also not unacceptable.
- 6.3.10 Some residents have objected on the grounds of loss of light to gardens and greenhouses. However, at no point is any part of the apartment block proposal within 5 metres of the boundary of the site and as such any loss of light would not be sufficient to warrant refusal of the proposal. The concerns raised regarding the loss of garden to the easement zone is based on a misunderstanding. The easement zone is not new, these properties are already affected by the existence of the sewer pipe which runs across the site and then through their gardens. The easement zone will not alter the ability for residents to use their gardens. In the same way the easement zones do not prevent parking, vehicular use, landscaping or storage. The easement only prevents buildings from being erected within these zones to ensure that the pipes remain accessible to the water company.
- 6.3.11 Concerns have also been raised about the potential of noise, smells and vermin from the proposed bin stores and also the impact on amenity during construction. This second matter can be dealt with by restricting the hours of demolition and construction by condition and officers advise that this would be wholly reasonable given the close proximity of other properties. The concern about the potential of adverse impact from the bin storage is not wholly understood by officers. It is accepted that un-maintained bin storage or shared bin stores where there is no-

one taking responsibility for the store can become problematic. However, in this case the bin stores will be managed and maintained along with all other on-site management matters. It is likely that any issues would be dealt with promptly as it would not be in Wrekin Housing Trust's interest to have problems.

- 6.3.12 The agent has also commented that the previous use of the site as a highway depot would have created noise and traffic movements of a variety of sized vehicles. At the officers site visit it was noted that there are areas of external storage which may have been used for gravel or salt, machine workshops and vehicle repair facilities all of which would have created noise in the local area. It is accepted that since the depot ceased use in 2014 the noise will have ceased, however the consent for this use would remain and as such a housing redevelopment would be a positive reduction in the potential noise from the site.
- 6.3.13 It is also acknowledged by the agent that the ground conditions are predominately peat and as such the construction of the development will involve pile driving. Given the close proximity of existing housing it is therefore advised that a condition be imposed restricting the hours of demolition and construction to limit the impact of the construction of the development. Any structural issues caused to existing properties by the proposed development will be a civil matter between the parties. The need for pile driven foundations is not a material planning consideration but a matter for the developer to manage.

6.4 Highways, access, parking and rights of way

- 6.4.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
- 6.4.2 It is proposed to provide vehicular access to the site from Upper Ash Road and exit onto Liverpool Road West thereby providing a one-way road through the site. This would not alter the existing public highways around the site which would remain two way but would spread the traffic impact from the completed development onto the surrounding road network rather than all onto one road. Both accesses are existing but were not previously connected due to changes in site levels.
- 6.4.3 The previous use of the site as a highway depot would have had associated traffic movements including movements of large vehicles. Post development the traffic to the site will be that associated with residents, staff and visitors. However, the agent has confirmed that the number of residents with cars tends to reduce over time as residents rely on on-site and nearby services. The site is well located in relation to the town and services, there are footpaths leading from the site into town and the nearest bust stop is less than 200m from the site and on the town circular route. The staffing levels will be 10 to 12 members of staff during the day and 2 overnight. As such officers consider that the level of vehicle movements, post development, will not be significant and accept the agent's view that the traffic levels will be less than the previous use of the site.

- 6.4.4 Within the site the layout the development proposes 28 parking spaces, including 5 disabled spaces, a pull in, waiting area near to the main entrance and a turning head for delivery and waste collection vehicles. The roads and parking areas follow the lines of the water pipes and associated easement areas (areas retained for access to the water pipes). The parking and turning areas are therefore between the apartments and the bungalows and to the side of the apartments, adjacent to existing housing. The highway officer has noted that there is not cycle parking shown on the site and that this should be provided. It is considered that this can be dealt with through an appropriately worded condition as it is considered that there is sufficient space within the site to provide secure cycle parking.
- 6.4.5 A travel plan is also proposed to be set up for the site which will provide information for residents and staff on alternative means of travel, arrange walking trips, charge for staff vehicle parking and provide cycle parking and changing areas for staff. Officers advise that a travel plan should be promoted and, if operated correctly, would help to reduce traffic movements and encourage sustainable travel.
- 6.4.6 The Council highway officer has advised that they have no objection but have questioned the need for the one way system and would prefer to see both access points retained for access and egress. This is acknowledged, however it is not what the applicant has proposed and the highway officer has not given any reason for requesting this other than that there is no evidence of a problem. However, the comments do note that the one way system has come about through public consultation. In conclusion it is officers advice that the traffic which will result from the proposed development will not be sever and as such it would not be a defensible reason to refuse the application based on traffic movements. The level of parking is considered to be appropriate for the proposed end use and the addition of cycle parking and a travel plan will help to encourage sustainable transport. The development is therefore considered to comply with adopted local policy and the NPPF.
- 6.5 **Ecology and trees**
- 6.5.1 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. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.
- 6.5.2 The ecology surveys note the existing buildings and hard standing and trees which may be suitable habitat for bats and birds. All trees and hedges were surveyed with species and condition recorded and evidence of bats and birds noted. There was no evidence of any bats in any of the existing buildings and the report has recommended removal of trees outside nesting season, provision of nesting boxes, tree protection fencing, native species planting and bat sensitive lighting.
- 6.5.3 As noted under section 4 above the Council Ecologist has raised no objection and advised of conditions and informatives to be imposed. Turnstone (2014) carried out three bat emergence surveys on the southern most building in May and June 2014. The trees were assessed in the Phase 1 survey and found low bat roosting potential. Foraging behaviour by common and soprano pipistrelle bats was

recorded on the south and western site boundaries, however no bats were found to emerge.

6.5.4 The site currently has very limited landscaping with the majority of landscaping visible from the site being within neighbouring gardens. Several of the trees along the northern boundary are proposed to be removed, however this proposal follows consultation by the agent with the neighbours who have requested removal of the trees to improve day light to their properties. The proposed development includes areas of new landscaping, including tree planting, which officers consider would enhance the area and would mitigate the loss of the existing trees. As such it is considered that the scheme complies with the relevant policies, specifically policy CS17, in regard to protecting and enhancing the natural environment.

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 and avoid an adverse impact on water quality and quantity.

6.6.2 The development proposes connection of the foul drainage to the existing mains drainage system and the sewerage provider has not raised any objections to this proposal. Surface water is proposed to be dealt with by a sustainable drainage system which will deal with all of the surface water within the application site. Given that the majority of the site is currently buildings or hard standing and the proposal will provide greater levels of landscaping and garden areas it is considered by officers that the surface water of the site is likely to reduce.

6.6.3 The Council Drainage Engineer has confirmed that the drainage details could be submitted at a later date through appropriately worded conditions and has not raised any concerns about the proposals. Local representations have raised concerns about the potential for flooding from the existing water pipes crossing the site. Officers acknowledge that this is a potential, however it is considered that the risk is low. The pipes have been in situ for some time and officers are not aware of any previous issues or breakages on the pipework. It is considered that the possibility for flooding of the application proposals from existing water pipes is not appropriate ground to refuse an application as this would prevent development near any existing pipe and as there is no evidence of problems it would be unreasonable to restrict the development for this reason.

6.6.4 Easements are required either side of the pipes which cross the site which prevent built development in this area but do not prevent the easement areas being used as access road, parking or garden areas. The easements are required to ensure that the water company are able to access and service the pipework when required without buildings being in the way. As already noted within this report the easement shown over the neighbouring gardens does not affect the property owners use of their gardens but is to show where the pipes lead away from the site.

6.6.5 Overall it is considered that the development of the site will not increase flood risk within or beyond the site and is capable of being connected to existing mains foul drainage and an on-site sustainable surface water drainage system to comply with policy CS18 of the Shropshire Core Strategy.

6.7 Other matters

- 6.7.1 The previous use of the site has also raised the potential for contamination on site. The Council Public Protection Officer has requested additional information from the applicant to determine what conditions to impose. This comment does not suggest that the potential for contamination is a reason to refuse the application and this is a matter which most often can be dealt with by appropriately worded conditions to ensure that any contamination is dealt with correctly.
- 6.7.2 The Council Archaeologist has confirmed that there are no archaeological requirements for the site. Local objectors have also commented on the loss of property value and views neither of which are material planning considerations, although officers and members can acknowledge these concerns they are not matters which can be given weight in the determination of an application.
- 6.7.3 The Town Council and residents have also commented on the consultation process. The application was received just before Christmas and the neighbour's consultation letters were sent out before the Christmas holiday period and over a time when the Council offices were closed. However, the letters gave details of the website, which was available when the office was closed and furthermore comments have continued to be accepted up to the date of this committee meeting. Following receipt of the amended plans the Town Council and all neighbours who had previously made representations were re-consulted. Officers accept that there may be further comments to be received but these can be provided to members as an update at the meeting. The consultation period on the amended plans will have expired one week before the date of the committee meeting and as such all representations should have been received by the time the members consider the application.

7.0 CONCLUSION

- 7.1 The site is located within the development boundary for Oswestry and is also previously developed land. As such there is a presumption in favour of redevelopment of the site and residential development would be considered to comply with the principles of both local adopted policy and the National Planning Policy Framework. It is acknowledged that the density and scale of the apartment building is not in keeping with the density and scale of the immediate area, however it is not considered to be out of keeping with the wider area and the town as a whole and further is not considered to be visually harmful to the character and appearance of the town.
- 7.2 The development will provide extra care accommodation for residents over 55 years of age and as such provides 100% affordable housing for an identified need and a specific sector of the community.
- 7.3 The impact on the amenities of adjacent properties has been fully assessed and following submission of revised plans the impact is not considered to be unacceptable and therefore complies with the requirements in policy CS6 and the SPD on Type and Affordability of Housing.
- 7.4 The development will provide on-site amenity areas and parking which is considered to be sufficient for the proposed end use of the development. Furthermore, the development can be served by satisfactory access and drainage

arrangements and will not be harmful to the natural and historic environment, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6, CS17 and CS18 and the associated sustainable objectives of the NPPF.

7.5 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 six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 - The Market Towns and Other Key Centres
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

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Vince Hunt
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

3. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

4. 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

5. 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.

6. Prior to commencement of development drainage calculations in accordance with the Proposed Drainage Strategy, dwg. CW-14-151-502-P3 should be submitted for approval. Calculations should demonstrate how the proposed discharge is limited to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment for a range of 1 in 100 year plus 30% storm durations. The attenuation drainage system should be designed so that there will be no flooding of any property either within the proposed development or any other in the vicinity. There should be no discharge to a surface water body or sewer that results from the first 5mm of any rainfall event.

Reason: To ensure that the attenuation system for the disposal of surface water drainage, is suitable for the development site and to ensure the design is to a robust standard to minimise the risk of surface water flooding.

7. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall be submitted to the local planning authority for approval in writing. Any methods contained within any approved statement shall be implemented on site.

Reason: to protect the amenity of the area and the health and wellbeing of local residents.

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

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

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

9. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

10. Prior to the first occupation of any of the units details for secure cycle parking shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be provided prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To encourage sustainable methods of travel.

11. A total of 3 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first occupation of the buildings hereby approved. 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

12. A minimum of 5 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

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

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 occupation of the extra care units hereby approved shall be limited to persons who have reached the age of 55 and who are in need of extra care

Reason: The extra care apartment block is unsuitable for general needs housing due to the lack of parking and amenity provision.

15. The extra care units shall solely be occupied by those demonstrating a local connection to the Shropshire Council Area as defined in the Shropshire Affordable Housing Allocation Policy

Reason: To meet the identified extra care housing need in Shropshire

16. The extra care apartment building (Use Class C2) shall only be used for the purposes of providing extra care purposes. They shall not be used for any other purposes including any other purpose within Use Class C2 of the Town and Country Planning (Uses Classes) Order 1987 as amended without the prior written permission of the Local Planning Authority.

Reason: In the interests of the protection of residential amenity

17. The extra care accommodation made up of 61 units shall be made available as Affordable Rent accommodation and shall not be let or occupied other than under a tenancy in accordance with the normal letting policy of a registered Provider.

Reason: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 to ensure affordability in perpetuity.



Committee and Date
 North Planning Committee
 17 March 2015

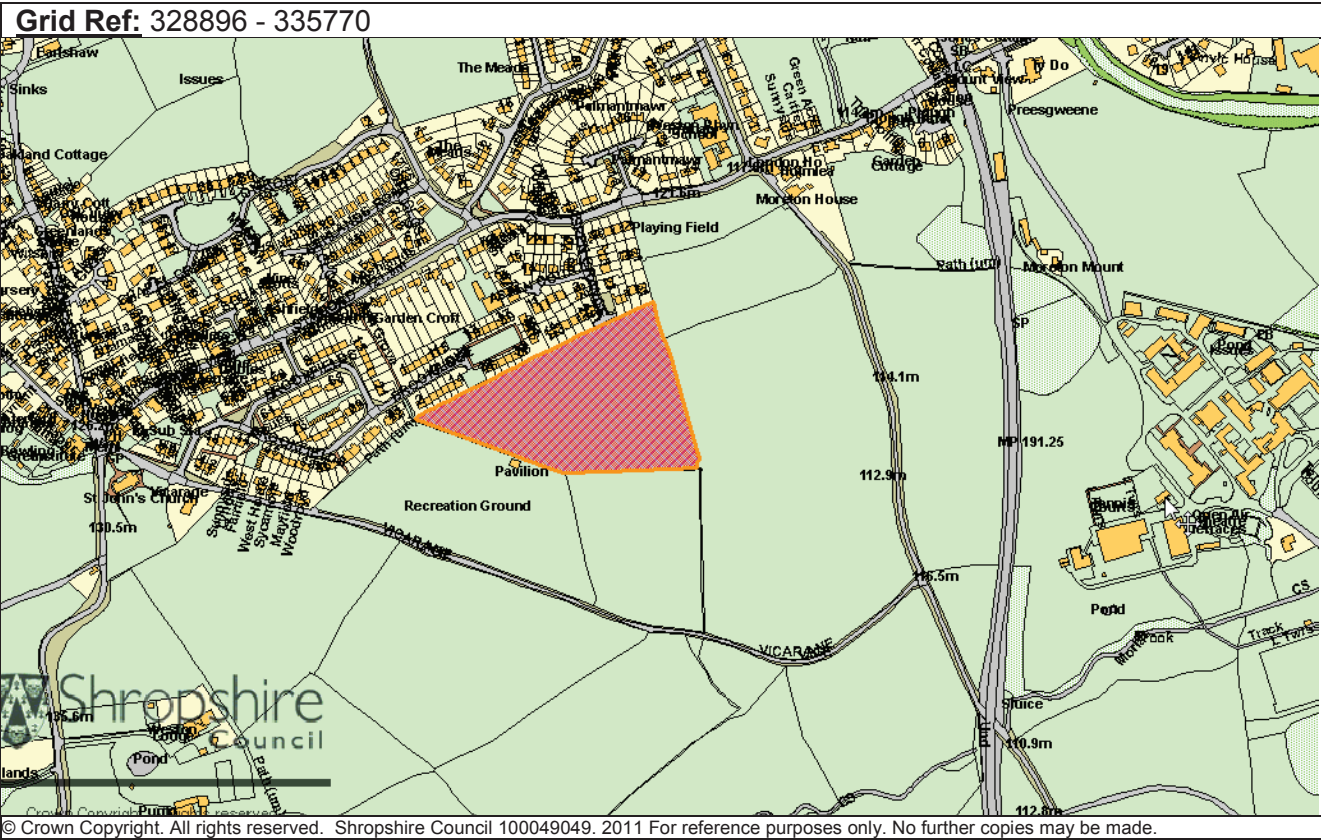
Item
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 Public

Development Management Report

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

Summary of Application

Application Number: 14/01654/OUT	Parish:	Weston Rhyn
Proposal: Outline application for residential development (All Matters Reserved)		
Site Address: Development Land South Of Aspen Grange Weston Rhyn Oswestry Shropshire		
Applicant: M Richardson & Partners		
Case Officer: Karen Townend		email: planningdmne@shropshire.gov.uk



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on land at Aspen Grange, Weston Rhyn. The application has all matters of access, layout, scale, appearance and landscaping reserved for later approval and as such is currently only considering the principle of residential development on the land.
- 1.2 To assist in the consideration of the application the submission is accompanied by a design and access statement, indicative layout and ecology survey. A flood risk assessment has also been requested during the consideration of the application given the concerns raised by the local community and in line with the guidelines in the SAMDev.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site area is 2.9 hectares and is currently in agricultural use for grazing. It is enclosed by well established hedges on all boundaries with sporadic trees in the eastern and southern boundaries and an existing watercourse crosses within the southern edge of the site. It is relatively flat with limited changes in ground level.
- 2.2 The land lies to the south of the existing housing on Aspen Grange and Brookfield Close. Aspen Grange is a modern estate of detached and semi detached houses with a turning head at the edge of the application site. The houses on Aspen Grange immediately to the north of the application site face over the application site with private driveways and gardens between. Brookfield Close is made up of terraces of bungalows and a more recent development of terrace houses around a parking court. All of the properties on Brookfield Close back onto the application site. To the east and south is open countryside. On the opposite side of the hedge on the western boundary is the village playing fields which include a football pitch and pavilion and multi use games wall, seating shelter and children's play equipment.
- 2.3 In the wider area the village is focused around the main road through the village from the school at one end to the church at the opposite end. There are estates off the main road varying in age and house type with a few older properties along the main road. The village is served by a school, shops, public house, takeaway facilities and church. It is within the rural area surrounding and supported by the town of Oswestry.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has submitted a view which is contrary to the officer's recommendation and is based on material planning reasons which can not be overcome by condition or negotiation and Councillor Macey, local member, has confirmed that the views of the Parish Council should be debated at committee.

This request has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Weston Rhyn Parish Council – At our most recent meeting residents of Aspen Grange attended and pointed out several issues relating specifically to this application that we were not aware of when first considering the proposal.

Having taken on board residents genuine concerns Weston Rhyn Parish Council now wishes to fully support resident's views in **objecting** to development of this site.

In particular they highlight serious flooding issues on the present estate that have not been rectified, access to the development site by heavy construction vehicles and inherent dangers apparent and the suitability of the Aspen Grange/ Station Road junction for additional traffic. Furthermore they highlight additional traffic flow that will be created on Station Road and the failure of Shropshire Council to reclassify Station Road as a "B" class road despite repeated representations plus the adequacy of the village drainage/ sewerage infrastructure to cope with such a large increase in dwellings.

The parish council therefore offer their full support behind resident's objections and trust you will take these views on board when considering the application.

4.1.2 Policy Officer – This site is allocated as a preferred option in SAMDev as WRN010 for 25 houses subject to appropriate drainage design; archaeological assessment and biodiversity surveys.

Most significantly, our draft Water Cycle Study update (current and on-going work by consultants CH2M) indicates that the site significantly affected by a high risk of surface water flooding. Whilst some development can be accommodated within flood zone 1, the capacity of the developable area is likely to be limited to 25 units. There is also an 'Ordinary Watercourse' along the southern and western part of the site and this will require further assessment to determine the level of fluvial flood risk to the site since this is not addressed in Environment Agency flood risk data.

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

The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme.

If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before an application is submitted.

4.1.4 **Conservation** – Will not be commenting in full in this case however:

- The design of the proposed dwelling should reflect local vernacular detail in terms of scale, details, materials, siting/layout etc.
- The development should be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

4.1.5 **Archaeology** – A non-designated possible prehistoric enclosure in the field to the south of the proposed development site was flagged up in our comments during the Stage 2b SAMDev assessment of the site. However, in assessing this application we have conducted a more in-depth assessment of the relevant record in the Shropshire Historic Environment Record, including a review of the original source material on which it was based. As a consequence it would appear that it was recorded on the basis of a rather indistinct feature visible on a set of vertical aerial photographs from 1983. A site visit was conducted in 1991 to assess the site and from this it was concluded at the time that it was unlikely to be an archaeological feature. Based on own knowledge of the aerial archaeology of the county, we would concur that the feature visible on the vertical photograph is likely to be either of natural origin or, more likely, a product of recent land management practices.

On balance, therefore, it is concluded that it would not be reasonable or proportionate to request submission of additional information or, given that the site itself will not be directly impacted by the development, to request an archaeological condition on this occasion.

4.1.6 **Highways** – No objection. Firstly, the application site, in part, is included as a preferred site within the SAMDev submission. The current land area proposed however is greater than that which is included in the SAMDev submission and therefore it is implicit that the number of dwellings that can be accommodated as part of this application is likely to be double the number than could be accommodated on the proposed housing area in the SAMDev submission. It is noted that the Parish Council made no comment initially on the basis, it is assumed, on its allocation during the SAMDev process and it having Parish Council support. However the Parish Council have now raised an objection which include highway issues.

The highway issues relate to heavy construction traffic, suitability of the Aspen Grange/Station Road junction for additional traffic and increase traffic created onto Station Road together with the failure of Shropshire Council to reclassify Station Road as a 'B' Class road.

With regard to the highway issues raised by the Parish Council, it is considered by the highway authority that Aspen Grange is suitable to accommodate the development land area, supporting a development of the scale indicated on the indicative layout plan showing 50 dwellings. Aspen Grange has a carriageway width of 5.5 metres flanked on either side by 1.8 metre and at its junction with Station Road visibility splays are provided in accordance with and in excess of Manual for Streets guidance. It is considered therefore that there are no fundamental highway grounds to object to the granting of an outline permission.

Issues surrounding construction traffic could, as is normally the case, be controlled within a standard condition. As regards the issue raised by the Parish Council concerning the classification of Station Road, this is not a matter which concerns the determination of this application.

The highway authority therefore raise no objection to the granting of outline consent subject to the further submission of satisfactory access, access road layout, parking and turning area(s) together with a construction management plan to be implemented during the construction phasing of the development.

4.1.7 **Ecology** – No objection subject to conditions and informatives relating to bats and birds.

There are two ponds over 400m from the application site. In view of the poor habitat for great crested newts (GCN) on the application site and the roads in between, it is not considered necessary to require surveys of these ponds due to the low risk of harm to GCN.

The trees and hedgerows bordering the site are likely to be used for bat foraging and commuting. A condition on lighting is recommended to avoid affecting bat behaviour.

The trees and hedgerows on the site are likely to be used by nesting birds as such recommends a condition and informatives.

4.1.8 **Drainage** – The 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.

Following submission of a Flood Risk Assessment advised that the document is acceptable although the risk from surface water flows through the site should be given greater consideration at the drainage design stage. A substantial quantity of surface water flow exists through the site and as such, the site layout and levels should accommodate these flows. The FRA states that floor levels will be 150mm above existing ground however this distance should be increased in areas of surface water flooding.

The application form states that surface water drainage from the proposed development is to be disposed of via a sustainable drainage system (SuDS). No details of the proposed SuDS have been provided. 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.

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. 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.

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.

4.1.9 **Welsh Water** – We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE

We refer back to comments made by us for this site at the recent LDP examination stage relating to this allocation, where it was advised that there are isolated incidents of flooding in the public sewerage system downstream of this site which will need to be overcome if development is to proceed and a communication to the public sewer is made. Further assessment of the sewer network by means of a Hydraulic Modelling Assessment (HMA) would be required to consider the impact of this development upon the receiving sewerage network and establish a solution to accommodate the foul flows only from this development site without causing detriment to existing customers or the environment. The use of the following Grampian condition, that has been suggested by Shropshire Local Planning Authority is supported in principle, however this is subject to the Local Planning Authority acknowledging that the only means of establishing a permanent solution for the disposal of foul drainage (as required by part 1 of the condition) shall be through the undertaking of a HMA and the subsequent implementation of any solution identified by the assessment (as required by part 2)

No dwelling hereby approved shall be occupied until: 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and 2) The appropriate permanent or

temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

Shropshire Local Planning Authority would have to be satisfied that this condition is reasonable/practical and would therefore meet the planning condition tests.

For the developer to obtain a quotation for the hydraulic modelling assessment, we will require a fee of £250 + VAT to engage our consultants, this fee is non-refundable. We therefore recommend that the developer engages with us as early as possible to discuss their intentions.

Further conditions

Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

The proposed development site is crossed by a 450mm surface water with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 5 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

Advisory Notes

In relation to the surface water flows from the proposed development, these will have to be disposed of separately by other means, such as using soakaways or discharging directly to a watercourse in liaison with the Land Drainage Authority and / or Natural Resources Wales

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into

public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government have introduced new legislation that will make it mandatory for all developers who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA) 1991 will need to be completed in advance of any authorisation to communicate with the public sewerage system under Section 106 WIA 1991 being granted by DCWW.

Welsh Government introduced the Welsh Ministers Standards on the 1st October 2012 and we would welcome your support in informing applicants who wish to communicate with the public sewerage system to engage with us at the earliest opportunity. Further information on the Welsh Ministers Standards is available for viewing on our Developer Services Section of our website - www.dwrcymru.com

Further information on the Welsh Ministers Standards can be found on the Welsh Government website - www.wales.gov.uk

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

- 4.1.10 **Environment Agency** – This appears to be a lower risk planning consultation which does not appear to require direct consultation with us; it does not fall within our 'consultation filter'.

The proposed development falls within Flood Zone 1, based on our 'indicative' Flood Map for Planning (Rivers and Sea). The site is approximately 2.9ha.

On this basis, we would recommend you refer to our area Flood Risk Standing Advice -
for 'Operational Development (+1ha) within Flood Zone 1' (LPA process note attached for completeness, in this instance). We would recommend that you consult with the Lead Local Flood Authority (LLFA) i.e. your Council's Flood and Water Management team, to assist review of the Flood Risk Assessment.

- 4.1.11 **Public Protection** – Is aware that there are regular issues with foul drainage systems in the area surcharging during high rainfall events. Has attended meetings with the water authority, Welsh Water, in the past where plans have

been developed to resolve these issues. However, introducing a large amount of properties to the area may put strain on the current infrastructure. As a result would recommend that Welsh Water and possibly Severn Trent Water are consulted to enquire as to the suitability of the foul drainage system in its current form and once works have been undertaken to take the extra capacity that this development will introduce.

Should this application be granted approval at reserved matters stage it is likely that this service will seek to place an informative to ensure that electric charging points for vehicles are installed at every residential property with off road parking.

4.2 **Public Comments**

4.2.1 16 letters of representation have been received raising the following concerns:

- Outside the development boundary
- Should develop brownfield land first
- No pre-application discussions
- Site boundary not correct
- Pressure on existing services, especially the school
- Loss of agricultural land
- Brownfield land should be developed first
- Proposed open space is not appropriate
- Access is too narrow
- Existing on-road parking problem
- Additional traffic, speeding traffic and risk to road safety
- Will impact on wildlife, especially local roosting bats
- Site is prone to flooding and the brook does not take much overflow
- Pressure on foul sewers
- Neighbours will need access to maintain hedges

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’, with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 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. With respect to Weston Rhyn there are outstanding objections relating to the proposed allocated sites, the number of dwellings being allocated, the identification of the village as a cluster and the impact on sewerage. As such only limited weight can be given to the SAMDev.
- 6.1.4 In the intervening period between submission and adoption of the SAMDev, 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 Weston Rhyn was defined in the Oswestry Borough Plan as one of a number “larger settlements” where the majority of new dwellings would be developed on sites with permission or allocation or on other suitable windfall sites in the development boundaries. The current application site is outside the development boundary for Weston Rhyn previously set within the Oswestry Borough Plan which shows the Aspen Grange estate as an allocated site. 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 identification of the site as a larger settlement in the Oswestry Borough Plan supports the principle that the village is a sustainable location for further development. In addition the village is being promoted as part of a Community Cluster with the villages of Rhoswiel, Wern and Chirk Bank with a housing target of 78 dwellings. Part of the current application site is the land being put forward as the proposed housing site for the village of Weston Rhyn (with a separate allocation in Rhoswiel on the opposite side of the railway line). The two allocation sites will provide 45 dwellings with the remainder to be made up of infilling, conversions and small groups of houses.
- 6.1.7 The agent comments on the proposed allocation within the design and access statement noting that the proposal to allocate only part of the current application site would leave the remainder of the site “marooned in a built up area” and of little agricultural use or value and any agricultural use would require vehicles to pass through the residential estate. It is also noted that the proposed larger site is not isolated from the village and will form a natural extension within the boundaries of the watercourse and the recreational field and that the development of the whole of the larger site will enable the provision of a pedestrian link through to the recreation field.
- 6.1.8 Notwithstanding this the SAMDev has yet to be adopted, although it has been submitted to the Planning Inspector for consideration and public enquiry it does not yet hold full weight. Furthermore advice has been taken which notes that sites which are otherwise sustainable and would comply with the NPPF should not be refused against the SAMDev. The issue is whether the larger site makes the development unsustainable or unacceptable for any other reason which would outweigh the presumption in favour of sustainable development.
- 6.1.9 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.
- 6.1.10 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the ‘presumption in favour’ development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits.

6.2 **Is the site sustainable?**

6.2.1 The local objectors and parish have not questioned the sustainability of the site but have questioned whether the development of the site would add unacceptable pressure on the local services and facilities, including the school, highway network and drainage systems. The impact on the highway and drainage are considered in later sections of this report.

6.2.2 The agent notes the presence of the amenities within Weston Rhyn, the school, shops, post office, takeaway food shop and public houses; that the village is on a regular bus route and is close to the employment sites at Gledrid and Moreton Park.

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. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.

6.2.4 The initial assessment of potential sites in the community cluster considered 25 sites in total. The whole of the large application site was assessed under stage 2 by Shropshire Council Policy Officers who scored the site positively for access to bus service, school and recreation facilities but negatively for being grade 3 agricultural land. It was also considered positively as being a previous infill site. It was considered to be capable of providing new housing and the conclusion of the assessment was that the overall sustainability of the site is good.

6.3 **Economic considerations?**

6.3.1 It is acknowledged that the site is on the edge of a rural village and therefore not within walking distance of employment or supermarkets. However, the aim of the Shropshire Core Strategy is to promote development in villages and rural areas with services or where new development can help to improve sustainability.

6.3.2 The agent suggest that the new housing will help local services and ensure viability of the village services whilst providing homes close to places of work. It is also commented that the site has the potential to provide housing, including affordable housing and a range of open market housing. The agent has also commented that the costs of developing the infrastructure (ie the estate road and drainage) for the allocated site would be proportionally greater than the cost if the whole of the application site was developed and as such the agent considers that the current application site would be more marketable to developers.

6.3.3 Officers acknowledge that none of these benefits are site specific. However, new housing will provide economic benefits and this needs to be given substantial weight in the determination of the application.

6.4 **Social considerations?**

- 6.4.1 Policy CS11 of the Shropshire Core Strategy requires all new housing to contribute towards affordable housing. The applicant has acknowledged the need for the site to provide affordable housing within the design and access statement. At present the target rate for this area would be 10%, however as an outline application the level of affordable housing to be provided on the site would be dependant on the target rate at the time of the submission of reserved matters and a legal agreement will be required as part of this outline consent to ensure that the affordable housing is provided and retained as such.
- 6.4.2 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing and in the case of the application site would be £80 per square metre of new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent.
- 6.4.3 Concern has been raised by local residents about the pressure on the local school and other services. No evidence has been provided of the capacity of the school, this was not raised as an issue during consideration of the whole site in the SAMDev and the Council Learning and Skills team have not provided any comment on this issue in response to this application. The CIL contribution could provide for infrastructure enhancements or could also be used to contribute towards school places if this is considered to be a priority in the local area. As noted above the development of this site will add pressure but also income for local services and facilities and as such any harm resulting from the development needs to be balanced against the benefits.

6.5 **Environmental considerations?**

- 6.5.1 It is acknowledged that the development of the site from agricultural land to built development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. The development includes the provision of open space within the site including a green corridor along the watercourse and retention of the existing landscaping features. The site is currently private land and the proposal will provide public open space in the form of this green corridor along the southern edge of the site which will connect the existing housing estate to the village recreation field. This is an environmental gain which should be taken into consideration in the balance of harm against benefit.
- 6.5.2 Local objectors have raised concern about the loss of the agricultural land. The SAMDev site assessment notes that the land is grade 3 agricultural land but continued to promote part of the site for development. It is therefore considered that to enable development and growth of the village will result in the loss of some agricultural land. The loss of best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area

proposed for the 50 houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing. The concern of local residents that brownfield land should be developed first has not been quantified with any suggested sites. It is acknowledged that recent Government announcements seek to promote brownfield land but this does not require a sequential approach to development of land and the Council are continually promoting brownfield land for development where it is sustainable development.

6.5.3 The development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to archaeological assessment, this follows from a note in the SAMDev assessment of the site that there is a potential prehistoric enclosure south of the site. The current application has not been submitted with any archaeological information submitted. However the Council Archaeologist has confirmed that they have re-assessed the information and do not require any further information.

6.5.4 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.

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. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.6.2 The design and access statement confirms that the plan submitted with the application is for indicative purposes only and is intended to show that the site can be developed for a mix of housing. Within the design and access statement the agent also notes that the assessment of the site for early consideration in the SAMDev notes that the site could be developed for up to 73 dwellings at a density of 25 per hectare. The indicative plan suggests 50 dwellings and therefore a density of 17 dwellings per hectare. The plan recommends the provision of an area of open space within the southern edge of the site which will be accessible to the public and provided with enhanced landscaping. The plan also recommends that the density of the site relates to the existing housing in the northern part of the application site whilst reducing in density and scale in the southern part of the site. These are commendable principles to set and would help to assimilate the development into the surrounding area and reduce the visual impact of the site from the wider area. However, these matters are not submitted for consideration at this outline stage and would need to be determined at the time of an application for reserved matters.

6.6.3 In response to objections received the plan has been amended to alter the northern boundary of the site to exclude the trees and land immediately around the trees which has been proven through the objections to be within the ownership of the neighbouring properties. The amendment to the application site does not

alter the principles noted above.

6.7 Impact on residential amenity

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

6.7.2 As with the consideration of layout and scale the impact on the amenities of existing residents can not be fully assessed at this outline stage as the impact will predominately depend on the layout. It is noted that the existing housing on Aspen Grange face over the application site, although this provides a good separation distance it also raises issue of layout. Officers consider that the layout of the site, where it is adjacent to the housing on Aspen Grange facing over the site, should respect these frontages and provide frontages facing the existing housing. The existing properties on Brookfield Close back onto the application site and therefore the layout of the site could have houses backing onto these existing properties but would need to ensure that the separation distances protect the existing amenities in terms of loss of light and privacy. This is a matter which will need to be reconsidered at the time of submission of reserved matters.

6.8 Highways, access, parking and rights of way

6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.8.2 Although this is an outline application with all matters reserved the design and access statement and the indicative layout suggests a single point of vehicular access off Aspen Grange. The agent has commented within the design and access statement that the existing estate road is capable of accommodating the additional traffic that will result from the development proposed and that the estate road was designed to a higher standard than was required to serve the existing dwellings. The agent also comments that the junction onto Station Road has sufficient visibility and that the proposed road within the application site will be designed up to adoptable standards with kerbs and footways.

6.8.3 However, local objectors, including the parish council, have raised concern about the width and capacity of Aspen Grange and its junction with Station Road, and concerns about the general increase in traffic in the village. These issues have been considered by the Council Highway Officer.

6.8.4 The detailed response is provided in full under section 4 above. The advice from the Highway Officer is that an objection on highway matters could not be sustained. The existing road width is sufficient for the anticipated construction and housing traffic and the junction of Aspen Grange and Station Road has acceptable levels of visibility. The scale of the proposed development would not result in a sever impact on capacity of the highway network and the construction traffic

impact can be controlled by condition.

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. Furthermore the development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to appropriate biodiversity surveys. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.9.2 The submitted report considers the existing site conditions, surrounding features and evidence of protected species. Desk studies and field surveys were undertaken and the survey concludes that there is no evidence of any protected species and the proposed development is unlikely to have any impact on any protected species that might be found in the area.

6.9.3 Although local objectors have raised concerns that the site is used by wildlife the Council Ecologist has confirmed that the survey work is acceptable and has not raised any objection to the scheme subject to conditions to provide artificial nests and details of lighting. It is also noted that the development indicated proposes an area of open space, although objections have been received regarding this, the provision of open space within a development is a positive benefit both for the local community and also for enhancing habitat for wildlife and for providing new trees. Overall it is considered that the development of this site can be undertaken without harm to protected species and with enhancements and environmental gains in accordance with policy CS17.

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. Furthermore the development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to appropriate drainage design.

6.10.2 The application form suggests that the surface water will be drained via a sustainable drainage system to the existing watercourse. Within the design and access statement the agent notes the presence of 2 existing surface water drains which cross the site and which is accepted will need to be taken into account in considering the layout of the site at reserved matters. The design and access statement also notes that the site is not within any of the flood zones identified by the Environment Agency and that foul drainage is available in the existing estate road and that this will be subject to negotiation with Welsh Water.

6.10.3 Objectors, including the parish council, have raised concerns about the development of the site which is prone to flooding and also concerns about the increase pressure on the foul sewerage system. These concerns are noted and a flood risk assessment was requested.

- 6.10.4 Following submission of the flood risk assessment (FRA) the Council Drainage Engineer, Welsh Water and the Environment Agency have been consulted. The Environment Agency have provided standing advice and referred to the internal consultee. The Council Drainage Engineer has confirmed that the FRA is acceptable but has requested further details relating to surface water flows and the finished floor levels but also confirmed that this can be provided as part of the reserved matters application or through conditions. The details of the surface water drainage system and the foul drainage system can also be dealt with through condition. Overall the Drainage Engineer advice is clear that there is a solution available to enable development of the site without increasing flood risk either within the site or to the surrounding area.
- 6.10.5 Welsh Water did initially object to the proposal on the basis of the capacity of the foul sewerage network. Following the process taken on other applications where Welsh Water have raised objections the officer has negotiated with Welsh Water to establish whether a Grampian condition can be used as it is unlikely that the objection could be sustained at an appeal. Although Welsh Water have objected this objection requires upgrading of an existing foul drainage system to be undertaken by the developer which without the certainty of a planning application which officers consider would be unreasonable for the developer to be expected to undertake. A condition was proposed to Welsh Water, the condition is considered by officers to be necessary due to the issues raised by Welsh Water and the potential that a connection to the existing system without an upgrade may result in environmental consequences. Relevant to planning and the development proposed in that the environmental consequences would be as a result of the additional housing connecting to the system. Enforceable as the wording of the condition requires the details to be approved by the Council and occupation of the dwellings would not be possible until either the upgrade is undertaken and a connection made to the network or a temporary system is installed. Precise in that the wording details what is required of the developer at what stage of the development and also the condition is considered to be reasonable. As such officers consider that the condition meets the six tests set out in paragraph 206 of the NPPF and also that the condition will provide the protection to Welsh Water, the local community and wider environment whilst not preventing the commencement of the development or the occupation of the properties at an appropriate stage.
- 6.10.6 Welsh Water have now updated their response to this application and confirmed that the use of the Grampian condition is supported in principle. Officers consider that the condition will allow for the hydraulic modelling assessment and any upgrades required before occupation of the dwellings but also allows for a temporary system to be provided if the works are not completed and as such accepts that the only means of establishing a permanent solution for the disposal of foul drainage is through the undertaking of a HMA as requested by Welsh Water. The additional conditions and informatives recommended by Welsh Water are considered to be reasonable and as such are proposed to be included.
- 6.11 **Other matters**
- 6.11.1 Objectors have also raised concerns about access to maintain existing hedges. It

is assumed that these are the hedges which form the boundary of the site and as such the adjacent residents are only responsible for maintaining their side of the hedge. The maintenance of the opposite side would be the responsibility of the land owner, currently the farmer, and once developed this responsibility would pass to the future property owners and as such would become a civil matter between parties. This is not a material planning consideration that can be given any weight in the determination of the application.

7.0 CONCLUSION

7.1 The site is located outside the current development boundary for Weston Rhyn and is therefore classed as a departure from the development plan. However, part of the site is being promoted as a proposed site allocation for housing development in the forthcoming Site Allocations and Management of Development (SAMDev) Plan and it is therefore accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the village and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The size of the site and constraints from the existing development, watercourse and village recreation field limits the developable area, however in principle the site can be developed for housing without adversely affecting the amenities of the existing properties, in context with the surrounding built form and with an appropriate access. Furthermore, subject to a hydraulic modelling assessment, 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 area.

7.3 Accordingly, subject to conditions and the applicant entering into a S106 legal agreement to secure affordable housing, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - 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 six weeks after the grounds to make the claim first arose 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**

10.1 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
 CS11 - Type and Affordability of housing
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 CS7 - Communications and Transport
 CS9 - Infrastructure Contributions

11. ADDITIONAL INFORMATION

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

Appendices APPENDIX 1 - Conditions

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

1. Approval of the details of the scale, siting, external appearance of the development and the access details and 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 three years from the date of this permission.

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

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

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

4. This permission does not purport to grant consent for the layout shown on 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. 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 surface water drainage scheme of the site
 - The finished floor levels

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

7. No dwelling hereby approved shall be occupied until:
 - 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and
 - 2) The appropriate permanent or temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

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

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

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

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

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

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

10. The proposed development site is crossed by a 450mm surface water with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 5 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

11. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

12. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

13. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

14. 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.

15. 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.

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Committee and Date
 North Planning Committee
 17 March 2015

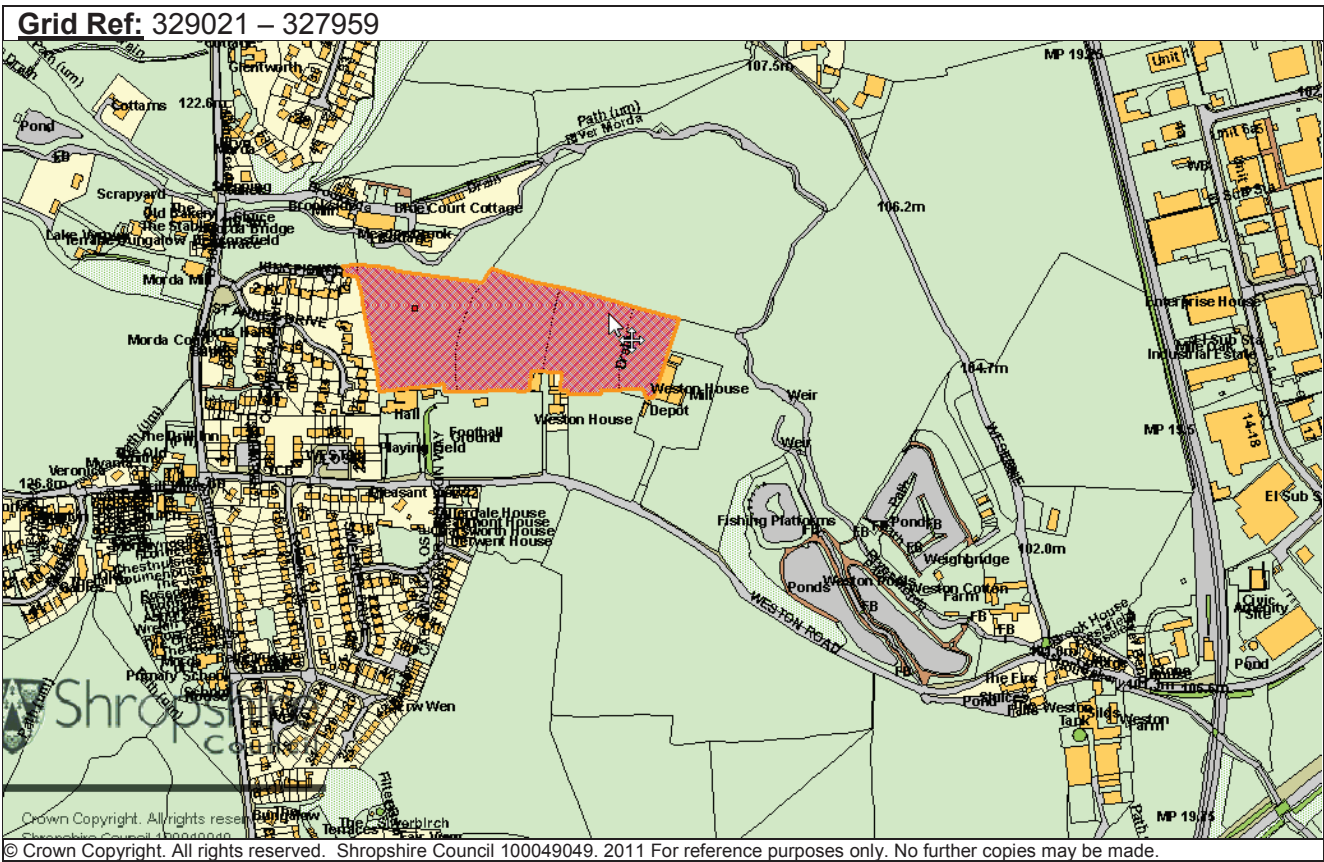
Item
8
 Public

Development Management Report

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

Summary of Application

Application Number: 14/05461/VAR	Parish: Oswestry Rural
Proposal: Variation of Condition No. 12 attached to Planning Application No. 13/01393/OUT dated 31st October 2014 to achieve access from Weston Road only.	
Site Address: Proposed Residential Development Land East Of Kingfisher Way, Morda Shropshire	
Applicant: Mr & Mrs Hughes	
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk



Recommendation:- Approval subject to the conditions set out in Appendix 1, and completion of a Section 106 Agreement in relation to affordable housing provision.

REPORT

1.0 THE PROPOSAL

1.1 This is an application seeking to vary condition 12 of planning decision notice 13/01393/OUT approved on the 31st October 2014.

1.2 The original application granted outline planning permission for residential development, with all matters other than access reserved for subsequent approval, on land East Of Kingfisher Way, Morda. The application was approved by the Council's Planning Committee subject to a Section 106 Agreement relating to provision of affordable housing.

1.3 Condition 12 currently states:

"12. The proposed access/ estate road shall be a continuous vehicular route and shall run the full length of the site between Kingfisher Way and Weston Road. All dwellings on the site must be able to access this route and leave the site in either direction for the lifetime of the development.

Reason: To ensure that in a flood event all dwellings are able to have an alternative safe access and egress route".

The application is proposing to amend this condition to state:

"12. The proposed access shall be constructed to provide vehicular access to the entire site, free from flood risk in accordance with drawing number LSP03, Rev C.

Reason: To ensure that in a flood event all dwellings are able to have an alternative safe access and egress route."

1.4 The reason for the proposed change is that the original outline application, which requested access be considered at the outline stage, indicated two points of access to the site, one being from Kingfisher Way and the other Weston Road. However, the application is now seeking for the site to be served from a single point of access from Weston Road.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site covers an area of 3.3 hectares and is located to the eastern side of Morda. To the west there is a modern housing estate, to the north there is the River Morda and to the south there is a football pitch and housing development; both of which are accessed from Weston Road. To the eastern side of the site there is an existing commercial business which has a building and yard where they operate a construction and landscaping business from. The flood plain of the River Morda does extend into the furthest north western corner of the site in the position where it adjoins the end of Kingfisher Way.

2.2 The site is well screened from the east and the north by the mature bands of trees and from the west the view of the site is screened by the adjacent housing

development which sits on a slightly higher level. The highest part of the site is just to the north of the village hall, the land then gently falls away in a northerly and easterly direction.

2.3 The entire application site falls outside of Morda's development boundary as defined in the Oswestry Local Plan.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

Complex or major applications which in the view of the Group Manager for Environment or the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman should be determined by the relevant Planning Committee.

4.0 **Community Representations**

Parish Council- No comments received to date

4.1 **Consultee Comments**

4.1.1 **Drainage** - The variation is acceptable from a surface water drainage perspective and does not alter the drainage comments made for outline application 13/01393/OUT.

4.1.2 **Environment Agency** – No Objection

4.1.3 **Highways-** No objection to the principle of the site being served by a single access. However, the Highway Authority reserve the right to further consider the appropriate scale of the development to be served via Weston Road as part of a reserved matters application.

4.2 **Public Comments**

Representations made from 4 individual addresses 2 objecting to the application and 2 in support commenting on the following issues:

- Highways safety concerns;
- Potential overlooking and loss of privacy to current residents;
- The proposed relocation of new housing away from the flood plain is very much to be welcomed.

5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design
- Flooding issues;
- Potential highway impact of the development when being served by a single access;
- Impact on neighbours.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 In many cases when an application for a variation of condition is proposed the only matters for planning consideration relate to the changes proposed by the condition not to the principal of the development itself.

6.1.2 However, in this case, the access to the site was not a matter reserved for subsequent approval, but was a matter of principal for consideration with the original outline approval. This proposal is effectively seeking to alter the approved access arrangements, and therefore the principle of the entire development, with regard to whether this is a suitable site for residential development with only one access point, needs to be considered.

6.2 Siting, scale and design

6.2.1 The appearance, landscaping, layout and scale of the site were all matters that have been reserved for later approval. However, the purpose of Condition 12 was to address concerns that were raised by planning committee members, to ensure adequate means of escape from any potential flooding event for future residents.

6.2.2 In relation to the original outline application, the applicant provided, because of potential flooding concerns, an indicative layout scheme indicating that all the dwellings would be able to use either access. However, as this information was only indicative at that stage, and would still be subject to full consideration at the reserved matters stage, members requested the inclusion of Condition 12 to ensure adequate means of flood escape for the development.

6.3 Flooding

6.3.1 With regards to any potential flooding impact as a result of the proposed amendment to a single access point condition 11 of the approved outline consent states:

“11. All of the proposed dwellings and their garden areas shall be located outside of flood zone 2 and 3 as defined on the Strategic Flood Risk maps.

Reason: To ensure that development is located away from areas at risk of flooding and that people and property are protected”.

6.3.2 If members are mindful to approve this application this condition will be included in any new permission ensuring that no dwellings will be constructed within Flood Zones 2 or 3.

6.3.3 The Environment Agency advised in their consultation response that they have no objection to the proposed variation of Condition 12.

6.3.4 Accordingly, while the approved scheme provided two potential escape points from a flood event for residents, it is considered that the proposed variation to a single access point on Weston Road will still enable a safe flood escape route for future residents of the site, if a flood event was to occur.

6.4 Highways

- 6.4.1 As originally submitted the Highway Authority maintains its view that this site would be served via Kingfisher Way and Weston Road and the issue to be addressed as part of a reserved matters application related to whether there would be a vehicular through route. In any event the Highway Authority wish to see a pedestrian/cycle link.
- 6.4.2 The current application seeks now to require all development traffic to enter and exit via Weston Road as a single point of access. On the basis of the current consent the principle of traffic entering and leaving the development site has been established. What is not clear at this outline stage, however, is the number of units that would be served off Weston Road as scale and layout are matters which would be subject to a subsequent reserved matters application.
- 6.4.3 The current application, however, would not achieve a footway/pedestrian link through Kingfisher Way and as a result pedestrians and cyclists would have to route along Weston Road and back upon to Morda Bank to thereafter route towards Oswestry, the local School & College and other amenities and facilities. Clearly, therefore, routing from the site through Kingfisher Way would provide a more direct route and quicker pedestrian/cycle route. Whilst in itself this would not be a substantive reason to refuse this application, it is considered to be deficiency of the proposal when a more direct route is potentially available.
- 6.4.4 Given the above, the Highway Authority consider that a highway objection to the principle of this site being served off Weston Road would not be sustainable but the Highway Authority reserve the right to further consider the appropriate scale of the development to be served via Weston Road as part of a reserved matters application.

6.5 Section 106 Agreement

- 6.5.1 If members are mindful to approve this application this will result in the creation of a new planning permission for a development which was approved subject to a Section 106 Agreement. A Deed of Variation to this agreement is therefore required to ensure that the original agreement is still applicable to the new planning permission.
- 6.5.2 The applicant has agreed to this deed of variation and the Council's solicitors are currently preparing the required document.

7.0 CONCLUSION

- 7.1 In conclusion it is considered that the proposed variation of condition is considered acceptable, in that the alteration to a single point of access onto Weston Road will still provide an acceptable escape route for future residents if a flood event were to occur.
- 7.2 In addition a single point of access is considered suitable in principal to serve the proposed residential development.

- 7.3 The application is seeking outline planning permission with details of layout, scale, landscaping and the potential number of dwellings being reserved for subsequent approval. Therefore the reduction to a single point of access, and the potential impact of this on the roads network, can be considered when the detailed reserved matters application is submitted with number of proposed houses and associated vehicular and pedestrian movements identified.
- 7.4 If it is considered that these details indicate an inappropriate level of traffic movements for the point of access onto the highway network, or indicate inappropriate pedestrian/cycle links then any detailed reserved matters application could still be refused.
- 7.5 Accordingly the recommendation is to approve the application subject to the conditions detailed in Annexe 1 and the signing of an appropriate Deed of Variation to the Section 106 Agreement to ensure the provision of an appropriate level of affordable housing.

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 six weeks 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:
National Planning Policy Framework
Planning Practice Guidance

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

Relevant planning history:

12/04725/FUL Erection of 21 no. affordable dwellings with associated access and parking GRANT 20th March 2013
13/01393/OUT Outline application (to include access) for Use of land for residential development GRANT 31st October 2014

11. Additional Information

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

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. 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 drainage of the site
 The finished floor levels
 Full Arboricultural Impact Assessment to BS5837:2012 standards
 Tree survey in accordance with The Bat Conservation Trust's Bat Surveys Good Practice Guidelines

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI). This WSI shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The development site is known to hold archaeological interest.

6. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

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

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

Reason: To ensure a satisfactory access to the site.

8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

the parking of vehicles of site operatives and visitors
 loading and unloading of plant and materials
 storage of plant and materials used in constructing the development
 the erection and maintenance of security hoarding including decorative displays and facilities for
 public viewing, where appropriate
 wheel washing facilities
 measures to control the emission of dust and dirt during construction
 a scheme for recycling/disposing of waste resulting from demolition and construction works

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

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

Reason: To ensure a satisfactory access to the site

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

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

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

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

11. All of the proposed dwellings and their garden areas shall be located outside of flood zone 2 and 3 as defined on the Strategic Flood Risk maps.

Reason: To ensure that development is located away from areas at risk of flooding and that people and property are protected.

12. The proposed access shall be constructed to provide vehicular access to the entire site, free from flood risk in accordance with Drawing Number LSP03, Rev C.

Reason: To ensure that in a flood event all dwellings are able to have a safe access and egress route.

13. All mature trees and hedges are to be retained within the development, and protected from night time illumination, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect habitat for bats (European Protected Species), other wildlife and landscape.

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Committee and Date

North Planning Committee

17 March 2015

Item

9

Public

Development Management Report to seek Delegated Authority to Planning Officers to reconsider reports previously presented to North Planning Committee for housing schemes of 10 or less dwellings in light of the Ministerial Statement of 28th November 2014 and the decision of Cabinet dated 21st January 2015

Responsible Officer: Ian Kilby

email: ian.kilby@shropshire.gov.uk Tel: 01743 258718 Fax: 01743 252619

Summary

This report seeks Members support for a delegation to officers to review and determine those planning applications which 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 Ministerial Statement of the Minister for State, Department for Communities and Local Government on 28th November 2014 and the decision of Cabinet dated 21st January 2015.

Recommendation:-

To delegate authority to planning officers to review and determine any outstanding planning applications previously considered by Committee, with a resolution for approval, but which require reconsideration in light of the Ministerial Statement of 28th November 2014 and the Cabinet decision of 21st January 2015 provided that any applications, where the balance of considerations would result in a different decision to that taken by Committee, will be referred back to Committee for reconsideration.

1.0 BACKGROUND

- 1.1 In a Written Ministerial Statement on 28th November 2014, Brandon Lewis MP, Minister for Housing and Planning, announced that the Government was making a number of changes to the national Planning Practice Guidance (PPG) with regard to Section 106 planning obligations. These included the introduction of a threshold beneath which affordable housing contributions should not be sought.
- 1.2 The Ministerial statement confirms that:
 - a) For sites of 10 units or less and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.
 - b) In designated rural areas (under Section 157 of the Housing Act 1985), authorities may choose to implement a lower threshold of five units or less, beneath which affordable housing and tariff style contributions should not be sought.
 - c) Affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions.

- d) A financial credit, equivalent to the existing gross floor space of any vacant buildings brought back into any lawful use or demolished for re-development, should be deducted from the calculation of any affordable housing contributions sought from relevant development schemes.

2.0 OFFICER APPRAISAL

- 2.1 The Ministerial statement has been met with much concern from Local Authorities, particularly rural authorities and other respected national organisations representing rural communities and rural housing.
- 2.2 Shropshire Council was particularly concerned by proposals a), b) and d) and through the consultation process in April 2014, put forward a comprehensive evidence response on how these changes would fundamentally affect the Council's ability to deliver much needed rural affordable housing directly on site or indirectly through financial support for Registered Providers (RP's) and as a consequence it would undermine its housing and community sustainability aspirations enshrined within its adopted Core Strategy
- 2.3 Following the Ministerial Statement and update to the National Planning Practice Guidance, Cabinet considered a report on 21st January 2015 outlining the consequences of applying the Ministerial Statement of 28th November and the implications for the Council's current Type and Affordability of Housing SPD which sets out the Council's policy on the provision of affordable housing on open market developments in Shropshire
- 2.4 The following decision was made:-
- (a) That the Council lobbies the Minister to review his statement to take account of differing conditions nationally and locally.
- (b) That the Council notes the Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application.
- (c) That the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites."
- 2.5 Further to the Cabinet decision of 21st January officers have been updating delegated reports to reflect the current position in light of recommendations (b) and (c) set out in paragraph 2.4 above. The same process will need to be applied to those applications considered by Planning Committee. A number of applications were held back pending the Cabinet decision on the ministerial statement and the most expedient way of progressing these now would be to delegate responsibility to officers and to refer back to committee only those applications where the balance of considerations has changed in some way i.e. the applicant is not prepared to pay the affordable housing contribution.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

These planning applications 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 without a resolution to that effect.

4.0. BACKGROUND PAPERS

Original reports to planning committee, decisions and minutes
Ministerial Statement of 28th November 2015 of Brandon Lewis, Minister for Housing and Planning
Planning Practice Guidance
Minutes of Cabinet 21 January 2015

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<u>Committee and Date</u>
North Planning Committee
17 March 2015

<u>Item</u>
10
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 17th March 2015

Appeals Lodged

LPA reference	14/00580/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Norman Watson
Proposal	Erection of a dwelling and detached garage following demolition of existing
Location	Summerhill, Bryn-y-Cochin, Criftins, Ellesmere
Date of appeal	03.03.2015
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	14/00734/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr T Humphreys and Mr G Davies
Proposal	Outline application (access for approval) for residential development
Location	Land between Twyford Lane and Holyhead Road, West Felton
Date of appeal	05.11.2014
Appeal method	Written
Date site visit	08.01.2015
Date of appeal decision	09.02.2015
Costs awarded	Refused
Appeal decision	Dismissed

LPA reference	14/01268/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs G Glynn
Proposal	Outline application for the erection of one dwelling (all matters reserved)
Location	Gadlas Croft, Gadlas, Ellesmere
Date of appeal	24.06.2014
Appeal method	Written
Date site visit	27.01.2015
Date of appeal decision	11.02.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	13/03971/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Brammer & Price
Proposal	Outline application for the erection of 4No dwellings and 4No affordable houses (to include layout)
Location	West View , Knockin Heath, Oswestry
Date of appeal	03.03.2014
Appeal method	Written
Date site visit	20.01.2015
Date of appeal decision	12.02.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/03770/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R Harper- C/O Mr Kingsley Smith
Proposal	Erection of a two storey rear extension and link between garage and house
Location	Red Brick House , Ashfields, Hinstock
Date of appeal	20.01.15
Appeal method	Written
Date site visit	
Date of appeal decision	04.03.15
Costs awarded	
Appeal decision	Dismissed

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Costs Decision

Site visit made on 8 January 2015

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 9 February 2015

Costs application in relation to Appeal Ref: APP/L3245/A/14/2227517 Land between Twyford Lane and Holyhead Road, West Felton, Oswestry SY11 4EQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr T Humphries & Mr G Davies for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for residential development and access.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance details the circumstances where an award of costs may be appropriate and I have paid due regard to that guidance.
3. Costs may be awarded where the unreasonable behaviour of a party leads to unnecessary and wasted expense in the appeal process.
4. The applicant claims that the Council refused planning permission by reference to local plan policies without due regard to the intentions of the National Planning Policy Framework ('the Framework') and that it has not provided relevant objective evidence to support its vaguely reasoned decision, including in relation to housing land supply.
5. The Council's response acknowledges that the Council departed from the advice of its officers in refusing the application but submits that it was entitled to do so in that it placed greater weight on the harms it identified in the context of a planning balance.
6. It does seem to me that the Council did not lightly or capriciously refuse the application but rather started with the development plan, placed some weight on the emerging SAMDev and gave weight to the fact that the proposed development was not plan-led and its understanding that the land involved was, on the balance of probability, best and most versatile. Plan-led development and protection of best and most versatile land are both intentions of the Framework and conflict with such intentions is not necessarily outweighed by the absence of a five year land supply, a matter which the officers advised was now largely resolved in anticipation of the SAMDev.

7. Essentially, the Council needed to conduct a balancing exercise in the context of the Framework (which is extensively referenced in the officer's report) to decide whether or not it considered the development to be sustainable in those terms, but it is not always necessary to use the term 'sustainable development' in so doing or refer explicitly to the Framework. The essential requirement is to start with the development plan and with that in mind arrive at a balanced decision on the basis of considerations which are material to planning, including the policies of the Framework, some of which, inevitably, will be essentially matters of judgement rather than solely objective factual evidence. Such judgement, and the weight to be accorded to various material considerations, can vary between lay decision makers and professional advisers and, indeed, between individual professionals. That is the nature of decision making in the public interest.
8. I have read the minute of the meeting at which the elected members decided to take a contrary view to that of the relevant officer. It seems clear to me that the approach taken, whilst arguably not 'best practice' in a technical sense, was not inherently unreasonable. The Council's reasons were in my view communicated adequately intelligibly in the decision notice, notwithstanding the absence of explicit reference to individual policies or the Framework. Material harms were balanced against material benefits and it is clear enough from the wording of the decision notice itself that the approach and intentions of the Framework and the intentions of the existing and emerging development plan were in the mind of Council members.
9. Furthermore, the Council's subsequent statement in defence of its decision explains the way in which the Council considered the application to be contrary to existing and emerging policy and the balance struck on matters which include, essentially, planning judgement in respect of an application made in outline form. I acknowledge that the five year land supply remains a matter of contention but the absence of such a supply does not necessarily trigger approval but rather a balanced view, in the context of the Framework as a whole, as to whether or not the proposal represents sustainable development.
10. For reasons that differ from those of the Council I have concluded that the proposal, as presently conceived, does not represent sustainable development. However, on balance, for the reasons given above, I do not consider that the Council has in this instance behaved unreasonably. There is in my view sufficient justification for the judgements it has made to avoid an alternative conclusion, even though I do not endorse the particular reasons given.
11. I therefore conclude that unreasonable behaviour leading to unnecessary and wasted expense has not been demonstrated and that the application for costs should not succeed.

Keith Manning

Inspector



Appeal Decision

Site visit made on 8 January 2015

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 9 February 2015

Appeal Ref: APP/L3245/A/14/2227517

Land between Twyford Lane and Holyhead Road, West Felton, Oswestry SY11 4EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr T Humphries & Mr G Davies against the decision of Shropshire Council.
 - The application Ref 14/00734/OUT, dated 18 February 2014, was refused by notice dated 1 October 2014.
 - The development proposed is residential development and access.
-

Procedural Matters

1. The application is in outline with all matters reserved except for access.
2. Although the original application anticipated the construction of 32 dwellings, this figure was subsequently reduced to 12, a matter that was subject to consultation prior to the Council's determination. Accordingly, I determine the appeal on the latter basis.
3. A unilateral undertaking dated 19 December 2014 was submitted with the appeal documentation. By email of 7 January 2015 the Council confirms that "in principle" it is in agreement with the provisions of the undertaking. In essence, these are to provide an element of affordable housing at the "Prevailing Target Rate"¹ and a financial contribution to highways improvements, undefined in the undertaking but understood to be directed towards the provision of improved pedestrian linkage to the village centre.

Decision

4. The appeal is dismissed.

Application for costs

5. An application for costs was made by Mr T Humphries & Mr G Davies against Shropshire Council. This application is the subject of a separate Decision.

Main Issues

6. I consider the main issues to be as follows:-

¹ i.e. the percentage set out in the relevant Supplementary Planning Document

- Whether the proposed development would conflict with and harmfully undermine the intentions of the development plan and emerging policy concerning the location of new housing development and the protection of the countryside;
- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on soil resources
- The effect of the proposed development on community cohesion
- The effect of the proposed development on the setting and significance of listed buildings; and
- Whether the proposed development represents sustainable development for the purposes of the National Planning Policy Framework.

Reasons

7. The appeal site comprises open pasture on the northern fringe of the village of West Felton. The eastern part of the site is notably fringed with, and contains, substantial trees of quality. It is a remnant of the land originally associated with The Nursery, which was home to the pioneering arboriculturalist John Dovaston.² It contains a Grade II listed cider press. A Grade II listed archway, Dovaston Gate, is on the boundary between the site and an adjacent residential garden. The latter is contiguous with the area of the site east of the public footpath which traverses it, indicated by the appellants as being proposed for public open space. The cider press falls within the area indicated to be developed with houses. The western boundary of the site to Holyhead Road is characterised by a low sandstone wall, which would be breached and partially re-positioned to accommodate the proposed vehicular access to the site.

Development Plan and emerging policy

8. The development plan includes the Shropshire Core Strategy (CS), adopted in February 2011, and saved policies of the Oswestry Borough Local Plan ('the local plan'). Policy CS6 of the former sets out the Council's approach to creating sustainable places and policy CS5 effectively defers to national policy on the control of development in the countryside as it stood at the time of adoption. Policy H5 of the local plan classifies West Felton as a "larger settlement" (within the context of the former Oswestry Borough) to which new development should be directed, but the appeal site lies outside the development boundary defined for the purposes of applying the policy.
9. The Council's emerging Site Allocations and Management of Development Plan (SAMDev) excludes West Felton from the list of settlements within which new housing development will be supported under policy MD1 and is therefore to be classified as countryside if the plan, which is currently the subject of independent examination (hearings having taken place at the end of last year) is adopted in the form submitted. I note from representations that this is a classification enjoying widespread support within the local community but, pending the formal adoption of the SAMDev, the weight that can be accorded to it cannot be equivalent to that of an adopted plan.

² Introduction to submitted heritage statement

10. Equally, saved policy H5 of the local plan relates to an expired plan period (to 2006) and those of the CS were adopted prior to the publication of the Framework and must be viewed in the context of that document as an important material consideration. Pending adoption of the SAMDev as a sound development plan document, the policies within it are subject to the principles set out in paragraph 126 of the Framework.
11. Against that background relevant emerging policies of the SAMDev include MD1, which directs development primarily to Shrewsbury and a hierarchy of categorised settlements. West Felton is not part of that hierarchy and is therefore considered to be within the countryside.
12. Policy MD2 promotes sustainable design, including local aspirations in that regard, and appropriate consideration of heritage assets.
13. Policy MD3 addresses the management of housing development in circumstances where the relevant guideline for the settlement is, or is anticipated to be, exceeded. The Council asserts that, because West Felton is a settlement in the countryside without any additional housing proposed, the policy is engaged.
14. MD7a strictly controls housing development in the countryside save for specified categories such as housing for essential rural workers.
15. The intentions of these emerging policies do not strike me as fundamentally at odds with those of the Framework albeit examination of the SAMDev will doubtless address the point in detail, whilst MD3 in any event acknowledges the presumption in favour of sustainable development engaged in circumstances where a five-year deliverable supply of housing land is not available.
16. Save for that principle and attendant possibility, to which I return, it is a consistent theme of existing and emerging development plan policies that open market housing development on the appeal site is contrary to what is intended, whether by virtue of being outside a defined settlement limit, as previously, or by virtue of exclusion from the list of settlements intended to accommodate planned growth.
17. On that basis, I conclude that the proposed development would conflict with and harmfully undermine the overall thrust of development plan intentions and emerging policy concerning the location of new housing development and the protection of the countryside.

Effect on character and appearance of the area

18. The appeal site comprises pastureland of pleasant appearance and ambience on the fringe of the village. The application now seeks to establish the principle of developing the land at a density broadly comparable with Dovaston Court, an adjacent development of detached houses developed some years ago at a relatively low density. The proposed development would, in principle, it is suggested, also include a substantial public open space at the eastern end of the site, linked by an existing footpath to Orchard Drive.
19. However, the appearance, landscaping, layout and scale of the proposed development remain unresolved in the submitted material which is an indication simply of how the site could, as opposed to how it would, be

developed. Nevertheless, provided the number of dwellings is appropriately limited, it is clear that a spacious layout capable of physically avoiding many of the valued natural and man-made features of the site, including trees and heritage assets, would be achievable. In terms of the overall perception of the character and appearance of this part of the village, where relatively modern housing development gives way to open countryside, I consider that, in principle, a successful design would be capable of being achieved, thereby limiting harm to the character and appearance of the area through the introduction of further and carefully controlled change. For that reason, I do not accept the Council's proposition that development of the site would, of itself, necessarily harm unacceptably the character and appearance of the area.

Soil resources

20. Paragraph 112 makes it clear that the economic and other benefits of the best and most versatile agricultural land (defined as grades 1, 2 and 3a) and that, where significant development of agricultural land is necessary, the preference should be to use land of a lower quality. Land quality is therefore a material consideration and conservation of soil resources is a facet of sustainability, albeit impliedly the loss of insignificant amounts of best and most versatile agricultural land is unlikely to be a decisive consideration of itself. The threshold requiring consultation with Natural England is currently 20 hectares but clearly care has to be taken that multiple smaller applications do not cumulatively give rise to avoidable losses on a scale which becomes undeniably significant.
21. In this case there is no firm evidence of the grade of land involved as the published maps are generalised in nature and the appellant provides no definitive survey evidence, for which in my experience there is no real substitute at the site-specific level. While it seems there may be contextual grounds for believing that the intrinsic quality of the land is good, the fact of the matter is that knowledge is limited. The Council's concerns are by no means immaterial, but in the absence of more definitive information it is not possible to assess whether development of this site would contribute of itself or cumulatively to a material diminution of valuable soil resources.

Community cohesion

22. Given the number of new dwellings permitted at West Felton vis-à-vis its size and recent growth rate, it seems that Council officers prevailed upon the appellants to reduce the number of houses proposed from 32 to the 12 now proposed, concluding that the reduced number would not result in demonstrable harm in social terms. I have no reason to take a different view, albeit the elected members of the Council clearly are concerned that even the small increment now proposed would be harmful in terms of the community's capacity to absorb additional population.
23. The evidence on this matter is clearly limited in a factual sense. Equally, it seems to me to be an area where a degree of informed judgement is required and there is no real evidence of positive engagement with the local community by the appellants in the manner encouraged by the Framework and the associated Planning Practice Guidance. There is little to place on the positive side of the balance in that respect.

Heritage assets

24. The Council does not raise objection to the proposal on the grounds of potential harm to heritage assets, but a number of third parties do. In any event, s.66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 obliges me in respect of the cider press to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The same statutory obligation applies in respect of Dovaston Gate. Recent case law³ clarifies that, in fulfilling that obligation, I am obliged to accord considerable importance and weight to the desirability of preserving the setting of these listed buildings.
25. The glossary to the Framework defines the setting of a heritage asset and I am in no doubt that in both cases the setting of the heritage asset would be affected by the proposed development.
26. Aside from the statutory obligation, the Framework as a matter of national policy seeks to avoid harm to the significance of heritage assets. Paragraph 128 sets out the minimum level of information required of applicants in respect of proposals affecting heritage assets or their setting, which is to be proportionate to their importance. Heritage assets may be designated or non-designated but buildings qualifying for the statutory list are self-evidently important in this context.
27. The applicants in this case do provide, through the submitted heritage statement, detailed historical information concerning the Dovaston estate and the two listed buildings, but I do not accept that the "main" relevant paragraph of the Framework is 128. Section 12 of the Framework must be taken as a whole and in my view the heritage statement stops short of clarifying the manner in which the setting of the listed buildings contributes to their significance, a requirement which paragraph 128 sets out in any event, as is recognised by the statement. This also recognises that "the proposals could have some impact on its setting". Given the history of the estate and the activities of its original owner, it seems to me that the "large field" (i.e. the appeal site) in which the cider press ("the only fully intact surviving building in the grounds of The Nursery") is situated not only comprises, essentially, the surroundings in which this listed building is experienced, but that it must also affect in important respects the ability to appreciate its significance. That is not to say that evolution of the asset and its setting may not be acceptable but the Framework requires a more rigorous approach (as set out in paragraphs 131–134) than is allowed for by the content of the application in this case.
28. I am of course conscious that the Council's conservation officer raises no objection, but this is contingent, inter alia, on its setting being respected and enhanced by "any development that may be found acceptable on the site" and that any scheme "should be designed in line with the requirements of NPPF paras 131 and 132". Especially in view of the considerable importance and weight which must be accorded to the desirability of preserving the setting of the cider press, I am not persuaded that sufficient information or surety as to how the building or the essential elements of its setting contributing to its significance are to be secured for the long term is embodied in the current proposals to satisfy the relevant legal and policy requirements to which I have referred. The Planning Practice Guidance adds further weight to my concerns.

³ Barnwell v East Northamptonshire DC [2014] EWCA Civ 137

29. I also note that the supporting statement to the application opines that “the details of the future use can be more easily addressed at the reserved matters stage when a comprehensive layout will be produced”. However, given; the above analysis, the legal obligation that applies through s.66 (1) when considering whether to grant planning permission and the physical and historical circumstances of the cider press, I remain unconvinced that this conjecture is an appropriate basis upon which to proceed in this instance.
30. It seems to me that, although there is no firm commitment to the indicative layout presented, the application is predicated on the apparent intention that the cider press could be incorporated as part of a domestic curtilage, with all the very real risks that embodies to the contribution to significance made by its setting. “Another option” is said to be donation to the Parish Council (presumably on the basis that it would be set in open space and publicly accessible) but there is no evidence of the practicalities, including financial, having been seriously explored or provided for through any mechanism, or any serious thought having been given to, for example, employment use as mooted. The degree of harm to the setting (and therefore, potentially, the significance of this heritage asset) could be radically different according to eventuality and it is not possible to say which would be the case, the corollary of that being that the application of paragraphs 131-134 of the Framework, in the manner intended, is seriously impaired for the purposes of decision-taking.
31. I am in no doubt that there would be harm to the significance of the cider press as a consequence of development within its essentially rural setting and whilst arguably this is likely, but not necessarily, to be less than substantial, there is insufficient information, analysis or commitment at this juncture to assess the degree of potential harm or indeed the public benefits, including securing the optimum viable use of the building itself. There is no firm suggestion that the proposed housing development would be “enabling development”, as explained in paragraph 140 of the Framework, or an identified mechanism to bring that into effect in any event, bar a vague indication of potential re-roofing and renovation as part of the overall development activity proposed.
32. For all the above reasons, the failure to clearly articulate and provide for the future of the cider press and its setting weighs heavily against the current proposal.
33. Whilst identical policy and legal principles govern the approach to the Dovaston Arch, I accept that, because it is simply a remnant structure incorporated into an existing garden boundary with a part of the appeal site likely to be most practically retained as open space to avoid footpath diversion, the lack of clarity as to intentions and mechanisms is substantially less problematic than the difficulty I have outlined in respect of the cider press. The latter difficulty, because of its fundamental influence on the acceptability or otherwise in principle of the proposal as conceived, could not in my view be adequately addressed simply by the use of planning conditions.

Other matters and the planning balance

34. The views of the parties differ on the adequacy of the Council’s residential land supply, the Council now claiming that it has the requisite five-year supply, albeit apparently rooted in the emerging SAMDev that has yet to be adopted. While all new houses contribute to boosting housing supply in situations of

housing deficit, the relatively small number that would be developed here limits the significance of its potential contribution to reducing any such deficit as may currently exist and it is not in my view a decisive consideration in this instance. It is not therefore necessary to explore this matter, specifically, further.

35. The presumption in favour of sustainable development articulated in paragraph 14 of the Framework, triggered by its paragraph 49 in circumstances of inadequate housing land supply, requires in any event a planning balance in the context of the Framework as a whole, encompassing economic, social and environmental considerations.
36. There are of course economic gains in prospect of the type adverted to in the supporting statement to the original application but the figures quoted therein related to the 32 dwellings then proposed and hence those, and the potential contribution to the satisfaction of affordable housing needs, must be scaled back accordingly.
37. The latter would also be a social benefit, as would the satisfaction of need in respect of market housing. The prospect of additional open space weighs on the positive side of the balance in this context, as does the potential improvement for pedestrians in the form of the proposed footpath on Council-owned land, but other social benefits to the local community have not been demonstrated. Equally, the alleged harm to social cohesion claimed by the Council, although material, seems to me to be largely a matter judgement on the part of elected members and others in the local community, albeit that perception is seemingly informed by local knowledge and was previously shared by officers when a greater number of houses was proposed.
38. I have concluded that, in principle, the character and appearance of the area generally need not be unacceptably harmed by a carefully executed development of the appeal site. However, I am not satisfied on the basis of the information before me and the nature and apparent intentions of the application in respect of the cider press, to the extent that the latter are apparent at this time, that the proposed development would not inflict unacceptable harm on its setting, specifically, to the detriment of its significance.
39. Whether that harm is substantial or less than substantial would depend on specifics and while I accept that the balance of probability is that a solution could be identified that involves less than substantial harm, it would be harm nonetheless and that is a matter to which I am obliged to accord considerable importance and weight in any event. Given that context, I consider the future of this important heritage asset in its setting to be insufficiently resolved. A more positive and definitive approach is required. The deficiency of the proposal in that respect weighs heavily on the negative side of the balance of considerations in this case.
40. Moreover, I am clear that the proposal conflicts with the intentions of both the existing and emerging development plan concerning the location of new housing development and the protection of the countryside. To depart from such intentions without demonstrably good reason would harmfully undermine them. No sufficient reason has been demonstrated bearing in mind not only the intention of the Framework to boost housing supply, but also its wide-ranging intentions concerning the manner in which delivery should minimise harm including to heritage assets.

41. Insofar as policy MD2 of the emerging SAMDev may be accorded weight, it follows from my conclusions on the paucity of approach in respect of heritage assets, specifically in relation to the cider press, that the proposal would fail to accord with part 2. iii. That conflict weighs, to a degree, on the negative side of the balance, a degree which is enhanced by the consistency of that part of the policy with Framework intentions.
42. In overall conclusion, I am clear, for the reasons I have detailed, that the potentially adverse impact on heritage interests would significantly and demonstrably outweigh the potential benefits of this particular proposal as currently conceived and presented. Moreover, I do not consider in this instance that planning conditions would be adequate to the task of averting the potentially adverse impact, the magnitude of which cannot be sufficiently divined at planning application stage on the basis of what has been presented in the way of analysis, design and practical arrangements to secure the future of the cider press in a setting which retains its significance. The proposal does not therefore represent sustainable development. I have taken all other matters raised into account, but none are sufficient to alter the overall balance of my conclusion in this respect. I therefore conclude that the appeal should be dismissed.

Keith Manning

Inspector



Appeal Decision

Site visit made on 27 January 2015

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 11 February 2015

Appeal Ref: APP/L3245/A/14/2220577

Gadlas Croft, Gadlas, Ellesmere, Shropshire SY12 9DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs G Glynn against the decision of Shropshire Council.
 - The application Ref 14/01268/OUT, dated 23 March 2014, was refused by notice dated 20 May 2014.
 - The development proposed is described as outline planning permission with all matters reserved for one dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs G Glynn against Shropshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The planning application was made in outline, and the application form makes it clear that all matters are reserved for future consideration. It is on this basis that I have determined the appeal.
4. The Shropshire Site Allocations and Management of Development Plan (SAMDev) was submitted for examination at the end of July 2014, after the application was determined. I share the Council's view that this document cannot be afforded full weight as it has not yet been adopted by the Council.
5. During the course of the appeal the Council submitted an updated Five Year Housing Land Supply Statement for Shropshire (HLSS). The appellant was given the opportunity to comment on the submitted material and I have taken those comments received into account in my decision.

Main Issue

6. The main issue is whether a new dwelling in this location would be acceptable having regard to the principles of sustainable development.

Reasons

7. The appeal site comprises a roughly triangular piece of land adjoining a recently constructed house at Gadlas Croft. It is located approximately 600 metres from the main body of housing in Dudleston Heath, and separated from

it by a number of open fields, interspersed with sporadic farms and dwellings. There is no dispute between the parties that the site is located outside of the village development boundary for Dudleston Heath, as defined within the North Shropshire District Council Adopted Local Plan 2000-2011 (Local Plan). Accordingly, for planning policy purposes, the site is located within the countryside.

8. The development strategy of the Local Plan is for new housing to be focussed in market towns and main service villages (saved Policy H5), of which Dudleston Heath is identified as a main service village. Outside of such areas saved Policy H6 allows for limited housing development in certain defined settlements. Gadlas is not identified as either a Local Service Village or Other Village within this policy. The proposal for a new dwelling in this countryside location would conflict with the objectives of Local Plan Policies H5 and H6. The Council has referred to Policy H1 of the Local Plan within its decision notice. I attach limited weight to this policy in my decision as it relates to District Housing Targets during the period 2000-2011.
9. Policy CS4 of the Adopted Core Strategy (Core Strategy) indicates that in the rural area, communities will become more sustainable by amongst other things, focusing private and public investment into Community Hubs and Community Clusters, and not allowing development outside these settlements unless it meets policy CS5. Dudleston Heath has been identified as a Community Hub in the emerging SAMDev, as has the neighbouring settlement of Elson.
10. Core Strategy Policy CS5 indicates that new development will be strictly controlled in accordance with national planning policies protecting the countryside, but identifies dwellings to house agricultural, forestry or other essential workers and other affordable housing/accommodation to meet a local need as exceptions to this strict control. The appellants and their family are relatively new to the area. The proposal would be a market dwelling and would not fall within the National Planning Policy Framework's (the Framework) definition of affordable housing. The dwelling would not be occupied by an agricultural, forestry or other essential countryside worker. In light of the above, the proposal would conflict with Policies CS4 and CS5 of the Core Strategy.
11. At the time the Council determined the application it accepted that it could not demonstrate a 5 year supply of deliverable housing sites. In such circumstances, the Framework advises that relevant policies for the supply of housing cannot be considered up-to-date. However, during the course of the appeal the Council produced its revised HLSS which indicates that there was a 5.47 year supply of deliverable housing sites in the County on 12 August 2014. The appellants consider that limited weight should be attached to this information as the supply of deliverable housing sites has not been tested at an appeal or other examination. Whilst noting the appellants' submissions, I have no substantive evidence before me to dispute the housing land supply figures in the HLSS. In any case, even if there is not a 5 year supply of deliverable housing sites, the Framework is clear that housing applications should be considered in the context of the presumption in favour of sustainable development.

12. The Framework at paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental. Paragraph 55 advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example where there are groups of smaller settlements, development in one village may support services in a village nearby.
13. There would clearly be economic benefits associated with the proposal, including the provision of construction jobs, Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts are recognised. However, these benefits would be achieved regardless of where the new dwelling would be built. Dudleston Heath has a range of services, including a primary school which is approximately 1 kilometre from the appeal site, a church, post office, restaurant/bar and a sports club. It also has a bus service that connects the village with Ellesmere, Gobowen and Oswestry. I have no reason to doubt that the appellants would not continue to play an important role in the community or that they would support local services. However, the contribution one new dwelling would make to the vitality of the rural community and the support it would give to services in nearby towns and villages would not be discernible.
14. Although the services and facilities of Dudleston Heath are in close proximity to the appeal site, access to this village is along an unlit road with no pavement or cycleway. There would be a high probability that residents of the new dwelling would drive into neighbouring towns and villages, rather than walk or cycle as a result of these conditions. Moreover, once in their cars, the potential for travelling further afield to access basic services would be enhanced, particularly given the limited number of services in Dudleston Heath. This would be in conflict with the objective of Policy CS6 of the Core Strategy which seeks to ensure that development is safe and accessible to all, and the social and environmental roles of sustainability. There would also be conflict with the core planning principles of the Framework which advises that patterns of growth should be actively managed to make the fullest use of public transport, walking and cycling.
15. Paragraph 55 of the Framework also advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. Although the new dwelling would be sited next to the existing dwelling at Gadlas Croft, close to residential development further along the lane, it would be remote from the nearest settlement and development therein.
16. Whilst I appreciate the appellants' personal circumstances, wanting to live close to their immediate family, such circumstances seldom outweigh general planning considerations, and in any event such matters do not fall within any of the special circumstances set out within paragraph 55 of the Framework. Furthermore, whilst I do not doubt that the new dwelling would be constructed to a high lifetime standard and would be of a design that would be subordinate to the existing dwelling on the site, these do not comprise the special circumstances necessary to justify a new isolated home in the countryside. The proposal would result in an urbanisation of this rural area which would be harmful to the character of the countryside, in conflict with the objectives of Local Plan Policies H5 and H6 and Core Strategy Policies CS5 and CS6.

17. The appellants have drawn my attention to recent appeal decisions¹ where the matter of sustainability was a main issue. One of the cases in Whitchurch, was a scheme in a different administrative area. In this case the Inspector found that as the site was located within a cluster of 8 dwellings, it would not result in a new isolated home in the countryside or be harmful to the rural character of the area. The Tewkesbury scheme was for a much larger development and the Inspector attached considerable weight to the Council's 'serious shortfall of housing'. Such circumstances are not directly comparable to the scheme before me and accordingly I have attached limited weight to them in my decision.

Conclusion

18. In light of the foregoing, the proposal would result in a new isolated home in the countryside in an unsustainable location, with a heavy reliance on the private car, for which there are no special circumstances. Given that the 3 roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour. None of the matters raised including the pre-application advice given in respect of an affordable dwelling on the site; the appellants' daughter being a pupil at Criftins School, and the provision of bird boxes, outweigh the considerations that have led to my decision.

19. For the above reasons, the appeal is dismissed.

R C Kirby

INSPECTOR

¹ Refs APP/G1630/A/13/2209001 and APP/A0665/A/13/2193956



Appeal Decision

Site visit made on 20 January 2015

by Karen L Ridge LLB (Hons) MTPL

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

Decision date: 19 February 2015

Appeal Ref: APP/L3245/A/14/2213885

Land at West View, Knockin Heath, Oswestry, Shropshire SY10 8EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Brammer and Mrs Price against the decision of Shropshire Council.
 - The application Ref. 13/03971/OUT, dated 2 October 2013, was refused by notice dated 28 November 2013.
 - The development proposed is the erection of 4 general market houses and 4 affordable houses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline and all matters with the exception of layout were reserved for subsequent approval. To the extent that the application contains information relating to the reserved matters (appearance, landscaping, access and scale) I shall treat the details as being indicative only.
3. The appeal was submitted in February 2014. As is usual both parties submitted statements and final comments within the prescribed timetables. The Council's evidence comprised the committee report which recorded the lack of a 5 year supply of housing land. On 12 August 2014 the Council submitted an updated report on its housing land supply position recording that it now has a 5.47 year supply.
4. The appellants have objected to the introduction of this evidence on the basis that it was submitted after the final deadlines. However, the housing land supply position is an important factor and this appeal must be decided on the housing land supply position at the point of determination. In the circumstances I shall consider both the Council's updated supply position and the appellants' response to it.

Main issues

5. From my reading of the evidence and my own observations on the site visit, the main issues in this appeal are:
 - whether or not the proposed housing would be in an acceptable location having regard to development plan and national policies;

- the effect of the houses on the character and appearance of the open countryside;
- the effect of development on protected trees; and
- any other material considerations in support of the proposal.

Reasons

The location of development

6. The appeal site is a greenfield site in the open countryside outside, but on the edge of, the settlement boundary of Knockin Heath. The site is a triangular slice of land, immediately adjacent to the road but at a lower level than the road. It comprises two paddocks which sit either side of the driveway associated with the residential property West View, which is set further back from the road frontage.
7. The Council's Core Strategy (CS) was adopted in 2011 and sets out housing requirements over the plan period. Policy CS4 confirms that in rural areas development will be focussed in Community Hubs or Community Clusters. CS policy CS5 seeks to strictly control new development in the countryside and policy CS6, amongst other things, promotes sustainable development principles, ensuring that all development protects the natural environment.
8. In addition policy H7 of the Oswestry Borough Local Plan has been saved and it identifies Knockin Heath as a village where only small scale infill development within the settlement boundary will be permitted. This policy objective is carried forward in the emerging Site Allocations and Management DPD (the Site Allocations DPD) which proposes to include Knockin Heath in a Community Cluster. Finally the Kinnerley Parish Neighbourhood Plan has been formally adopted by the Council and is aligned with the emerging Site Allocations DPD. The Parish Plan and emerging Site Allocations DPD retain the same settlement boundary as that in policy H7.
9. Given that the site is outside the settlement boundary, the proposal for housing development is contrary to LP policy H7 and CS policy CS4, The Neighbourhood Plan and the emerging Site Allocations DPD. At a national level, paragraph 55 of the National Planning Policy Framework (the Framework) confirms that isolated new homes in the countryside should be avoided. In terms of its location therefore, the proposal would represent a significant incursion into the open countryside and is contrary to local plan and national policies which seek to restrict development in such areas.
10. The Framework seeks to boost significantly the supply of housing and states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years supply of housing against their housing requirements (the five-year land supply). Paragraph 49 of the Framework provides that housing proposals should be considered in the context of the presumption in favour of sustainable development. It further states that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites. CS policy CS4, as well as LP policy H7, are clearly policies concerned with the supply of housing land.
11. Housing land supply position: The officer report of November 2013 accepted that the Council did not have a 5 year supply of housing land, confirming that

the supply was just under 5 years. During the current appeal the Council wrote to the Planning Inspectorate on the 12 August 2014 confirming that, as at 31 March 2014, the Council considered that it now has a 5.47 years supply of housing land. The appellants maintain that the Council will miss the next 5 year targets given the previous shortfalls which need to be made up.

12. For the above reasons, I conclude that the proposal would not be in conformity with LP policy H7 and policy CS4. In the event that the Council do indeed have a five year housing land supply the proposal would cause harm to policy objectives which seek to direct new development to the most sustainable locations. In the event that the Council do not have a five year housing land supply the weight given to this harm would be reduced, to some extent, by the relevant policy being out of date by virtue of the lack of the five year housing land supply. I shall return to this matter later.

Effect on the character and appearance of the open countryside

13. The appeal site is a long plot fronting onto the road. The site frontage is framed by a hedge and intermittent trees and is opposite ribbon development comprising individual houses. On the appeal site side of the road the land falls away from the highway with two dwellings, West View and Sundawn, being set well back from the road behind the appeal site land. This results in long views across the appeal site to the countryside beyond. On the opposite side of the road a string of individual houses are set along the frontage, with a heavily wooded coppice behind forming a green backdrop. Travelling along the lane one has the impression of a quiet rural idyll.
14. The proposal is in outline form with matters of scale and appearance to be determined. Layout is a matter under consideration and the draft plan depicts the houses arrayed along the road frontage. Based on these details I conclude that development on the appeal site would effectively transform this part of the lane. It would create a more urban feel with housing on both sides of the road, closing off views of the rolling countryside to the south. I conclude that the proposal would cause material harm to the character and appearance of this part of the open countryside. This is contrary to CS policies CS5 and CS6.

Effect on protected trees

15. A Tree Preservation Order is in force protecting trees along the site frontage and along the side and rear boundaries of the appeal site. These trees are mature specimens, highly visible along the lane and they make a significant contribution to the rural character of the immediate area. The layout plan depicts some 8 driveways which would make incursions into the hedgerow frontage. Whilst trees are depicted on the plan the protected trees are not highlighted. Some of the driveways appear to be close to the trees and may be within the root protection areas of the trees. Without a proper assessment I cannot be sure that the development would not cause harm to these protected trees. The loss of these trees would cause further harm to the character and appearance of the rural area.

Other Matters

16. The appellant relies on a number of factors in support of the contention that there are reasons to justify the proposal. One of the factors was the lack of a five year housing land supply. Reliance is also placed on the general need for affordable housing and on the presumption in favour of sustainable development set out at paragraph 49 in the Framework.

17. General requirement for affordable housing: Policy CS11 sets out an overall target of 33% local needs affordable housing for the first five years of the plan. This is intended to comprise a mixture of 20% social rented housing and 13% intermediate affordable housing. The explanatory text to the policy confirms that the annually updated Housing Market Assessment for Shropshire will provide information on existing stock and housing needs, with Shropshire being divided into 13 housing market areas.
18. The Council contend that the number and mix in terms of the 4 affordable housing units would represent an overprovision against the actual requirement in the Parish. The appellants state that this proposal represents a realistic opportunity to provide affordable housing in the village whereas single infill developments would not do so. However I note that the Council's policy in relation to single plot affordable exception sites has been successful in delivering homes for local needs and that 2 dwellings have recently been approved under this policy.
19. Whilst the proposal may not provide an exact match against requirements, I conclude that it would make a modest but valuable contribution to the overall affordable housing requirement for the district. This is a matter which adds some weight in support of the scheme.
20. The presumption in favour of sustainable development: The Framework seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of local communities. It goes on to confirm that there are three dimensions to sustainable development: economic, social and environmental.
21. In terms of economic considerations, the proposal would result in the provision of construction work and would bring additional occupants to the rural area to support services in the local villages. There would also be social benefits with the provision of affordable housing in a district which is in need of such provision.
22. There are several aspects to the consideration of the environmental dimension. Firstly, in terms of accessibility; Knockin Heath is a settlement with no services or facilities other than a garage and a plant hire company. The village of Kinnerley, some 1.5 miles distant, contains local amenities in the form of a shop, school, church and public house. The road leading to Kinnerley has no footways and is narrow in parts. I do not consider that cycling would be an attractive prospect to many. Public transport options are limited. I am informed that a bus service runs every two hours and not in the evenings. Taking all of the above matters into account it seems likely that occupants of the houses would be reliant on the private motor car for much of their day to day needs.
23. The grass fields are ecologically poor and that the development would provide an opportunity for a positive improvement in species diversity. Whilst the appellants contend that the houses would be 'eco-friendly' no further details are provided. Other environmental considerations include the harm which would be caused to the character and appearance of the rural area and I have already set out my conclusions in relation to this matter. On balance, when all three aspects are taken into account, I conclude that the proposal would not represent sustainable development.

24. The site lies partly in all three flood zones and a flood risk assessment was submitted. The Environment Agency commented that the Council should satisfy itself that development was appropriate having regard to national advice regarding the sequential and exception tests. I have noted that the Council's drainage team has raised no objection. However, I have seen little in the way of evidence to address the above tests.
25. I have seen other developments referred to but these are in different locations with different characteristics and this appeal must be determined having regard to the relevant factors.

Overall Conclusions

26. At the heart of the Framework is a presumption in favour of sustainable development. However, I have concluded that, on balance, the proposal would not represent sustainable development when all three dimensions referred to in the Framework are considered. In addition the development would cause harm to the character and appearance of the rural area and on the evidence available I cannot be satisfied that harm would not be caused to the protected trees. These are all factors which weigh against the development.
27. The proposal would however result in the modest contribution of 4 units of affordable housing and this is a matter to which I attribute some weight.
28. I have concluded that the proposal would be contrary to the development plan and national policy in terms of its location. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. However, even in the absence of a 5 year housing land supply and reduced weight to policies CS4 and H7, when the factors in support of development are weighed against the factors against, I conclude that the adverse effects of allowing the development in this proposal, significantly and demonstrably outweigh the benefits. I conclude therefore, that the appeal should be dismissed.

Karen L Ridge

INSPECTOR

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Appeal Decision

Site visit made on 17 February 2015

by L Nurser BA (Hons), Dip UP, MRTPI

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

Decision date: 4 March 2015

Appeal Ref: APP/L3245/D/14/2229755

Red Brick House, Ashfields, Hinstock, MARKET DRAYTON, Shropshire TF9 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Harper against the decision of Shropshire Council.
 - The application Ref 14/03770/FUL, dated 19 August 2014, was refused by notice dated 25 November 2014.
 - The development proposed is a 2 storey rear extension and link between garage and house.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. From my site visit it is clear that the utility room has already been constructed linking the house to the garaging.
3. I am also aware from my site visit that the double garage appears to have been converted into a large room. However, my decision is based on the development as proposed.
4. The Council raises no objection to the design or appearance of the scheme. From what I saw on my visit, I see no reason to disagree with the Council's view.

Main issue

5. The main issue is the effect of the proposed development on the supply of affordable housing.

Reasons

6. The proposed development is for the extension of a rural dwelling which was constructed under the rural exceptions policy of Shropshire Council.
7. According to the Council planning permission was granted for the host property to provide three bedrooms, an en-suite, bathroom, dressing room and landing at first floor, and at ground floor, a kitchen, dining/family area, lounge, utility, WC, hallway and porch with a separate double garage. The total floor area was less than 100 square metres.

8. However, the plans show that the existing property as built consists of 2 bedrooms, an en-suite, bathroom, office, (which I presume could be used as an additional bedroom), a kitchen/ dining area and lounge.
9. A detailed S106 obligation accompanied the previous application. It stipulates that the development be built as permitted and that no further extensions take place without the permission of the Local Planning Authority. This was to ensure that the scale and layout of the affordable dwelling remained suitable to be included within, and contribute to, the local affordable housing stock.
10. Policies CS5 and CS11 of the Shropshire Core Strategy 2011 provide the development plan policy support for this approach, in relation to affordable housing and the rural exception policy to help balance the size and type of the housing stock.
11. The appellant's personal circumstances have changed and his family has grown to include a child. I sympathise with the appellant's wish to extend his home and his aspirations for a property which he considers is large enough in which to entertain, work and expand his family further, as well as facilitating his wife undertaking her degree, and providing a separate utility room for laundry and dogs.
12. However, an additional dining room/ play room, guest accommodation including an en-suite, utility room and a purpose designed office to support his business, would result in about an additional 65 square metres of floor space. This significant increase in floor area would run counter to the objective of the exception policy and the S106 obligation which is to ensure that the property remains of a size and type that would be suitable for affordable housing.
13. Guidance contained within the Type and Affordability of Housing Supplementary Planning Document 2012, provides detail to support Shropshire's affordable housing policies and refers to a minimum floor area which developers should provide in any affordable housing.
14. I do not consider that the use of the term "minimum" should be interpreted as a justification for the construction of larger properties; rather it has been used to ensure that developers when fulfilling their affordable housing obligations provide adequate living space.
15. The standards drawn from the Homes and Communities Agency state that a floor area of around 95-100 square metres could accommodate 6 people in a 2 storey dwelling. The SPD stresses the importance of maintaining a stock of available smaller affordable houses. Hence, the model standard condition for single plot exception sites sets out the need to ensure that developments are not extended.
16. My attention has been drawn to paragraph 5.63 of the SPD which refers to home owners extending properties to provide a floor space of over 100 square metres. This would be where they have genuine difficulties in finding affordable housing that would meet their needs and that if the property were to be sold, its resale value would be restricted to a theoretical 100 square metre value.
17. However, irrespective of the practicalities of marketing, valuing, and selling a property under such circumstances, I do not consider that the appellant has provided any evidence of such genuine difficulties in finding a larger property.

Many of the aspirations for living accommodation which he sets out are shared by those who operate within the open housing market and do not provide special circumstances that would warrant the extension of the dwelling which had been granted planning permission as affordable housing and on the basis that it would not be extended. I am also aware that the only time that the Council has allowed an extension to such a property has been when there has been medical justification for a requirement for additional accommodation. No such justification has been made here.

18. Given that the appellant states that the local housing market is characterised by larger properties, it makes it even more important that any affordable housing which is built under the rural exceptions policy remains at a scale which continues to provide a supply of relatively small properties, albeit at around 100 square metres, the current property is considered to be a relatively large affordable house.
19. I note that Hinstock Parish Council does not consider that it would be appropriate for the development to be approved as it would extend the size of the property in contravention of the S106 obligation.
20. For the reasons above the appeal should be dismissed.

L Nurser

INSPECTOR

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